

5 June 2017

HON. FATOU BENSOUDA
Prosecutor
Office of the Prosecutor
International Criminal Court
The Hague, Netherlands

Dear Prosecutor Bensouda:

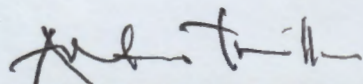
This is in connection with the Communication submitted by Atty. Jude Josue Sabio with the International Criminal Court dated 24 April 2017 entitled, "The Situation of Mass Murder in the Philippines, Rodrigo Duterte: The Mass Murderer".

We are hereby submitting to you the attached Supplemental Communication to the aforementioned Communication, for the purpose of affirming the veracity of the information contained therein and to provide additional information to prove the widespread and systematic extrajudicial killings in our beloved country.

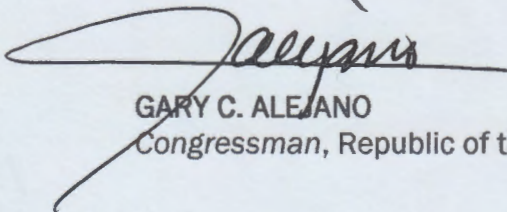
We further stress the urgent need to conduct a preliminary examination on the allegations contained herein to provide a glimmer of hope for the thousands of victims that Duterte's impunity would soon end.

Thank you.

Respectfully yours,



ANTONIO "SONNY" F. TRILLANES IV
Senator, Republic of the Philippines



GARY C. ALEJANO
Congressman, Republic of the Philippines

DIGONG, THE GRAVE DIGGER: A Look Into The Philippine President's Bloody War On Drugs

Supplemental Communication

[Re: *Communication* entitled “*The Situation of Mass Murder in The Philippines, Rodrigo Duterte: The Mass Murderer*” dated 24 April 2017]

Only a month after a Communication from the Philippines was submitted to the Office of the Prosecutor of the International Criminal Court (ICC), raising with grave concern the rampant state-sponsored killings in the Philippines involving suspected drug addicts and pushers, bodies continue to pile as a seeming culture of impunity has reigned over the country.

In Philip Alston's report on extrajudicial, summary or arbitrary executions presented by the Secretary-General of the United Nations to the General Assembly (UN Doc. A/64/187), it was emphasized that the State's role in these killings exists on a continuum “*from being non-existent; to failing effectively to prevent the killings and prosecute perpetrators; to implied approval or tacit support for killings; to active encouragement, including official verbal support for killings; and overt direct State involvement, including official assistance in the formation of vigilante groups and their activities, and official participation or collusion in vigilante activities*”.¹ This continuum, while enumerating the possible involvement taken by the State in these killings, does not discount the possibility of the State taking the role of an enabler and a direct participant in the killings. In this information, the discussion will attempt to show that the Philippine government, through President Rodrigo “Digong” Duterte and other state actors, falls squarely under several strands in this continuum.

The narration in this communication will focus on the following matters:

1. Affirming and corroborating the *Communication* entitled “*The Situation of Mass Murder in The Philippines, Rodrigo Duterte: The Mass Murderer*” dated 24 April 2017 showing that a widespread systematic mass murder is being carried out in the Philippines;

¹ Paragraph 54, United Nations. (9 February 2010). Resolution adopted by the General Assembly on 21 December 2009. Retrieved from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/473/05/PDF/N0947305.pdf?OpenElement> (Annex A)

2. That the killings continued even after the Communication was filed in 24 April 2017, and in fact, the government has issued its own statistics, which in effect admitted the existence of the killings; and
3. The continuing veil of impunity, especially President Duterte's immunity from suit, which enables the carrying out of state-tolerated and state-sponsored killings.

In submitting this information, the authors have, likewise, taken into consideration the statutory-based approach being applied by the Office of the Prosecutor to distinguish situations that warrant investigation. The authors submit that the mass murders constituting crime against humanity fall within the jurisdiction of the ICC and warrants an immediate investigation by the Office of the Prosecutor.

Dissecting the Numbers: Affirming the Communication entitled "The Situation of Mass Murder in The Philippines, Rodrigo Duterte: The Mass Murderer" dated 24 April 2017.

No less than the government itself has admitted to the killings.

In a forum organized by the government,² the agencies leading the country's anti-drug operation presented official statistics on the killings happening in the country. In the said forum, the **Philippine Drug Enforcement Agency ("PDEA")**, the **Philippine National Police ("PNP")** and the **National Bureau of Investigation ("NBI")** confirmed that, based on their records, **Nine Thousand Four Hundred Thirty Two (9,432) homicide cases were already recorded during President Duterte's term, from 1 July 2016 until 31 March 2017.**³ Out of these homicide cases, authorities claim that only around **One Thousand Eight Hundred Forty Seven (1,847) are drug-related**, the rest of the cases are either not drug related (1,894) or are still under investigation (5,691).

² Full coverage of the event is accessible at Philippine Presidential Broadcast Staff Radio Television Malacañang's official website: <http://rtvm.gov.ph/main/?p=48002>.

³ Reported in CNN Philippines' website: <http://cnnphilippines.com/news/2017/05/03/statistics-Duterte-war-on-drugs.html>.

According to PNP Chief Ronald “Bato” Dela Rosa, the PNP considers a homicide case as drug related based on the motive and the nature of the crime. These are the cases where the victims are found with a placard/sign that say “Drug pusher ako, ‘wag tularan” (I am a drug pusher, do not emulate me.)” and are covered with duct tape. Victims are also known drug pushers and users in their area.⁴

Despite the big number, no further information was released by any government agency as to the status of the investigations conducted regarding these drug-related killings outside police operations.

Not yet included in the list are those drug suspects killed in the so-called legitimate police operations. During the investigation of the House of Representatives, **the PNP in its presentation on “Double Barrel/ Double Barrel Alpha Accomplishments”, claimed that it recorded a total of Two Thousand Six Hundred Two (2,602) deaths in its conduct of legitimate police operations from 1 July 2016 to 30 January 2017.**

However, under Republic Act No. (R.A.) 8551, the PNP Internal Affairs Service (PNP-IAS) is mandated to conduct an automatic investigation of cases where a police personnel discharges a firearm and where the operation results in the death of an individual.⁵ During a Senate Hearing conducted by the Senate Justice Committee on 13 October 2016, it was revealed that while there was a significant increase in police operations during the first months of the Duterte Presidency, *motu proprio* investigations conducted internally by IAS often led to the dismissal of cases and dropping of charges. In short, of the 2,602 deaths reported as caused by legitimate police operations, only a few policemen have actually been charged.

Definitely, the number of deaths resulting from both police operations and drug related homicide cases are staggering considering the lack of information being provided by the PNP regarding these deaths.

⁴ Cahiles, G., Tan, L. 27 March 2017. PNP Chief: Drug-related deaths only under 4,000, not 7,000. CNN Philippines. Retrieved from <http://cnnphilippines.com/news/2017/03/27/Drug-war-extrajudicial-killing-PNP.html>

⁵ Section 39, Republic Act No. 8551. (1998). Philippine National Police Reform and Reorganization Act of 1998. Retrieved from <http://www.chanrobles.com/republicacts/republicactno8551.html> (Annex B)

Shoot to Kill Order: President Duterte's National Policy for Killing Drug Suspects

"My order is shoot to kill you. I don't care about human rights, you better believe me [emphasis supplied]."⁶

-President Rodrigo Duterte
Press Conference, Davao City
05 August 2016

President Duterte has been very vocal about his stance against drugs and criminality, as much as he was forthright in his pronouncements to kill those involved in illegal drugs. During the first few months after his electoral success, he was quoted as saying, *"If you are still into drugs, I am going to kill you. Don't take this as a joke. I'm not trying to make you laugh. Son of [a] bitch, I'll really kill you."*⁷

Furthermore, on 30 June 2016, a few hours after he took his oath of office, in a solidarity dinner at Delpan Sports Complex in Tondo, Manila, he reiterated his pledge to kill drug suspects throughout his six-year term. To wit:

"...Ako po'y nakikiusap, huwag ho kayong pumasok diyan kasi papatayin ko talaga kayo. Hindi man siguro ngayong gabi, hindi man siguro bukas, pero sa anim na taon, may isang araw ka talaga magkamali ka at hihiritan kita."

(TRANSLATION: *"...I am asking you, do not go [into drugs] because I will really kill you. It may not be tonight, it may not be tomorrow, but in 6 years, there will be one day that you will make a mistake and I will go after you."*)⁸

In almost all of his speaking engagements, a list of which is attached as Annex C, he would casually talk about cursing and killing people involved in illegal drugs. Here are excerpts of said speeches:

⁶ Human Rights Watch. (2017). Philippines: Police Deceit in 'Drug War' Killings. Retrieved from <https://www.hrw.org/news/2017/03/02/philippines-police-deceit-drug-war-killings>

⁷ Speech during his Thanksgiving Party in Davao City, 4 June 2016 (Annex C)

⁸ Speech during a solidarity dinner in Tondo, Manila, 30 June 2016 (Annex C)

Ang hindi ko nakuha sa tatay ko ‘yung pagka-pasensyoso. Eh tatay ko kasi hindi pumapatay ‘yon maski daga. Eh sa panahon ko, hindi daga ang pinapatay ko, tao talaga. Mga putang ina talagang mga, ang titigas ng ulo eh.

(TRANSLATION: The thing I did not inherit from my father is the virtue of patience. My dad doesn’t kill even a rat. But in my time, I don’t kill rats, I kill people. These sons of a bitch, you’re so hard-headed.)⁹

But noon, ‘yung isang dumaan na Presidente, kept on reprimanding me, chastising me in public. Kaya ako nagalit kasi nung mayor ako, ‘yan na ang issue, talagang pinapatay ko daw. At bakit naman hindi ko sila patayin?

(TRANSLATION: Previously, a past President kept on reprimanding me, chastising me in public. That’s why I got mad. When I was Mayor, the issue was that I really kill. Why would I not kill them?)

Basta ‘yung akin ito ang maasahan ninyo ha, in three years mag-stabilize ‘yan. Hindi ngayon. Medyo ‘yung drugs medyo matatapos ‘yan. Mauubos nang mauubos ‘yang mga putang ina ‘yan.

(But this is what you can be sure of, in three years, it will stabilize. Not now. The drugs will somewhat end. I will finish those sons of bitches.)¹⁰

Drugs, talagang mainit ako diyan. Hindi maghintó ang patayan diyan. It will just destroy the country....Ang patayan, hindi maghintó ‘yan.

