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2017

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Publication Details

L. B. Bautista, 'Duterte and his quixotic war on drugs' (2017) 20 *Thinking ASEAN* 2-5.

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Abstract

Philippine President Rodrigo Duterte has remained an enduring fodder of international news since he was sworn in as the country's 16th president in June 2016. Despite massive criticisms from within the Philippines and overseas, he seems intent on taking his country down an untrodden, dangerous, lawless and bloody path. The president's relentless campaign to eliminate drugs in the country has resulted in a rapidly rising number of deaths occurring on a daily basis. A little more than six months into the presidency of Rodrigo Duterte, records show that his anti-drug war campaign has resulted in over 7,000 deaths, or an average of more than 30 people summarily executed in extrajudicial fashion every day. The populist president, whilst otherwise hypersensitive to criticism, remains unfazed by almost universal condemnation by the international community over the extrajudicial killings in the country.

Disciplines

Arts and Humanities | Law

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Duterte and his quixotic war on drugs

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Philippine President Rodrigo Duterte has remained an enduring fodder of international news since he was sworn in as the country's 16th president in June 2016. Despite massive criticisms from within the Philippines and overseas, he seems intent on taking his country down an untrodden, dangerous, lawless and bloody path. The president's relentless campaign to eliminate drugs in the country has resulted in a rapidly rising number of deaths occurring on a daily basis. A little more than six months into the presidency of Rodrigo Duterte, records show that his anti-drug war campaign has resulted in over 7,000 deaths, or an average of more than 30 people summarily executed in extrajudicial fashion every day.¹ The populist president, whilst otherwise hypersensitive to criticism, remains unfazed by almost universal condemnation by the international community over the extrajudicial killings in the country.

A tragic bloodbath

The president's war on drugs has become an unwritten state policy of extra-judicially killing people, some vigilante-style, without any due process of law. Duterte calls it *Operation Plan Tokhang*, his all-out war against illicit drugs, which he considers a threat to national security. The breathtaking magnitude of the killings is unprecedented in Philippine anti-crime history. The soaring body count, gruesome images of unidentified dead bodies piled on top each other, and dramatic incidents of drug suspects reportedly killed while trying to resist arrest, have all become ubiquitous in the landscape of daily news in the Philippines. Other than Duterte's colourful, vulgar language and volatile temperament, which have principally characterised his first six months in office, his brutal drugs war has become the cornerstone of his administration.

Duterte is a lawyer. It is safe to surmise, despite outward appearances to the contrary, that he knows the law, which he has sworn to uphold and enforce. The illegality of extrajudicial killing is undeniable. The president must know this. Extrajudicial killings are unlawful and a clear violation of the right to life as enshrined in the Philippine Constitution and under international law. But the president is prepared to sacrifice countless innocent lives as "collateral damage" in his war on drugs because he believes doing so is a necessary evil. *Necessitas legem non habet*. The violation of a law may be excused by reasons of necessity. It is a dangerous proposition to entertain the subversive notion that laws – supreme, majestic, and anterior even to those who wield it -- are mere expediciencies that can be trifled with so lightly.

Criminals and drug users are not human

In Duterte's depraved reasoning, the large scale carnage against drug users is both inevitable and justified since it is a war he is waging against the scum of society who should not be considered "human beings". This is a view widely shared by many top officials in the current administration. Not surprisingly, Department of Justice Secretary Vitaliano Aguirre II, in reaction to Amnesty

¹ Phelim Kine, "Philippine Police Killing Spree Demands Accountability", *Human Rights Watch*, 22 August 2016. Available online at <https://www.hrw.org/news/2016/08/22/philippine-police-killing-spree-demands-accountability>.