⁹ Speech during the Inauguration of the Gov. Miranda Bridge II, 18 May 2017 (Annex C)

¹⁰ Speech during a meeting with the Filipino Community in Hong Kong Special Administrative Region, 13 May 2017 (Annex C)

*(TRANSLATION: Drugs, that's a hot issue for me. The killings will not stop. It will just destroy the country. The killings, it will not stop.)*¹¹

"...I must admit that a third of the killings really happened during police encounters...

*...But in Davao I used to do it personally. Just to show to the guys that, if I can do it why can't you? And I go around in Davao with a motorcycle, with a big bike around and I would just patrol the streets and looking for trouble also....But...if they say that they are...If I am afraid to stop because of the human rights and guys from, including Obama? Sorry, I am not about to do that..."*¹²

These remarks about killing drug suspects have become a common phrase in his drug war statements.

However, in 05 August 2016, Pres. Duterte made a bold directive to security forces to employ a 'shoot to kill' strategy specifically against elected officials and resisting suspects involved in illegal drugs. Previously, through a press statement, he already issued 'shoot on sight' order against Albura, Leyte Mayor Rolando Espinosa, Sr., and his son Kerwin for their alleged links in the drug trade. When asked to clarify this order, he said *"Shoot to kill is to shoot and kill him. Kasi wag kang magsayang ng bala (I don't want the police wasting bullets).*"¹³

In September 2016, when he appeared before the troops of the 10th Infantry Division of the Philippine Army, he modified his earlier pronouncement by directly instructing security officials to kill drug suspects whether or not they fight back or not. *"Pagka bumunot, patayin mo. Pag hindi bumunot, patayin mo rin, putang ina, para matapos na. Eh kaysa mawala pa 'yung baril. Ako na ang bahala sa inyo (If they pull out a gun, kill them. If they don't, kill them just the*

¹¹ Speech during a visit to the Western Command (WesCom), 06 April 2017 (Annex C)

¹² Speech during the Wallace Business Forum, 12 December 2016 (Annex C)

¹³ Corrales, N. (5 August 2016). *Duterte, Palace defend shoot-to-kill order*. Retrieved from <http://newsinfo.inquirer.net/803274/duterte-palace-defend-shoot-to-kill-order>

same, son of a whore, so it's over, lest you lose the gun. I'll take care of you)",¹⁴ he said.

He recently reiterated this call during a media interview in Bohol last 19 April 2017:

"So it's a criminal activity which is being perpetrated now. So nandito ako (I am here) just to warn everybody about the practice...My order is to the police....and even civilians who are interested to fight and kill, ang order ko (my order) is dead or alive...

...Mas gusto ko 'yung dead kasi 'yung alive magpakain pa ako, ma'am, magastos masyado (But I prefer dead because if they are alive, we would still have to spend to feed them)."¹⁵

This 'shoot to kill' order to drug suspects has become the centerpiece of the administration's anti-drug campaign and clearly a national policy of President Duterte.

Furthermore, President Duterte was quick to come in defense of the soldiers and police who is primarily tasked to enforce said policy. In his speeches, he guaranteed that they will not be held accountable for performing their so called 'duties', and in case a policeman killed a drug suspect during an *encounter*, he/she will not be investigated upon. He added that he will even pardon and promote these security personnel.

In his words, *"For as long as there is the power to pardon sa Constitution, 'yan ang weapon ko (that's my weapon) against crime. Mag-massacre kayo ng isang daan, isang daan din kayo, eh di pardon lahat kayo (Even if you massacre 100 people, I'll pardon all of you) – restore to full political and civil rights plus a promotion to boot."¹⁶*

¹⁴ Speech made before the troops of the 10th Infantry Division in Mawab, Compostela Valley, 20 September 2016 (Annex C)

¹⁵ Speech during a media interview, 19 April 2017 (Annex C)

¹⁶ Ranada, P. (21 September 2016). *Duterte to troops: Massacre criminals, I'll promote you*. Retrieved from <http://www.rappler.com/nation/146890-duterte-troops-massacre-promotion>

It is also important to note that he even endorsed the idea of do-it-yourself (DIY) arrests among ordinary citizens saying that “[*Iyong*] *nandiyan sa neighborhood ninyo* (*Those in your respective neighborhoods*), *feel free to call us, the police, or do it yourself if you have the gun, you have my support. If a suspect resists arrest, you can kill him... I'll give you a medal.*”¹⁷

Human Rights Watch (HRW), an international rights group, condemned these statements of President Duterte which implicitly and explicitly instigate killings in violations of the rule of law. HRW Deputy Director in Asia, Phelim Kine, claimed that President Duterte “implicitly voiced support for such unlawful brutality by stating that police can rightly put illegal drug suspects ‘*below the ground*’ if necessary...[He] must publicly recognize that respect for rule of law and fulfilling the human rights of Filipinos extends to all Filipinos, including criminal suspects and those implicated in the drug trade.”¹⁸

Moreover, the legitimacy of the ‘*shoot to kill*’ and ‘*shoot on sight*’ order of Pres. Duterte is put to question because at present, the country’s legal-institutional framework does not approve of such. Under Article 11 of the Revised Penal Code¹⁹, there are only two justifying circumstances to shoot or kill a suspect. First is in defense of a person’s rights and second is in defense of a stranger or another person. If none of the circumstances are present when the killing was done, it is considered as murder and is a clear violation of the law.

Whilst the Administration denied that the ‘*shoot to kill*’ order of President Duterte is the administration’s national policy for killing drug suspects,²⁰ the President was quoted reiterating said order on several occasions thereafter, to wit:

¹⁷ Speech during a thanksgiving party in Davao City, 4 June 2016 (Annex C)

¹⁸ Francisco, K. (5 October 2016). *Shoot to kill? Duterte's statements on killing drug users*. Retrieved from <http://www.rappler.com/newsbreak/iq/148295-philippines-president-rodrido-duterte-statements-shoot-to-kill-drug-war>

¹⁹ Article 11, Revised Penal Code. Retrieved from http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/PHL_revised_penal_code.pdf (Annex D)

²⁰ Nilles, G. 16 September 2016. No shoot-to-kill order vs drug suspects - Palace. The Philippine Star. Retrieved from <http://www.philstar.com/headlines/2016/09/16/1624299/no-shoot-kill-order-vs-drug-suspects-palace>

During a media interview in Bajada, Davao City last 05 August 2016, he said:

"...Kaya my order diyan is shoot-to-kill kayo. Wala ako pakialam diyan sa human rights...kung anong gusto nilang sabihin. This campaign...war [is] against the drug[s].

(TRANSLATION: That's why my order is shoot to kill. I don't care about human rights. I don't care about what they're trying to say. This campaign/war is against drugs.)

*Kaya noong nag-Presidente ako[,] doon na-realize ng Republic of the Philippines at ang mga tao how it has caused damage to our people. It's so widespread. It has destroyed so many lives. Inutil na iyan, bigyan mo ako ng problema, tatapusin kita. **This campaign shoot-to-kill will remain until the last day of my term** kung mabuhay pa ako...Maghanap na lang kayo ng kasalanan, huwag iyan, siguradong mamatay kayo [emphasis supplied]."*

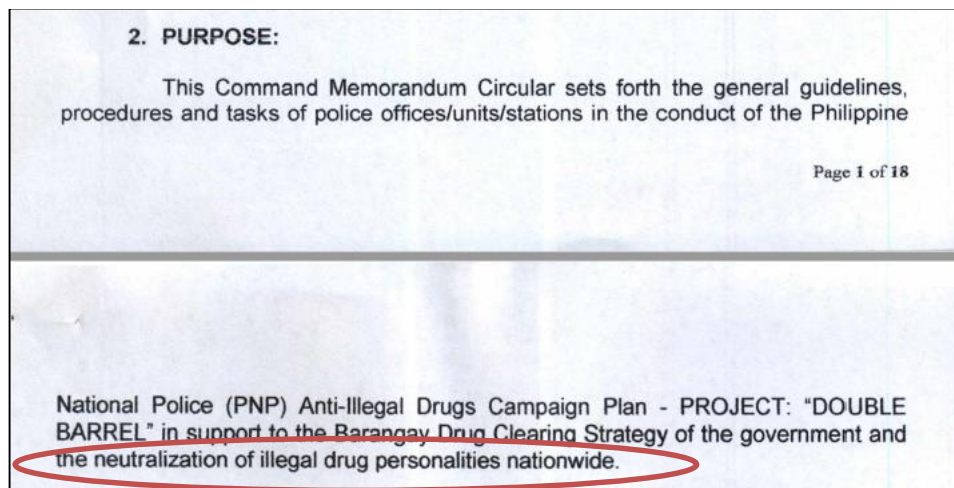
*(TRANSLATION: When I became President, that's when the Philippines and its citizens realized the damage caused by drugs to our people. It's so widespread. It has destroyed so many lives. That's inutile. Give me a problem and I will solve it. **This campaign shoot-to-kill will remain until the last day of my term** if I'm still alive. Just look for other sins, not drugs because you'll surely die.)²¹*

Project Double Barrel: **Neutralization of Drug Personalities**

On July 2016, the PNP operationalized President Duterte's directive to launch an all-out war against drugs through its "*Project: Double Barrel*". In line with this and to guide the police force in carrying out its mission, the Office of the Chief of Police issued Command Memorandum Circular No. 16-2016 dated 1 July 2016 ("*PNP Circular*"). The PNP Circular was issued due to President Duterte's campaign promise to get rid of illegal drugs during the first six months of his term.²² To implement this, the PNP is mandated to conduct "*neutralization*" of drug personalities nationwide:

²¹ Speech during a media interview, 5 August 2016 (Annex C)

²² *Whereas clauses*, PNP Circular. (See Annex E)



Neutralization, in police terms, means killing these illegal drug personalities, and true enough, the order to kill from higher PNP officials came after this PNP Circular was released.

In more than nine months of the Project Double Barrel, there emerged two (2) distinct patterns of killing drug suspects: (1) Killed during ‘Legitimate’ Police Operations (KPO) or deaths resulting from police operations purportedly after the suspects fought it out with policemen during “buy-bust” operations,²³ and; (2) Vigilante Killings or deaths carried out by privately organized groups.²⁴ However, the following details would show that both patterns are actually widespread and systematic extrajudicial killings perpetrated either by policemen themselves and/or their informants or assets.

‘Killed during Legitimate Police Operations’

According to Witness Testimonies and Police Records

In the investigative report by an online news outfit, Rappler, entitled “Where the Drug War Began”,²⁵ suspected drug users were killed in what the

²³ Santos, E. (13 October 2016). *PNP filing murder charges vs. police over slain drug suspects*. Retrieved from <http://cnnphilippines.com/news/2016/10/13/PNP-file-charges.html>

²⁴ Lanfer, A. (2010). *Extrajudicial killings – a human rights crisis*. Retrieved from http://www.ipon-philippines.info/fileadmin/user_upload/Observers/Observer_Vol.2_Nr.2/Observer_Vol.2_Nr.2_PoliticalKillings_4.pdf

²⁵ Evangelist, P. (n.d.). *Where the Drug War Began*. Retrieved from <http://www.rappler.com/newsbreak/investigative/beginning-war-on-drugs-philippines>

government called legitimate police operations after the police were allegedly forced into shootouts.

The report focused on the killings in Delpan, Tondo, Manila, where the first alleged extrajudicial killing happened a few hours after President Rodrigo Duterte took his oath of office. On the eve of July 1, 2016, he made an announcement at the Delpan Sports Complex, to wit:

“I am asking you, do not go [into drugs] because I will kill you. It may not be tonight, it may not be tomorrow, but in 6 years, there will be one day that you will make a mistake and I will go after you...”

“...If someone’s child is an addict, be the one to kill them, so it won’t be so painful [to their parents]...”

Police Chief Inspector Rexson Layug, Commander of the Delpan PCP, said he was pleased with the President’s national war on drugs, known as the Project Double Barrel. It permitted the increase in number of policemen under his command, and allowed more aggressive patrols in the area. In an interview, PCI Layug claimed that no cop under his watch has been involved in any armed encounter with resisting suspect since the beginning of the drug war.

Furthermore, Police Chief Superintendent Joel Coronel, District Director of Manila Police District, said that no human rights complaints has reached his office, and no anomalies or illegalities were found committed by Manila’s police force as of April 2017. He added that the fatalities did not surprise him because drug suspects are expected to fight back. This, however, is contrary to police and media reports, which recorded that of the 2,555 killed by the time the drug war was suspended in January 2017, 45 were killed in the area of Tondo, with at least 11 drug-related fatalities after police encounters in Delpan alone.

The 3-month investigation involved interviews with more than 40 personalities. Among them, only 7 are willing to put their names and testimonies on record. They related the killings of Joshua Cumilang, Rex Aparri, Mario Rupillo and Danilo Dacillo who, according to witness testimonies and police records, were killed by policemen from Delpan Police Community Precinct (Delpan PCP). The first three were allegedly assaulted with a .38 revolver without a serial

number after reportedly caught carrying *shabu* or crystal meth, while Dacillo was killed after his aunt surrendered him to the police.

The report profiles the main perpetrator as PO3 Ronald Alvarez, who residents call the 'Demon of Delpan'. He was officially assigned to Manila's Police Station-2 along Moriones Street on February 10, 2014, and was known to residents as a cop in white shirt with thick gold necklace always wandering in alleyways. Twenty-one witnesses in at least five (5) different cases attest to the fact that the supposed drug suspects/victims did not fight back or fire a gun at the arresting policemen. The witnesses further pinpoint PO3 Alvarez together with other police officers as responsible for the summary executions in the area.

After the resumption of the drug war, President Duterte declared that policemen charged with killing drug suspects would be granted absolute pardon if they pleaded guilty. This is after the National Bureau of Investigation charged 19 policemen for the death of Albueria Mayor Rolando Espinosa Sr., tagged as a drug lord, after an alleged firefight inside the Leyte Provincial Jail.

According to Senior Police Officers²⁶

According to two senior police officers- a retired intelligence officer and an active-duty commander- the Philippine National Police (PNP) is behind the killings in the Administration's War on Drugs, including those allegedly carried out by vigilantes. In doing so, police officers engage in *planting* evidence at crime scenes, and receiving cash payments for successfully executing drug suspects. This conduct of the drug war is detailed in an unpublished 26-page report entitled '*The State-Sponsored Extrajudicial Killings in the Philippines*' authored by the abovementioned intelligence officer.

The report was based on the accounts of 17 former and active policemen who agreed to divulge their knowledge about the killings because they lamented how drug suppliers are not killed but instead, the killings targeted poor people.

For the past nine months, more than 2,600 suspects were shot dead in the conduct of alleged legitimate police operations. According to the police, such shootings occurred after drug suspects opened fire or when they were caught

²⁶ Mogato, M. & Baldwin, C. (18 April 2017). *Special Report: Police describe kill rewards, staged crime scenes in Duterte's drug war*. Retrieved from <http://www.reuters.com/article/us-philippines-duterte-police-specialrep-idUSKBN17K1F4>

dealing drugs. The investigations showed that 97 percent of drug suspects were actually killed by police officers in buy-bust operations.

However, according to the senior police officials, these '*buy-bust*' operations are actually well-planned executions. It begins by choosing targets from the hit list also known as (aka) '*drug watch list*', and unplugging security cameras and street lamps where the killing is planned. The unarmed target will be executed by a team of police operatives, who would plant guns and drugs at the crime scene in order to justify the legality of their operations.

In some instances, officers would put the gun in the suspect's hands then pull the trigger so the forensic testing would reveal that the suspect fired a gun. According to the officials, since they are only ordered to do the killings, planting evidence is a way to protect themselves.

After the successful execution, members of the team will be paid based on two factors: (1) role in the killing, and (2) target's value. The cash reward ranges from "*20,000 pesos (\$400) for a street level pusher and user, 50,000 pesos (\$1,000) for a member of a neighborhood council, one million pesos for distributors, retailers and wholesalers, and five million for drug lords.*" While some police officers are motivated in executing kill orders for the monetary reward and/or out of fear of being killed for not cooperating, some also claim that they do so recognizing the flawed disciplinary and justice system in the Philippines, which fails to adequately investigate on the killings.

Moreover, the report noted that police officers are given a *quota* of drug "*surrenderers*" or people who surrender and admit that they are either drug users or pushers. Police officers would usually fill-up their quota by arresting men who are drunk or shirtless, then forcing them to register as drug suspects.

The above-mentioned methods are similar to what a former policeman, SPO4 Arturo Lascañas, testified before the Philippine Senate when he related his role as part of the Davao Death Squad (DDS), linking President Duterte as the mastermind of kill orders.

In his interviews, Lascañas said that he was paid for *executing* drug suspects and other criminals. In the early 1990s, he was given 3,000 to 5,000 pesos (\$60-\$100) for each kill job, while in the early 2000s, he was paid more than 10,000 pesos for each operation.

According to a Relative of Slain Drug Suspects

On July 6, 2016, Renato Bertes, and his son, JP Bertes, were arrested in their Pasay City home for drug possession. The following day, they were found dead inside the jail for allegedly trying to grab the gun of the police officers.²⁷

Based on the account of Harra Kazuo, JP's common-law wife, three police officers barged into their house without search warrant, demanding his husband to turnover drugs. These same officers were purportedly extorting money from them in exchange of dropping drug charges against JP, who was admittedly a drug peddler. She paid 20,000 pesos for JP's gambling case and 10,000 pesos for his drug charges. However, they were still harassed during the search process.

The police brought her husband and father-in-law to the police's Station against Illegal Drugs (SAID). The next day, around 10 in the morning, the Bertes father and son were transferred to the Pasay City Police Station 4, when JP asked Harra to have doctors examine them because they were allegedly beaten by the police officers. However, the next time she saw them, they were already dead.²⁸

According to the police officers, they were killed after attempting to jailbreak by grabbing the gun of a police officer. The Commission on Human Rights (CHR), however, was not convinced with this alibi saying that the incident of grabbing guns was very unlikely because the victims had fractures and were physically weak due to torture. The CHR added that stopping an escaping suspect inside a police station does not justify killing them with 3 gunshots each. The Commission concluded that this was indeed a case of human rights violation.²⁹

²⁷ Punzalan, J. (22 August 2016). *Senate digs into 'police torture' of slain father, son*. Retrieved from <http://news.abs-cbn.com/news/08/22/16/senate-digs-into-police-torture-of-slain-father-son>

²⁸ Elemia, C. (22 August 2016). *CHR: Police 'tortured' father-son drug suspects killed in Pasay jail*. Retrieved from <http://www.rappler.com/nation/143838-chr-police-tortured-father-son-drug-suspects-pasay-jail-senate-hearing>

²⁹ Elemia, C. (22 August 2016). *CHR: Police 'tortured' father-son drug suspects killed in Pasay jail*. Retrieved from <http://www.rappler.com/nation/143838-chr-police-tortured-father-son-drug-suspects-pasay-jail-senate-hearing>

According to Retired SPO3 Arturo Lascañas³⁰

These narratives are old news to Retired SPO3 Arturo Lascañas. According to him, they have been doing it in Davao for decades now. Retired SPO3 Arturo Lascañas was a member of the Anti-Crime Unit and subsequently, the Heinous Crime Investigation Unit of Davao City Police. He is a self-confessed member of the Davao Death Squad (DDS), the liquidation squad formed by then-Davao City Mayor Rodrigo Duterte to target drug addicts and criminals.

During the 6 March 2017 hearing of the Senate Committee on Public Order and Dangerous Drugs, he retracted his previous testimony and admitted to the killings. These killings were purportedly done in the guise of legitimate police operations. Similar to what is happening now, they routinely planted evidence, staged the crime scene and put on record that the person killed opened fire and was, therefore, a threat to the police personnel conducting the operation.

As reflected in the Transcript of Stenographic Notes (TSN) of his testimony on March 6, 2017:

SEN. TRILLANES. Iyang tinatawag ninyong mga project, pagka lumalabas kayo sinasabi ninyo parang legitimate police operations iyan, hindi ba? *(These 'projects' you refer to, when you go out, they appear to be legitimate police operations, right?)*

MR. LASCAÑAS. Yes, Your Honor.

XXXX

SEN. TRILLANES. Contract killing. Pero ang cover ninyo pa rin kapag ginawa ito ay legitimate police operations? *(Contract killing. But your cover is that you refer to them as if they are legitimate police operations?)*

MR. LASCAÑAS. Yes. Kasi before napatay si Gaygay Chua, according to Jim, in-inform din niya si Sonny na magsagawa ang grupo ng isang buy-bust operation against Gaygay Chua. So it appears na dahil inaprubahan ito ni Sonny, may clearance na kay Mayor. *(Yes. Before the killing of Gaygay Chua, Jim informed*

³⁰ Transcript of Senate Committee on Public Order and Dangerous Drugs Hearing, 6 March 2017 (Annex F)

Sonny that our group will be conducting a buy-bust operation against Chua. So it appears that since it was approved by Sonny, it was also cleared by the Mayor.)