International's concern that drug-related killings in the country may constitute crimes against humanity under international law, ghastrly opined that, "The criminals, the drug lords, drug pushers, they are not humanity. They are not humanity."² This is reminiscent of Duterte's statement, where he said, "Crime against humanity? In the first place, I'd like to be frank with you: are they humans? What is your definition of a human being?"³

The mounting number of slayings of alleged criminal suspects does not bother Duterte. In fact, he boasts of them as proof of the "success" of his anti-drug campaign. The head of the Philippine National Police, Director-General Ronald dela Rosa, wholeheartedly supports his men, and perceives calls for investigation as "legal harassment," which "dampens the morale" of his police officers. This is a perspective echoed by Solicitor General Jose Calida, the government's chief lawyer, who staunchly defends the legality of police killings and suggests that the number of such deaths was "not enough."⁴

UN High Commissioner for Human Rights, Prince Zeid Ra'ad Al Hussein, has asked Philippine authorities to investigate Duterte for murder after he bragged of having killed people while he was still mayor of Davao City, a city in southern Philippines. In his typical macho style, he casually brushes aside warnings of international human rights groups such as Amnesty International, that the thousands of extrajudicial executions under his rule might amount to "crimes against humanity". The head of the Philippine Commission on Human Rights, Chito Gascon, has repeatedly warned Duterte that he risks prosecution by the International Criminal Court if he fails to halt extrajudicial killings in the country. The brazen response of Asia's newest strongman, "I don't care about human rights, believe me."⁵ He is not referred to as the "Trump of Asia" for nothing. Duterte has not been known to restrain his mouth nor does he show any discernible signs of doing so. These are grim days for human rights in the Philippines.

Duterte's signature policy

The bloody national war on drugs is Duterte's signature issue. The carnage is exactly what Duterte pledged to do. It was at the core of his campaign promises and his means, albeit unorthodox, have captured the adulation of the Filipino voters. His boorish demagoguery was interpreted as raw and refreshing honesty uncharacteristic of traditional politicians of whom the Filipinos have gotten sick of, and only endeared him to the masses. It was a fatal mixture of desperation, hysteria, and myth-making. It was a straightforward but incendiary law-and-order platform centred on his vow to wipe out drugs and crime within six months. "All of you who are into drugs, you sons of b*****s, I will really kill you," he said during the presidential election campaign in April 2016. It won him the election.

² Patricia Lourdes Viray, "Duterte officials hold drug suspects, criminals not human", *Philstar*, 2 February 2017. Available online at <http://www.philstar.com/headlines/2017/02/02/1668355/duterte-officials-hold-drug-suspects-criminals-not-human>

³ "Drug users aren't human, says Duterte", GMA News Online, 18 August 2016. Available online at <http://www.gmanetwork.com/news/story/579277/news/nation/drug-users-aren-t-human-says-duterte>

⁴ Phelim Kine, "Philippine Police Killing Spree Demands Accountability", *Human Rights Watch*, 22 August 2016. Available online at <https://www.hrw.org/news/2016/08/22/philippine-police-killing-spree-demands-accountability>.

⁵ Rishi Iyengar, "The Killing Time: Inside Philippine President Rodrigo Duterte's War on Drugs", *ub*, 25 August 2016. Available online at <http://time.com/4462352/rodrigo-duterte-drug-war-drugs-philippines-killing/>

In his inaugural speech, he vowed to rid the country of the problem of drugs and criminality within six months. The same promise he made to the Philippine electorate during his campaign landed him the highest post in the land. He has obviously failed. He has since asked for an extension that will last his entire six-year term on the grounds that he had “miscalculated” the problem which was larger than he realized. Duterte’s goalposts are in persistent motion, grounded on the logic he gracefully weaves around his cherry-picked set of facts and observations, all couched in his tedious monologues, uncouth jokes and wild exaggerations. He vowed to continue the drug war “until the last pusher is out in the streets, until the last drug lord is killed.” You just have to admire the man for his tenacity.