XXXX

SEN. TRILLANES. Sinasabi ninyo ba na iyong legitimate police operation, iyong namatay, iyong pinaplantingan (planting) ninyo, nanlaban sila? *(Are you saying that in these legitimate police operations, those killed, are the same ones on whom you planted evidence, do you also say that they resisted arrest?)*

MR. LASCAÑAS. Ganoon po. Kasi hindi mo puwedeng patayin iyon kung walang resistance. Iyon ang justification doon. *(That's how we do it. We cannot kill them unless they show resistance. That is our justification.)*

SEN. TRILLANES. But in fact, hindi naman nanlaban. *(But in fact, they did not actually resist?)*

MR. LASCAÑAS. I-sample ko lang po, Your Honor, kung sa sampu, kung mayroong isang manlaban, milagro na iyon. *(To answer you, I will just cite an example, Your Honor. For every 10 operations, it is already a miracle if even just one (1) suspect resisted arrest.)*

SEN. TRILLANES. So, basically, sinasabi mo, walang nanlalaban pero on record, pinapalabas ninyo nanlaban sila kaya justified iyong pagpatay sa kanila. *(So basically, you are saying that suspects do not actually resist or fight back, you just make it appear on record that they resist or fight back to justify your act of killing them?)*

MR. LASCAÑAS. Opo. (Yes.)

XXXX

MR. LASCAÑAS. ... Kadalasan po noon is—usually, kung palabas na legit ang operations, pero pinaplantingan (plant) namin. Lalo pa kung may pending na warrant of arrest, mas madali iyon. *(Usually, when we try to make the killing look like a legitimate*

police operation, we plant evidence. This is particularly true in the case of people with pending warrant of arrest, it is easier to do that.)

SEN. AQUINO. So pinapalabas ninyo na legitimate iyong police operations? *(So you make it appear that the police operations is legitimate?)*

MR. LASCAÑAS. Yes. Pero iyong iba naman is iniwanan na. *(Yes, but sometimes, we just leave the body.)*

In the last excerpt, Mr. Lascañas narrated police-perpetrated killings under the guise of legitimate police operations and the killings they did that were only recorded as blotters or cases under investigation. According to Mr. Lascañas, sometimes when they kill people, they just leave the body.

Then when someone reports it, they record it in the police blotter but no investigation ensues because there are no pieces of evidence or witnesses. Similarly, the Philippine National Police, in the first months of the Duterte Administration, categorized this type of killings as under *“deaths under investigation.”*

According to a BBC Documentary

In the BBC documentary, *‘Deadliest Place to Deal’*, reporter Livvy Haydock joined the local press in their nightly rounds around Metro Manila to cover crime scenes and document up to 22 killings per night. She also went on and interviewed families of the victims, human rights investigators, police officers, drug dealers, and even vigilantes. Testimonies and pieces of evidence were gathered pointing to what we all already know – killings are perpetuated by the police.

According to witnesses’ accounts, what the police described as legitimate police operations in their spot reports, were actually rubouts and murders. The police barged in their houses, kill drug suspects who did not retaliate or resist arrest, and then plant fake evidence. In addition, in Haydock’s interview with a vigilante, he claimed that it was the police who gave him the list of targets to be eliminated. This climate of killing and impunity is also being exploited by some to kill innocent people out of personal grudge.

'Vigilante Style Killings'

According to PO1 Vincent Tacorda

In an *Affidavit* dated 10 May 2017 signed by Police Officer 1 ("PO1") Vincent Tacorda, he narrated how he received an order from PNP Provincial Director Jesus Martinez to "neutralize" a certain drug personality:

"9. Worthy of mention is the fact that during the past administration, there was never a single incident where a drug suspect was killed during the conduct of an operation.

10. This, however, changed when, on July 2016, PD Martirez ordered me and PO1 Bagay (to) personally deliver an 'accomplishment of 5-10 deaths of drug personalities.' He later on admitted to us that he will be relieved from his post if there is no 'death of drug personalities' that will be delivered in his area.

11. Because of the pressure to deliver, I acceded and requested for a list from which I can choose from. I was however not given such list. But I got a call and text from PSI Nathaniel Jacob, the Chief of Police of Viga, Catanduanes, informing me that there is already a go signal from the Provincial Director. We met at the Kemji Hotel & Restaurant and was given the name of my first target.

12. My designated role in the operation was that I was to be the "shooter". There is someone else who will conduct the surveillance and that an intel operative is watching the target. I was given by Sgt. Teope an Php800 budget for my food and lodging, a picture of the target, and a folder with "I'M A PUSHER, DON'T BE LIKE ME... bicol vigilante" handwritten in red pentel pen.
x x x

13. When I was given the exact location of the target in Brgy. San Jose, Viga, Catanduanes, I went to the place on board a motorcycle driven by a former police officer. When I located the target, I initially passed by his location and when I saw him, I decided to go back. We parked the motorcycle in the corner of the

nearest street. I casually walked towards the target, using the folder to cover my firearm, and fired the bullet at his back. I tried to fire again but my firearm got jammed. Hence, I just threw the folder on him and rushed back to the waiting motorcycle and left the scene. I was then wearing a helmet and jacket so nobody can recognize me.

14. The operation was well coordinated with the Chief of Police. x x x" [Emphasis supplied]

After the said operation, PO1 Tacorda's conscience, however, prompted him to leave the service. Attached as Annex "G" is the Affidavit of PO1 Tacorda.³¹

This testimony of PO1 Tacorda lends credence to other testimonies made by police assets (like Edgar Matobato) and former police officers (like Arthur Lascañas) who testified that the killings of drug personalities are targeted, planned and executed by the police.

Motorcycle-riding assassins turned out to be two junior police officials

On October 8, 2016, Zenaida Luz, a Citizens Crime Watch regional chairperson in Oriental Mindoro, was gunned down by a motorcycle-riding assassins in front of her house. Said perpetrators were later on arrested and identified as two (2) junior police officials namely: Senior Inspector Magdalino G. Pimentel, a member of the Philippine National Police Academy (PNPA) class of 2009 and at that time assigned at the First Manuever Platoon of Oriental Mindoro Police Public Safety Company (PPSC); and Inspector Markson S. Almenarez, Chief of Socorro Town Police, graduated fifth in PNPA class of 2013 and who was recently awarded by PNP Chief Director General Ronald Dela Rosa as outstanding police commissioned officer.

Pimentel, wearing a bonnet and a jacket and Almenarez, wearing a face mask and a wig to disguise themselves, were riding a motorcycle when they shot Luz. Responding policemen chased down the two young officers up to the

³¹ Affidavit of PO1 Vincent Tacorda (Annex G)

neighboring town where one of the suspects started shooting. From there, they were cornered and wounded. Upon their arrest, a 45-caliber pistol and .38 caliber pistol were seized from the two.³²

More Than Just Numbers:
The Bloodbath Beyond The Numbers

The government, nonetheless, has decided to engage in a propaganda war denying the killings and providing an alternative count on the killings.³³

In a speech made during the Universal Periodic Review being conducted by the United Nations Human Rights Council, Philippine Department of Foreign Affairs Secretary dismissed the reports on the killings as a mere *“political tactic”* being employed by the Philippine political opposition and accused the critics of the government of spreading *“alternative facts”* by changing the definition of the term *“extrajudicial killings.”*³⁴

Then Senator and now Foreign Affairs secretary Alan Peter Cayetano noted in his speech, *“Because some of the critics of the Duterte Administration, including our very own Commission on Human Rights (CHR), a senator and some local media changed the definition of extrajudicial killings (EJK) therefore deceiving the public and foreign media into believing that there is a sudden wave of state-sponsored extrajudicial killings in the Philippines.”*³⁵

He then reiterated the statistics being peddled by the government that since President Duterte took office in July 2016, only 9,432 homicide cases have

³² See: Philippine Daily Inquirer Editorial (18 Oct. 2016): Cops turned hitmen. Retrieved from: <http://opinion.inquirer.net/98296/cops-turned-hitmen>

³³ A record of the speech made by Philippine Department of Foreign Affairs Secretary and former Senator Alan Peter Cayetano may be accessed at <https://www.youtube.com/watch?v=CXuxFEcZY00> See following articles on the speech: (1) <http://cnnphilippines.com/news/2017/05/08/PH-defends-drug-war-UN-Geneva.html>; (2) <http://www.philstar.com/headlines/2017/05/08/1697939/cayetano-takes-aim-callamard-un-body>; (3) <https://cmfr-phil.org/media-ethics-responsibility/journalism-review/the-missing-zero-disproving-caytanos-claim-on-tolerance-for-abuse/>; (4) <https://www.hrw.org/news/2017/05/09/philippines-drug-war-deaths-denial-complex>. See previous discussion on the Real Numbers Forum hosted by the different government agencies.

³⁴ A record of the speech made by Philippine Department of Foreign Affairs Secretary and former Senator Alan Peter Cayetano may be accessed at <https://www.youtube.com/watch?v=CXuxFEcZY00>

³⁵ Estanislao, A. (9 May 2017). PH delegation defends drug war at UN in Geneva. Retrieved from <http://cnnphilippines.com/news/2017/05/08/PH-defends-drug-war-UN-Geneva.html>

been recorded which includes 2,692 deaths from presumed legitimate law enforcement operations.³⁶

The United Nations and other international organizations, however, believe that the killings must be stopped immediately.

In a report by the Human Rights Council to the United Nations General Assembly dated 27 February 2017 (A/HRC/WG.6/27/PHL/2), the Council underscored the “urgent need” to put a stop to the killings.³⁷

“The United Nations country team, referring to relevant supported recommendations, stated that the Government’s anti-drug campaign had led to alleged “drug users and pushers” being killed. It added that there was an urgent need to stop all extrajudicial killings and any incitement to commit such killings. Also, the Government’s methods of combating the use of illegal drugs must be brought into line with international standards.

The Human Rights Committee expressed concern at the continued perpetration of extrajudicial killings and enforced disappearances. It was particularly concerned at the proliferation of private armies and vigilante groups that were partly responsible for those crimes, as well as at the large number of illegal firearms. The Committee was concerned at the arming and use of “force multipliers” for counter-insurgency and other purposes.”

No less than former United Nations Secretary-General Ban Ki-moon condemned the human rights situation in the Philippines. Ban stated:

“I unequivocally condemn his apparent endorsement of extrajudicial killing, which is illegal and a breach of fundamental rights and freedoms. Such comments are of particular concern in

³⁶ Miles, T. (8 May 2017). Nothing to see here, Philippines tells U.N. Human Rights Council. Retrieved from <http://www.reuters.com/article/us-philippines-un-idUSKBN184134>

³⁷ United Nations. (27 February 2017). Compilation on the Philippines: Report of the Office of the United Nations High Commissioner for Human Rights. Retrieved from <https://www.upr-info.org/en/review/Philippines/Session-27---May-2017/Compilation-of-UN-information> (Annex H)

light of ongoing impunity for serious cases of violence against journalists in the Philippines.”³⁸

The United Nations Office on Drugs and Crimes has also urged President Duterte to respect human rights:

“The United Nations Office on Drugs and Crime (UNODC) remains greatly concerned by the reports of extrajudicial killing of suspected drug dealers and users in the Philippines. I join the United Nations Secretary-General in condemning the apparent endorsement of extrajudicial killing, which is illegal and a breach of fundamental rights and freedoms.

Such responses contravene the provisions of the international drug control conventions, do not serve the cause of justice, and will not help to ensure that *"all people can live in health, dignity and peace, with security and prosperity"*, as agreed by governments in the outcome document approved at the UN General Assembly special session on the world drug problem.

UNODC supports balanced, people-centred, evidence- and rights-based approaches to drug control, rooted in the agreed international conventions and standards.

UNODC stands ready to further engage with the Philippines and all countries to bring drug traffickers to justice with the appropriate legal safeguards in line with international standards and norms, and promote prevention, treatment, rehabilitation and reintegration approaches based in evidence, science, public health and human rights.”³⁹

[Emphasis supplied]

³⁸ UN News Centre. (08 June 2016). Ban disturbed by remarks made by President-elect of the Philippines on extrajudicial killings. Retrieved from <http://www.un.org/apps/news/story.asp?NewsID=54190#.WSz4hGiGPIU>

³⁹ See <https://www.unodc.org/unodc/en/press/releases/2016/August/statement-by-the-unodc-executive-director-on-the-situation-in-the-philippines.html> (Annex I)

The United Nations High Commissioner for Human Rights Zeid Ra'ad Al Hussein also joined the growing voice of concern over the rising number of killings in the Philippines:

“The President of the Philippines' statements of scorn for international human rights law display a striking lack of understanding of our human rights institutions and the principles which keep societies safe. Fair and impartial rule of law is the foundation of public confidence and security. Empowering police forces to shoot to kill any individual whom they claim to suspect of drug crimes, with or without evidence, undermines justice. The people of the Philippines have a right to judicial institutions that are impartial, and operate under due process guarantees; and they have a right to a police force that serves justice. I strongly encourage the Philippines to extend an invitation to the Special Rapporteur on extrajudicial, summary or arbitrary executions. My Office is ready to assist, including with respect to rule of law institutions and the prevention and treatment of drug use in accordance with international norms.”⁴⁰

Despite this, however, the Philippines has yet to invite United Nations special rapporteur to conduct a formal investigation.⁴¹

Members of the international community have, likewise, expressed concerns over the rising number of people killed in President Duterte's war on drugs. The Human Rights Watch, in a report entitled “*License To Kill*”, outlined the international community's response:

1. The **United States State Department** has urged the Philippine government “*to ensure its law enforcement efforts are consistent with its human rights obligations*”⁴². In fact, the United States Embassy in Manila has expressed “*significant concerns around rule*

⁴⁰ Zeid Ra'ad Al Hussein. (13 September 2016). Opening Statement at the 33rd session of the Human Rights Council. Retrieved from <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20474#sthash.fSVcqkiM.dpuf> (Annex J)

⁴¹ Mogato, M. (14 December 2016). Philippines cancels visit by U.N. rapporteur on extrajudicial killings. Retrieve from <http://www.reuters.com/article/us-philippines-drugs-un-idUSKBN1431GM>

⁴² US Embassy in the Philippines Statement. (12 August 2016). Retrieved from <https://ph.usembassy.gov/u-s-embassy-statement/>

of law and civil liberties in the Philippines” and, as a result, denied a Millennium Challenge Corporation grant to the Philippines;⁴³

2. The **European Parliament** issued on 15 September 2016 a resolution⁴⁴ condemning the *“extraordinarily high numbers killed during police operations and by vigilante groups in the context of an intensified anti-crime and anti-drug campaign targeting drug dealers and users, and urges the Government of the Philippines to put an end to the current wave of extrajudicial executions and killings.”* The resolution states:

“Urges the authorities to ensure respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by the Philippines;

Encourages the authorities to launch an immediate investigation into the extraordinarily high numbers killed during police operations;

Notes that UNODC stands ready to engage further with the Philippines to bring drug traffickers to justice with the appropriate legal safeguards in line with international standards and norms;

Recommends that a national mechanism for the prevention of torture be put in place without delay, as provided for by the Convention against Torture and its Optional Protocol.”

⁴³ US agency defers grant to PH amid rule of law issues. Retrieved from <http://news.abs-cbn.com/news/12/15/16/us-agency-defers-grant-to-ph-amid-rule-of-law-issues>

⁴⁴ Resolution may be accessed <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0349+0+DOC+XML+V0//EN> (Annex K)

3. United Nations member countries have also expressed concern over these killings. These countries include:⁴⁵

- a) Australia
- b) Austria
- c) Brazil
- d) Bulgaria
- e) Canada
- f) Croatia
- g) Cuba
- h) Czech Republic
- i) Denmark
- j) Egypt
- k) France
- l) Germany
- m) Ghana
- n) Guatemala
- o) Haiti
- p) Holy See
- q) Hungary
- r) Iceland
- s) Ireland
- t) Italy
- u) Iraq
- v) Latvia
- w) Lithuania
- x) Luxembourg
- y) Montenegro
- z) Netherlands
- aa) Norway
- bb) Peru
- cc) Poland
- dd) Portugal
- ee) Romania
- ff) Sierra Leone
- gg) Slovakia
- hh) Slovenia
- ii) Spain

⁴⁵ 45 UNHRC members call for end to killings. Philippine Star News. Retrieved from <http://www.philstar.com/headlines/2017/05/12/1699064/45-unhrc-members-call-end-killings>

jj) Sri Lanka
kk) Sweden
ll) Switzerland
mm) Thailand
nn) Timor Leste
oo) Ukraine
pp) United Kingdom
qq) United States
rr) Uruguay
ss) Venezuela

Despite President Duterte's administration's strategy to deny the heightened clamor of the international community against his administration's war on drugs, the Philippine government has ultimately failed to address the growing concern of the international community over the human rights situation in the Philippines. Also, despite the administration's denial of the existence of these killings and while they have attempted to explain the government's effort to address the situation, this effort pales in comparison to the bleak narratives of those who died in President Duterte's war on drugs.

It must be emphasized that hardly one month after the communication from the Philippines was filed, the killings in the Philippines continued, and no genuine effort can be seen from the government to abate or at least investigate these killings, thus, proving in fact that the killings are a national policy of President Duterte and, therefore, state-sponsored.

We take this opportunity to cite some of these recent reports, thus:

1. 24 April 2017 – Ex-Vice Mayor, among the top 5 in local drug watchlist, killed in La Union⁴⁶

Former vice mayor of Sto. Tomas, La Union, Vincent Rafanan and his companion were shot dead by unidentified gunmen on

⁴⁶ Ex-Vice Mayor of Sto. Tomas, La Union, gunned down. (28 April 2017). GMA News Online. Retrieved from <http://www.gmanetwork.com/news/news/regions/608736/ex-vice-mayor-of-sto-tomas-la-union-gunned-down/story/>

24 April 2017. According to police, Rafanan was a high-value target and was among the top five in their local drug watchlist.

2. 25 April 2017 – Buddies killed in Navotas shooting incident⁴⁷

Two friends, Esteban Lansangan Jr. and Danilo Viojan, were shot dead inside a house in Navotas City. According to reports, the 2 had been on the police drug watchlist.

3. 26 April 2017 – Body found at Burnham Park by Baguio jogger⁴⁸

A 47-year-old jogger found a body of a man who appeared to be 25-30 years old at Burnham Park's picnic grove on April 26, 2017. Electrical tape, a coin purse, and a sachet believed to hold marijuana leaves were found in the red sling bag strapped to the victim's body.

4. 27 April 2017 – Alias 'Cris', notorious drug pusher, killed in Bulacan drug bust⁴⁹

Alias 'Cris', a high-value target, was shot dead by the police after he reportedly resisted arrest and shot it out with the police during a drug-bust operation in Malolos, Bulacan. A cal.38 hand gun and sachets of suspected shabu were found from the scene of the incident.

⁴⁷ Buddies killed in Navotas shooting incident. (26 April 2017). GMA News Online. Retrieved from <http://www.gmanetwork.com/news/news/metro/608412/buddies-killed-in-navotas-shooting-incident/story/>

⁴⁸ Cabreza, V. (27 April 2017). Body found at Burnham Park by Baguio jogger. Retrieved from <http://newsinfo.inquirer.net/892368/body-found-at-burnham-park-by-baguio-jogger>

⁴⁹ 'Notorious' drug pusher killed in Bulacan drug bust. (27 April 2017). GMA News Online. Retrieved from <http://www.gmanetwork.com/news/news/regions/608569/notorious-drug-pusher-killed-in-bulacan-drug-bust/story/#sthash.hgDOVMBw.dpuf>

5. 29 April 2017 – Drug personality, 2 others shot dead over the weekend⁵⁰

Jason Napalla, 29, a suspected drug personality was shot to death by an unidentified assailant in Sitio San Antonio, Barangay Linao, Talisay. The assailant shot Napalla in the head. Police believed that the motive of the killing may have to do with the victim's involvement in the illegal drug trade.

6. 02 May 2017 – Mother, 2 kids killed in crossfire in anti-drug op in Maguindanao⁵¹

A mother and two children were killed while two others were badly hurt in an anti-narcotics operation on Tuesday in Barangay Panadtaban in Rajah Buayan town. Employees of the Rajah Buayan municipal social welfare office told reporters a woman and two children had been killed in the encounter. Three other preschool children were injured in the incident.

7. 02 May 2017 – Four drug-related deaths recorded in San Juan⁵²

In 2 separate incidents, a couple and 2 brothers-in-law, all Oplan Tokhang Surrenderers, were shot dead inside their homes. At least 20 armed men were said to be involved in the killing of the couple.

⁵⁰ Tudtud, C., Algabre, I. (30 April 2017). Drug personality, 2 others shot dead over the weekend. Retrieved from <http://www.philstar.com/cebu-news/2017/04/30/1695359/drug-personality-2-others-shot-dead-over-weekend>

⁵¹ Unson, J. (2 May 2017). Mother, 2 kids killed in crossfire in anti-drug op in Maguindanao. Retrieved from <http://www.philstar.com/nation/2017/05/02/1696100/mother-2-kids-killed-crossfire-anti-drug-op-maguindanao>

⁵² Couple, 2 more killed inside homes in separate shootings in San Juan. (03 May 2017). GMA News Online. Retrieved from <http://www.gmanetwork.com/news/news/metro/609291/couple-2-more-killed-inside-homes-in-separate-shootings-in-san-juan/story/>

8. 02 May 2017 – Alleged Drug User shot dead in Tondo⁵³

King James Niño, 24, was shot dead while standing along a street in Tondo, Manila early morning on 2 May 2017. According to the police, the live-in partner of the victim told them that they were out on the street because a friend invited the victim to a shabu session.