It is disturbingly worrisome that despite the morbid imageries and the unconcealed disrespect of justice, fair play, human rights and the rule of law, there appears to be no sense of public outrage, or general indignation, no mass protests to mobilise an incensed populace. Duterte’s aggressive rhetoric advocating violent, extrajudicial solutions to the criminality in the Philippines resonates to a sympathetic audience weary of traditional politics, desperate for change, and fanatical of a leader whose cultic following has reached mythic proportions. The nation seems to have lost its moral compass and needs to regain its bearings anew. However, in sharp contradiction, Duterte still enjoys massive popular support across all socio-economic classes of Philippine society and across all geographic regions of the archipelago according to the most recent surveys.⁶

In the end, history will be the fair judge of whether Duterte is a madman or a visionary. Duterte’s war against drugs will either showcase the success of his administration or symbolize its failure. Duterte has to succeed, even as everyone else who has attempted this quixotic goal have all dreadfully failed. But if Duterte does not succeed, then the national malaise will continue and his term will be seen as nothing more than a bloody period in modern Philippine history.

The solution is the problem

This is not a war against drugs. This is really a war against a class of people who have been labelled a menace to the rest of society and should be annihilated. This is a familiar plot for those who know history. The proposed solution appears to be the problem. It is both an issue of unreliable statistics and defective reasoning. The brash-talking president said he would be “happy to slaughter” three million drug addicts, comparing the stratagem to Nazi leader Adolf Hitler’s infamous campaign to exterminate the Jews during the holocaust.

There are about three million lives this man has vowed to exterminate. On what grounds are they being summarily sentenced to die? The overwhelmingly number of people killed in this murderous war come from economically disadvantaged sections of society and even include children. Yet people find nothing disturbing about this, even celebrating his statement and throwing in their support. Has the country really lost its sense of compassion and respect for human life? This is the grand strategy. To kill them. These lives are not worth saving because there is no hope left in them. They are not human beings. Because they are the problem and they deserve to die, or so he said. Just slaughter them. All three million of them. In order to sustain the necessary illusion that buttresses the willingness of an ill-informed body politic to eagerly embrace the government’s

⁶ Kristine Angeli Sabillo, “Duterte approval rating at 83%—Pulse Asia”, *Inquirer.Net*, 6 January 2017. Available online at <http://newsinfo.inquirer.net/859906/duterte-approval-rating-at-83-pulse-asia>

overreach, an official narrative of a state of national crisis where drug use becomes the perfect ruse. Facts are irrelevant.

In his inauguration speech, Duterte pledged that his “adherence to due process and the rule of law is uncompromising”. The gruesome daily toll of police killings of criminal suspects demands that he deliver on that promise. Duterte needs to demonstrate his commitment to due process and the rule of law. He should urgently order a credible and independent inquiry into those deaths. The complicity and acquiescence of the government in these extrajudicial killings need to be investigated. Duterte’s own admissions belie the fact that he does not encourage the killings. He himself has been inciting violence, been goading citizens to kill, and offering financial incentives. This is madness.

The government needs to make clear that the human rights protections embodied in the constitution apply to all the people of the Philippines — even those that the police may consider “criminals”. The Duterte administration needs to put forward practicable policy proposals on criminal justice and crime control, reconsider restorative justice principles which recognise that the issue of criminality and drug abuse is a complex and systemic problem often involving a web of socio-economic pressures beyond a person’s control. Duterte’s proposed solution to “just killing the idiots” instead of rehabilitation, which he scoffs at for being an idea imported from the West and is rooted in being “soft”, needs to be challenged. There is much democratic space for civilised debates on these issues. Unfortunately, if the leader of the land has no qualms in silencing dissent and opposition to his ideas and sets himself as an example, his followers will naturally do the same. The toxicity of the national discourse especially on social media on the issue of Duterte’s war on drugs has stifled even the most rabid opposition who challenge the official narrative.

This is a human rights issue. The premise should be that all human beings have human rights. Criminals convicted of even the most heinous of crimes possess inalienable human rights which even the state cannot deprive them of. More so for those who have yet to go through the criminal justice system and who should be presumed innocent unless the State is able to prove them otherwise. Drug abuse is not a crime punishable by summary execution. A humane and practical solution need to be found without compromising the respect for human rights. The critical issue is the impunity of the police and its supposed main enabler, the president, in his so-called “war on drugs”. This is a serious issue that merits collective engagement, not just amongst human rights advocates, but from every member of society.