9. 03-05 May 2017 – 5 dead, 25 nabbed in Metro Manila⁵⁴

At least five (5) persons were killed and 25 others were arrested in Metro Manila from 03 May 2017 to 05 May 2017. Four were killed in a series of drug-related operations conducted by the PNP, namely: Garry Dorimon; Alexander Matibag; Ronald Martinez; and one unidentified suspect. They were killed after they allegedly tried to shoot at the police. While one, Jefferson Guevarra, was shot dead by two men riding a motorcycle. Guevarra was previously detained for robbery and illegal drugs.

10. 03-05 May 2017 – 4 drug suspects slain in separate shootings in Luzon⁵⁵

Eduardo Tee, Rico Bayani, and Orlando Flores were killed after they reportedly engaged the police in shootouts in separate anti-drug operations. While Nestor Cruz, was gunned down by motorcycle-riding men wearing bonnets in Sta. Maria.

⁵³ Guttierrez, A. (02 May 2017). Alleged Drug User shot dead in Tondo. Retrieved from <https://www.msn.com/en-ph/news/national/alleged-drug-user-shot-dead-in-tondo/ar-BBABEfr>

⁵⁴ Cabrera, R., Ramirez, R., Galupo, R. (05 May 2017) Drug war: 5 dead, 25 nabbed. Philippine Star. Retrieved from <http://www.philstar.com/metro/2017/05/05/1696831/drug-war-5-dead-25-nabbed>

⁵⁵ 4 drug suspects, 3 others killed in shootings. (05 May 2017). Philstar. Retrieved from <http://www.philstar.com/nation/2017/05/05/1696748/4-drug-suspects-3-others-slain-shootings>

11. 04 May 2017 – Caraga ‘drug lord’ killed in CDO raid, ex-cop arrested in Butuan⁵⁶

Jabbar Sangcopan, an alleged drug lord in the Caraga region considered a priority high value target of the Philippine Drug Enforcement Agency (PDEA) was killed during the agency’s drug raid in Cagayan De Oro City.

12. 07 May 2017 – 2 killed, 1 hurt in separate drug-related shootings in Caloocan and Mandaluyong City⁵⁷

Two persons were slain and another was wounded in drug-related attacks in Mandaluyong and Caloocan City only before dawn on 07 May 2017. Alleged pusher Julius Almen, 38, was shot dead by an unidentified suspect in Mandaluyong. In Caloocan City, Elizabeth Joves, 59, was found with a bullet in the head on the sidewalk of Namie street. His son, Reivin Espino, was later shot several times by three unidentified gunmen near the area where Joves was found. Espino was brought to the Jose Reyes Memorial Medical Center. According to a source, the attacks to Espino and Joves may be linked to the illegal drug trade in the area.

13. 08 May 2017 – Top Ilocandia drug suspect killed; 4 others slain in Bulacan⁵⁸

Salvador “Amang” Marzan Jr., the Ilocos region’s most wanted illegal drugs suspect, recently surrendered to authorities during the implementation of the anti-illegal drugs campaign “Oplan Tokhang”. Marzan sustained 9 gunshot wounds, mostly to the body and head.

In Bulacan, two drug suspects identified as John Paul “Pranco” Bernardo and Milet “Putot” Bernardo and another

⁵⁶ Crismundo, M. (6 May 2017). Caraga ‘drug lord’ killed in CDO raid, ex-cop arrested in Butuan. Retrieved from <http://news.mb.com.ph/2017/05/06/caraga-drug-lordkilled-in-cdo-raid-ex-cop-arrested-in-butuan/>

⁵⁷ [Alquitran, Galupo](http://www.philstar.com/metro/2017/05/08/1697667/2-killed-1-hurt-drug-shootings). (08 May 2017) 2 killed, 1 hurt in drug shooting philstar may 8. PhilStar. Retrieved from <http://www.philstar.com/metro/2017/05/08/1697667/2-killed-1-hurt-drug-shootings>

⁵⁸ Beleo, E., Regala, F. (10 May 2017). Top Ilocandia drug suspect killed; 4 others slain in Bulacan. Retrieved from <http://news.mb.com.ph/2017/05/10/top-ilocandia-drug-suspect-killed-4-others-slain-in-bulacan/>

unidentified male suspect were shot dead when they resisted arrest during a buy-bust operation in San Rafael.

14. 08 May 2017 – Tokhang surrenderer shot dead in Balara⁵⁹

Marlon Cruz, was shot dead by unidentified men in front of a drug store at the corner of Tandang Sora Avenue and Commonwealth Avenue in Barangay Old Balara, Quezon City. Police said Cruz sustained multiple gunshot wounds in his body.

15. 13-15 May 2017 – 2 killed in Cebu buy bust⁶⁰

Police said two suspected drug personalities were killed and three others were arrested in a drug bust in Barangay Inayagan over the weekend. Gilbert Tapic and his companion known only as Welan were killed when they resisted arrest, police said. Tapic, who was the target of the operation, started shooting at the responding officers.

16. 16-17 May 2017 – 5 killed in Bulacan drug war⁶¹

Suspected drug pushers Roy Bundalian, Ronaldo San Martin, Jay Agustin, Ariel Obehero, and Celso Rodriguez, were killed in alleged shootouts with anti-drug operatives in Bulacan on 16-17 May 2017

17. 19 May 2017 – 5 killed, 21 arrested in Davao city drug raids⁶²

Five (5) persons were killed and 21 others arrested when government security forces and anti-drug agents raided several villages in Davao city on 19 May 2017. Said persons

⁵⁹ Velez, F., Regala, F., Manalo L., Estacio, D. (8 May 2017). Tokhang surrenderer shot dead in Balara. Retrieved from <http://news.mb.com.ph/2017/05/08/roundup-news-in-and-around-metro-manila-may-8-2017/>

⁶⁰ Mosqueda, M.Jr. (15 May 2017). 2 killed in Cebu buy bust. Retrieved from <http://news.mb.com.ph/2017/05/15/roundup-news-in-and-around-metro-manila-may-15-2017/>

⁶¹ (18 May 2017). 5 killed in Bulacan drug war. Philstar. Retrieved from <http://www.philstar.com/nation/2017/05/18/1700990/5-killed-bulacan-drug-war>

⁶² Nawal, A. (19 May 2017) 5 killed, 21 arrested in Davao city. Philippine Daily Inquirer. Retrieved from <http://newsinfo.inquirer.net/897743/at-least-5-killed-21-arrested-in-davao-city-drug-raids>

were killed after they allegedly traded shots with the raiding teams.

18. 20 May 2017 – Underling of top drug lord in Cebu, killed in shootout with police⁶³

Joseph Ravelle, underling of suspected drug lord Franz Sabalones, in Tuburan town on 20 May 2017 after engaging in a shootout with the police.

19. 22 May 2017 – Former barangay watchman, Oplan Tokhang Surrenderer, killed in police buy-bust operation⁶⁴

Joel Villanueva, a former barangay watchman and an Oplan Tokhang surrenderer, was killed by policemen during a buy-bust operation in Caloocan City. He was killed when he allegedly fired his gun when he noticed that he was being entrapped by policemen.

20. 24 May 2017 – 5 people, including 1 drug suspect, shot dead⁶⁵

Five people were shot dead by motorcycle-riding men in shootings on 24 May 2017. One of them was Rafael Tuppal, rank 9 on Cauayan City's drug watchlist and an Oplan Tokhan surrender. Police are still investigating the motives for the killing of the other 4 victims.

⁶³ Alima, R. (20 May 2017). Drug pusher killed in shootout with cops in Cebu town. Philippine Daily Inquirer. Retrieved from <http://newsinfo.inquirer.net/897974/drug-pusher-killed-in-shootout-with-cops-in-cebu-town#ixzz4iQz3on8e>

⁶⁴ Senator's namesake killed in Caloocan drug bust. (22 May 2017). GMA News Online. Retrieved from <http://www.gmanetwork.com/news/news/metro/611647/senator-s-namesake-killed-in-caloocan-drug-bust/story/>

⁶⁵ 5 Killed in shootings. (26 May 2017) The Philippine Star. Retrieved from <http://www.philstar.com/nation/2017/05/26/1703574/5-killed-shootings>

21. 25 May 2017 – 4 drug suspects slain⁶⁶

Two men, known only for their aliases of Jay and Jack-Jack were killed by the police when they allegedly drew their guns after sensing that they had sold shabu to anti-drug operatives.

22. 26 May 2017 – Caloocan village chief slain⁶⁷

Barangay 68 chairman Jerboy Mauricio was gunned down in his office in Caloocan on 26 May 2017 by four unidentified men. Mauricio was considered a high-value target for his involvement in illegal drugs.

23. 27 May 2017 – Tokhang surrenderer killed in Isabela⁶⁸

Jomer Bucarile, 28, surrendered to the police last year when it implemented Oplan Tokhang. He was shot dead on 27 May 2017 in Isabela.

24. 27 May 2017 – Drug suspect shot dead in Isabela Police Operation⁶⁹

Efren Fabiona, 33, was shot dead after he allegedly fired his gun at policemen during a drug bust operation on 27 May 2017.

⁶⁶ 4 Drugs Suspects slain. (27 May 2017). The Philippine Star. Retrieved from <http://www.philstar.com/nation/2017/05/27/1703900/4-drug-suspects-slain>

⁶⁷ Galupo, R. (27 May 2017). Brgy Chairman gunned down in Caloocan. Retrieved from <http://www.philstar.com/metro/2017/05/27/1703923/caloocon-village-chief-slain-drugs-eyed>

⁶⁸ Visaya, V. (27 May 2017). Butcher who surrendered in Oplan Tokhang killed in Isabela. Philippine Daily Inquirer. Retrieved from <https://newsinfo.inquirer.net/900125/butcher-who-surrendered-in-oplan-tokhang-killed-in-isabela>

⁶⁹ Drug suspect shot dead in Isabela Police Op. (27 May 2017). Philippine Daily Inquirer. Retrieved from <http://newsinfo.inquirer.net/900119/drug-suspect-shot-dead-in-isabela-police-op>

25. 27 May 2017 – Drug suspect killed in Laguna buy-bust⁷⁰

Mark Reyes, illegal drugs suspect, was killed in a buy-bust operation in Sta. Rosa, Laguna after he allegedly engaged the police in gunfight.

While these killings have become a daily occurrence in the Philippines, international rights groups have also began digging deeper into this issue.

To illustrate, Amnesty International, an international human rights watchdog released on 31 January 2017 its report entitled *“If You Are Poor, You Are Killed” - Extrajudicial Executions In The Philippines’ War On Drugs* which documented 33 cases of drug-related killings it described as *“extrajudicial executions that directly implicate the police.”* The report revealed that some of the perpetrators of the killings are police officers who hire mercenaries.

One would ask, what would be the motivation of a police officer to orchestrate the killings?

An obvious answer, as stated earlier and as confirmed by Police Officer Tacorda, is the PNP Circular which tasked the whole police organization to *“neutralize”* illegal drug personalities. In fact, the pressure is high for middle-level officials to *“deliver”* President Duterte’s promise.

As narrated in Police Officer Tacorda’s affidavit:

“10. This, however, changed when, on July 2016, PD Martinez ordered me and PO1 Bagay (to) personally deliver an ‘accomplishment of 5-10 deaths of drug personalities.’ He later on admitted to us that he will be relieved from his post if there is no ‘death of drug personalities’ that will be delivered in his area.

“11. Because of the pressure to deliver, I acceded and requested for a list from which I can choose from. I was however not given such list. But I got a call and text from PSI Nathaniel Jacob, the Chief of Police of Viga, Catanduanes, informing me that

⁷⁰ Cinco, M. (27 May 2017). Laguna drug suspect killed in buy-bust. Philippine Daily Inquirer. Retrieved from <http://newsinfo.inquirer.net/900111/laguna-drug-suspect-killed-in-buy-bust-2>

there is already a go signal from the Provincial Director. We met at the Kemji Hotel & Restaurant and was given the name of my first target.”

[Emphasis supplied]

It would seem then that the “*war on drugs*” is incited by an intense desire from the Philippine officials to eradicate the drug problem – at all cost. It is further fuelled by a “*quota system*” devised by the national police to punish non-performing officials and police groups.

There is, however, a less obvious but may even be a darker side of the war on drugs – money. According to a police officer interviewed by Amnesty International, money fuels killings:⁷¹

“The police officer with an anti-illegal drugs unit in Metro Manila, who has served in the force for 13 years and often leads or participates directly in anti-drug operations, described to Amnesty International certain payments that his and other units receive for killing alleged drug offenders:

There are different types of benefits [for these operations]. We always get paid by the encounter. That’s the word we use, ‘*encounter*.’ The amount ranges from 8,000 pesos (US \$161) to 15,000 pesos (US \$302). ... The ones we really go after are pushers. There are categories [of pushers]—different levels based on their notoriety. Higher levels are paid more. ... That amount is per head. So if the operation is against four people, that’s 32,000 pesos (US \$644).

The PNP incentive isn’t announced. ... We’re paid in cash, secretly, by headquarters. The payment is [split by] the unit. ... There’s no incentive for arresting. We’re not paid anything.

The officer described an ‘*encounter*’ as occurring when there is a shootout during a police operation. When asked if police officers would receive the payment if they fired their guns but only

⁷¹ “P. 29, If you are poor, you are killed, Amnesty International.

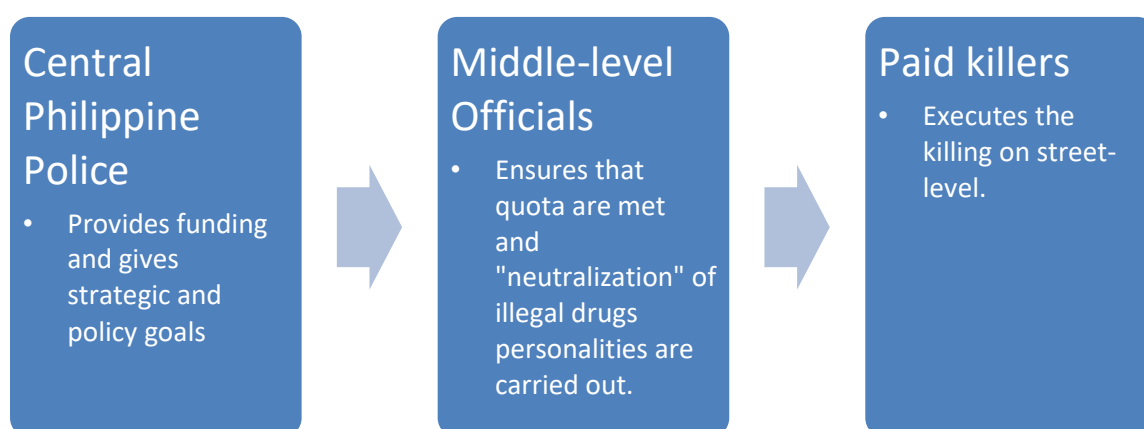
wounded, not killed, the alleged drug offender, he said, *'It never happens that there's a shootout and no one is killed.'*

In addition to payments by police headquarters, he also indicated that some, but not all, local governments in Metro Manila *'provide additional benefits' for 'encounters.'*

The officer told Amnesty International that, from his experience, station commanders and station chiefs of police are intimately involved in all aspects of anti-drug operations, including through giving direct orders. The size and, according to the police officer, regularity of the under-the-table payments for *'encounters'* suggest knowledge or other complicity even higher within the police hierarchy, which could indicate that these attacks on alleged drug offenders are *"systematic."*

This system of pay-offs, however, does not stop on the level of the police officers. The incentives trickle down to paid killers who are being hired by police officers to perform the work for them. In this system, the pay-offs were sourced from the main police organization, given to station commanders and chiefs (middle-level officials) and then ultimately paid to hired killers.

The chart below shows the system being employed in President Duterte's war on drugs.



According to Amnesty International, *"The Duterte administration's relentless pressure on the police to deliver results in anti-drug operations has helped encourage these abusive practices. Worse, there appear to be financial*

incentives. A police officer with more than a decade of experience on the force, and who currently conducts operations as part of an anti-illegal drugs unit in Metro Manila, told Amnesty International that there are significant under-the-table payments for ‘encounters’ in which alleged drug offenders are killed. He also said a racket between the police and some funeral homes leads to payments for each body brought in.”

It then concluded that the State is ultimately involved in the killings:

“In addition to killings during police operations, there have been more than 4,100 drug-related killings by unknown armed persons. Amnesty International found strong evidence of links between state authorities and some armed persons who carry out drug-related killings. The police officer said officers sometimes disguise themselves as unknown armed persons, particularly when the target is someone whose family might bring a complaint or whose death might lead to greater suspicion; he mentioned female targets in particular. Two individuals paid to kill alleged drug offenders told Amnesty International that their boss is an active duty police officer; they reported receiving around 10,000 pesos (US \$201) per killing. They said that before President Duterte took office, they had around two ‘jobs’ a month. Now, they have three to four a week.”

Worse, President Duterte himself, in his public statements, affirms his direct hand in the state-sponsored killings.

*“[D]rugs shrinks the brain of a person. Paano iyan? Sino ang managot nito ngayon? Sino ang managot nitong mga... you know, we conducted a survey, ayaw ko lang but it traverse as many administration. 77, 000 Filipinos died in drug connected homicide, murder. Ganoon ka lala. Sinong managot noong 77, 000 na Pilipinong namatay hanggang sa panahon ko? **Tapos sabihin nitong human rights 10,000 putang ina gawin mo iyang singkwenta mil. Ubusin ko talaga ito and even if I had to go to hell, I can rot in prison, I do not mind. Matanda na ako. But in 3 years mag-stabilize ito kasi maubos naman.** Para wala iyong identification karga na lang sa C-130 lahat ng patay, dito na lang*

itapon dito sa... madala og... o ano, hindi makilala”⁷² ([D]rugs shrinks the brain of a person. Who should be held accountable for them? We conducted a survey and it revealed that almost 77,000 Filipinos died in drug-related cases of homicide and murder. Who should be held accountable for their deaths? Then, the Commission on Human Rights is saying 10,000. Son of a Bitch! Make that 50,000. I will finish them all even if I had to go to hell, I can rot in prison, I do not mind. I am already old but in three years this will stabilize since I will kill them all. Just place them all in a C-130, do not identify their names and bodies.)”

This survey of cases, as reported in the media and as investigated by various institutions and human rights bodies, indicates that the practice of killing illegal drug personalities is widespread throughout the country. While happening nationwide, these killings, however, have the same pattern and, therefore, systematic.

In view of the foregoing, it is imperative for the ICC to conduct an investigation. Moreover, the circumstances in the Philippines and the current actuation of the government, have presented the necessary elements needed to conduct investigation.

**Preliminary Examination of the
Philippine Situation Is Necessary:
As a matter of law and conscience**

Under Article 15 of the Rome Statute, the Honorable Prosecutor may investigate crimes which are committed under the jurisdiction of the ICC. In this regard, the ICC has issued a report on its jurisdiction and emphasized that a preliminary examination may be conducted, especially when an information was filed by an individual with the Office of the Prosecutor.⁷³

“Once a situation has been identified for preliminary examination, the Office will consider in accordance with the factors set out in article 53(1)(a)-(c), whether: (a) the information available provides a reasonable basis to believe that a crime

⁷² President Duterte’s speech in the inauguration of Governor Miranda Bridge II. (Annex C)

⁷³ Policy Paper on Preliminary Examinations, November 2013).

within the jurisdiction of the Court has also been or is being committed; (b) the case is or would be admissible under article 17, and (c) an investigation would serve the interests of justice:

This section details how a preliminary examination may be initiated, the phased approach that follows, and the activities that the Office may carry out pursuant to article 15.

In its Policy Paper on Preliminary Examinations, the ICC described its process in evaluating whether a particular information will give rise to a preliminary examination:

“In order to distinguish those situations that warrant investigation from those that do not, and in order to manage the analysis of the factors set out in article 53(1), the Office has established a filtering process comprising four phases. While each phase focuses on a distinct statutory factor for analytical purposes, the Office applies a holistic approach throughout the preliminary examination process.”

Phase 1: Includes an initial assessment of all information on the all alleged crimes included in the communication. In this case, all the necessary details to prove the commission of crimes against humanity have been thoroughly and clearly presented and all the reliable sources of information have been duly documented for corroboration purposes.

Phase 2: On Jurisdiction.

- a. Temporal Jurisdiction: The Philippines ratified the Rome Statute on August 30, 2011. Therefore, the crimes being alleged occurred after the date of entry into force of the Rome Statute;
- b. Subject-Matter Jurisdiction: The crime being alleged is crimes against humanity which is defined in Article 7 of the Rome Statute. The specific roles of the individuals being accused are detailed in Atty. Sabio's communication and in the latter part of the communication;

- c. Territorial or Personal Jurisdiction: The crimes being alleged were committed by Filipino citizens within the territory of the Philippines, which is a state party.

Phase 3: On admissibility of potential cases in terms of complementarity and gravity pursuant to article 17.