A forgetful and forgiving nation

Experience should teach Filipinos, learning from a harrowing episode of history under martial law rule, to naturally repel any invasion of their liberties by evil-minded rulers. But the Filipinos are a very forgiving and forgetful nation. And it is the immutable fate of those who fail to learn from history to be condemned to repeat it. In the wise words of former US Supreme Court Justice Louis Brandeis, “The greatest threat to liberty lies in stealthy intrusion by men of zeal, well-meaning but without understanding.”

It is very seductive to compromise constitutionally guaranteed liberties when a menace is depicted as a threat to the very underpinnings of a nation. In truth, it is especially during moments of crisis that a liberal democratic state needs to adhere strictly to the very principles that undergird and

ensure its very existence and preservation. The State, as an institutional apparatus, which undermines the rule of law, does not respect civil liberties and denigrates human rights in the pretence of the public good, poses a greater threat to a country than the menace it seeks to combat. In the end, if the zeal to eradicate drugs leads a nation to abandon its noble legacy of constitutional liberty, then it will have suffered a far greater injury than drugs could ever inflict upon its people. Drug abuse only injure some members of society, the loss of liberty injures everyone.

Waging a quixotic war

Whilst many are appalled by Duterte's idiosyncratic personality, it will be a mistake to simply dismiss him as a volatile leader or an irrational authoritarian. Buried underneath the rubble of his unconventional and radical ways is a genuine reform agenda riding on a colossal crest of political capital by his loyal supporters who sincerely believe in his utopian vision of a Philippines free from drugs and crime after his term of office. The real scale of the monstrosity of the drug menace in the Philippines, even in the extent wildly painted in Duterte's accounts, has been lost and ignored in the debate on his war on drugs. The same is true of alternative views that warn of human rights abuses and the illegal and illegitimate excesses of government in waging this war. Duterte's quixotic war on drugs cannot be won without addressing the entrenched culture of violence and impunity, graft and corruption, the economy and social values.

In his unrelenting war on drugs, Duterte has crossed the line far too many times and people have shifted their moral compasses, clenched their fists in silent rage and indignation, covered their ears, shook their heads in disbelief and deliberately looked the other way to excuse him of the profanities, the necrophiliac joke, the toxic machismo, the many lives lost, the endless name-calling, *ad hominem*s, the smear and shame campaigns, his threat to impose martial law, his childish tirades, and the attacks on the rule of law, the country's democratic institutions, and the people's very sensibilities.

A question of legitimacy

The death of one innocent person in this war is already one too many. But it is not just the number of deaths that should make citizens uneasy about Duterte's war on drugs. It is the fact that the state, which has the monopoly of power, through the support, direction, and endorsement of the highest official of the land, that it is in those hands these deaths have come. This is not merely a question of legality but one of legitimacy, for when the state apparatus is used to murder its citizens without the due process of law, it uses its monopoly of power in desecration of its social contract with the people. Thus, if this proposition is valid, the first challenge is for the public to denounce the extra-judicial killings and to demand that they be stopped. If such is the true voice of the people, upon which all legitimate authority emanates, public opposition, or better yet outrage, is sufficient for the government to change its policy.

However, the majority of the Filipino people remain silent, preferring to continue their quiet, anonymous existence, whilst watching horrified and ashamed as the rabid mob who so proudly put him in office cheered what were previously considered unethical, uncouth, unprofessional, illegal, and immoral. A single man has transformed the country into a nation that condones the killing of innocent lives, one that rejoices in the erosion of its moral and democratic ideals, insults and silences dissent and intellectual discourse, disregards the rule of law and turns a blind eye to human rights

abuses, ignores the lessons of history, one that glorifies and rewards a dictator, plunderer and human rights violator. It has sadly come to this. And still people remain silent, passive spectators guilty of active complicity.