Under Philippine law, the President has immunity and may only be removed through impeachment. This has been settled by the Philippine Supreme Court in the case **David vs. Arroyo**, 522 Phil. 705, 763-764 (2006):

*"Settled is the doctrine that the President, during his tenure of office or actual incumbency, may not be sued in any civil or criminal case, and there is no need to provide for it in the Constitution or law. It will degrade the dignity of the high office of the President, the Head of State, if he can be dragged into court litigations while serving as such. Furthermore, it is important that he be freed from any form of harassment, hindrance or distraction to enable him to fully attend to the performance of his official duties and functions. Unlike the legislative and judicial branch, only one constitutes the executive branch and anything which impairs his usefulness in the discharge of the many great and important duties imposed upon him by the Constitution necessarily impairs the operation of the Government. However, this does not mean that the President is not accountable to anyone. **Like any other official, he remains accountable to the people but he may be removed from office only in the mode provided by law and that is by impeachment.**"*⁷⁴

Unfortunately, this mode of making President Duterte accountable to the crimes he is accused of doing is no longer available since the first impeachment complaint filed against him was already junked last May 15, 2017. The Committee on Justice of the House of Representatives, after just one hearing, declared the impeachment complaint as insufficient in substance ostensibly for

⁷⁴ GR No. 171396 Retrieved from <http://sc.judiciary.gov.ph/jurisprudence/2006/may2006/G.R.%20No.%20171396.htm>

alleged lack of sufficient personal knowledge on the allegations therein by the complainant/ endorser of the complaint.⁷⁵ This, despite the fact that past Congresses approved previous impeachment cases where the complainants are not personal witnesses to the commission of the impeachable offense⁷⁶. Further, in the Rules of Procedure in Impeachment Proceedings of the Philippines House of Representatives, the complainant may file an impeachment complaint based on allegations that are **“true of their own knowledge and belief on the basis of their reading and appreciation of documents and other records pertinent thereto.”**⁷⁷

This apparent impunity on the part of the main perpetrator/ accused, President Duterte, is borne by his confidence that he will never be held accountable by the institutions (of checks and balance) since they are also under his control.

In the Philippine Senate, despite the conduct of investigations and hearings on the extrajudicial killings, no genuine effort was done to seek the truth and make accountable the perpetrators of the crime since the aim of the hearings is to clear the name of President Duterte.

Just recently, the Senate Committee on Public Order and Dangerous Drugs immediately terminated the proceedings after just a single hearing and concluded that there is not enough evidence that the Davao Death Squad allegedly controlled by President Duterte does not exist. This is despite the damning testimony of a retired police officer, Arturo Lascañas. The Committee then dismissed the allegations as politically motivated and the testimony of Lascañas as a mere ploy of the opposition.

Clearly, these developments show that the State is **unwilling** to even investigate the extrajudicial killings in the country and because of the president’s immunity, **unable** to prosecute President Duterte.

As to the gravity of the crimes alleged, in all government admitted data, thousands have already died in Duterte’s war on drugs. That fact alone speaks of the gravity of the case at hand.

⁷⁵Villamor, F. (15 May 2017). Philippines Kills Impeachment Complaint Against Rodrigo Duterte. Retrieved from https://www.nytimes.com/2017/05/15/world/asia/rodrigo-duterte-philippines-impeachment.html?_r=0

⁷⁶ List of complainants and witnesses in previous impeachment cases in the Philippines (Annex K)

⁷⁷ Rule IV, Section 13 of the Rules of Procedure in Impeachment Proceedings, Rules of the House of Representatives (Annex L)

Phase 4: Being elected legislators, the authors have carefully assessed the situation of the victims and witnesses and they would be more than willing to testify before the ICC. Also, the Commission on Human Rights has its own Witness Protection Program that provides adequate protection to some of the victims that could be summoned.

Martial Law and Suspension of the Privilege of the Writ of Habeas Corpus

On 23 May 2017, President Duterte declared Martial Law in the entire island of Mindanao, the second largest island in the Philippines, where 21 out of the country's 81 provinces are located. The proclamation was made over sporadic violence taking place in just one city, the City of Marawi, purportedly committed by Islamist Militants claiming allegiance to ISIS⁷⁸. The martial law proclamation is supposed to last for a period of sixty (60) days but this early, however, President Duterte is already hinting that martial rule in Mindanao could extend for a year.⁷⁹

Moreover, President Duterte himself declared that his martial rule will be harsh.⁸⁰

On top of this, President Duterte likewise suspended the *privilege of the writ of habeas corpus* over the entire island of Mindanao,⁸¹ thus, allowing warrantless arrests of people merely suspected of committing offenses, sans any judicial recourse.

President Duterte is also threatening to widen martial law from Mindanao to include all of the Philippines,⁸² not out of necessity but apparently to fulfill his

⁷⁸ Hanna, J. & McKirdy, E. (24 May 2017): Philippines - Duterte declares martial law in Mindanao over clashes. CNN Regions. <http://edition.cnn.com/2017/05/23/asia/philippines-mindanao-clashes-martial-law/index.html>

⁷⁹ Ibid.

⁸⁰ Andrade, J.I., & Salaverria, L.B. (25 May 2017): Martial Law will be harsh, says Duterte. Philippine Daily Inquirer. <http://newsinfo.inquirer.net/899340/martial-law-will-be-harsh-says-duterte>

⁸¹ Bacungan, VJ. (25 May 2017: Duterte suspends privilege of writ of habeas corpus in Mindanao. CNN Philippines. <http://cnnphilippines.com/news/2017/05/24/president-duterte-suspend-privilege-writ-of-habeas-corpus-mindanao.html>

⁸² Bevins, V. & Rauhala, E (24 May 2017): Duterte says he may widen Martial Law from Mindanao to include all of the Philippines. The Washington Post. https://www.washingtonpost.com/world/casting-himself-as-national-savior-duterte-declares-martial-law-in-the-southern-philippines/2017/05/24/268d71fa-4075-11e7-9851-b95c40075207_story.html?utm_term=.ef781c33b6e7

oft-repeated penchant to establish a dictatorship and/or authoritarian rule.⁸³ &
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Previously, President Duterte has already discussed his desire to use the immense powers granted to the sitting President under Martial Law for his “*War on Drugs*” as well as to ‘end’ other crimes.⁸⁵

There is no doubt that with these recent developments, and with the multiple daily killings of drug suspects being a persistent and regular occurrence in the entire Philippines, there is now a more imperative and compelling need for the Office of the Prosecutor to immediately open a Preliminary Examination on these apparent crimes against humanity being perpetrated by the Administration of President Duterte.

Finally, we repeat the plea of Atty. Sabio:

“As the President of the Philippines after 30 June 2016, Rodrigo Duterte is sought to be investigated, tried and convicted before the International Criminal Court for the extra-judicial executions of more than 7,000 drug personalities in his war on drugs at the national level. Since he is also aware and knows about the extra-judicial executions in his war on drugs, he is sought directly to be criminally liable.

In the alternative, since he knows or has reason to know of the continuing commission of the extra-judicial executions or mass murders ever since he was the Mayor of Davao City, his failure to stop such criminal conduct in his war on drugs now that he is already the President, just like his evident failure in Davao City, makes him criminally liable under the principle of command responsibility. More particularly, he is liable under Article 28 (b) , for his failure to stop the Philippine National Police and the Department of Local and Interior Government (DILG), from

⁸³ See: Ressa, Maria A (15 October 2015): Duterte, his 6 contradictions and planned dictatorship. Rappler.com. <http://www.rappler.com/nation/politics/elections/2016/110679-duterte-contradictions-dictatorship>

⁸⁴ See: Calleja, N.P. (25 Feb. 2016): Duterte – Yes, I’m a dictator, so what? <http://newsinfo.inquirer.net/768326/duterte-yes-im-a-dictator-so-what>

⁸⁵ Agence France-Presse (23 March 2017): Duterte says Martial Law could end drug, terror problems. Philippine Daily Inquirer. <http://newsinfo.inquirer.net/883051/duterte-says-martial-law-could-end-drug-terror-problems>

committing the crimes of murder, persecution, mental torture and imprisonment.

Furthermore, his serious threats to kill and his public incitement of the police and the public to mass murder and violence with the aim of furthering the commission of the extra-judicial executions, with his knowledge and as part of a conscious aim to encourage the attack on a civilian population, make him directly criminally liable or responsible for crimes against humanity through murder. Under the Rome Statute, the President Duterte is liable under Article 25.3 (b), (c), and (d) , for his public statements labelling drug users as criminals without the benefit of due process; for then calling on the police to kill these criminals; and for promising to pardon policemen who carry out his sweeping orders to kill drug users and dealers, regardless of the findings of other investigative government agencies, and even in case of conviction by local courts.”

In addition to President Rodrigo Duterte and the persons mentioned by Atty. Sabio who are liable under the Rome Statute, the following persons are liable under Article 25.3 (b), (c), and (d)⁸⁶ of the Statute for their roles in the implementation of ‘*Oplan Tokhang*’, as part of the administration’s war on drugs:

1. Police Chief Superintendent Joel Coronel;
2. Police Chief Superintendent Jesus Martinez;
3. Police Chief inspector Rexson Layug;
4. Police Senior Inspector Nathaniel Jacob
5. Police Senior Inspector Magdalino G. Pimentel, Jr.;
6. Police Inspector Markson S. Almeranez;
7. SPO3 Jonathan Bautista;
8. PO3 Ronald Buad Alvarez;
9. PO1 Sherwin Mipa;
10. Police Officer Edmar Latagan
11. Police Officer Marcelino Pedrozo III
12. Anonymous police officers mentioned in Amnesty International and Human Rights Watch’s report on war on drugs.

⁸⁶ International Criminal Court. Rome Statute. Retrieved from https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

Lastly, we share this quote from a special report to the United Nations of the Special Rapporteur dated 29 July 2009:

"Generally, isolated killings of individuals will constitute a crime in violation of the State's domestic laws, but not give rise to any international governmental responsibility. However, a State will violate its obligation to 'ensure' the right to life when it fails to take appropriate measures to prevent, punish, investigate or redress the harm caused by vigilantes." [Emphasis supplied]

We believe that the situation in the Philippines is perfectly described by the statement above. It is now for the Office of the Prosecutor to take cognizance of this case and render justice to the thousands of victims in the Philippines.

In view of the foregoing, we respectfully submit that there is an urgency to conduct a preliminary examination on the allegations propounded herein in order to pre-empt and prevent further commission of crimes against humanity in the Philippines.

Very truly yours,



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Senator, Republic of the Philippines



GARY C. ALEJANO
Congressman, House of Representatives
Republic of the Philippines