

Philippines -Very High Risk/Ongoing Atrocity Crimes

The Philippines remains at high risk of atrocity crimes due to President Duterte's anti-drug war operations. Martial law in Mindanao was extended for a year after its expiration end of December 2017 as a result of continuing threats from ISIS-affiliated local extremists. The Philippines' decision in March to withdraw as a state party to the Rome Statute of the International Criminal Court has serious and negative implications for future atrocity prevention and is a clear setback. The decision does not, however, affect the Court's jurisdiction over atrocity crimes submitted prior to the country's withdrawal.

The Philippine Drug Enforcement Agency (PDEA) took over the anti-drug war from the Philippine National Police (PNP) in October 2017, contributing to a significant decrease in killings involving civilians. In his first 100 days since taking over as head of the PDEA in September, Aaron Aquino reported zero deaths in 3,476 drug-related operations, which resulted in 1,321 arrests and seizure of over \$200 million worth of drugs by end of December 2017. [1] Although the police forces were brought back in December as part of the PDEA operations, the number drug related killings are likely to remain low given certain changes in the anti-drug operations involving the police. In January, the PNP announced that anti-drug police operations in coordination with the PDEA will only be conducted during daytime and on weekdays, focus on high-value targets (drug pushers instead of users), require policemen to wear body cameras, and will include human rights officers or civil society advocates as part of the team.[2] Despite the new strategy adopted by the PNP, some 65 people were killed as of 14 February according to a lawyer's group against EJKs.[3] However, a US State Department drug official said that he is cautiously optimistic about the improvement in human rights in the Philippines as he noted that the trend in drug-related killings has been declining. [4]

Notwithstanding these positive developments, human rights advocates continue to call on the Philippine government to address the big disparity in the number of drug-related deaths as reported by the PNP, on the one hand, and those reported by media, human rights groups, and church organisations in the country. The PNP reported 3,968 deaths since 1 July 2016 until 17 January 2018 [5] while the PDEA reported 4,021 deaths as of 8 February 2018. [6] Other sources estimate that there are over 12,000 deaths since 1 July 2016 when the government launched its anti-drug war campaign. [7] For its part, the Philippine Supreme Court on 10 April unanimously passed a resolution against the Duterte administration's motion for reconsideration of the court's decision to take judicial notice of the alleged extra-judicial killings in connection with its anti-drug war. Specifically, the high court compelled the government to provide a full documentation of its drug-related police operations, which led to a high number of killings. The court's resolution noted that '[t]he government's inclusion of these deaths among its other accomplishments may lead to the inference that these are state-sponsored killings.' [8]

The change in the PNP's strategy may have been prompted by the announcement by the International Criminal Court (ICC) prosecutor's office in February that it had started preliminary examination of complaints filed against the Philippine government over alleged drug war-related EJKs. A month later, however, the Duterte administration announced that the Philippines would withdraw from the Rome Treaty of the ICC. [9] Despite this decision and assertions by President Duterte that the ICC has no jurisdiction over him, the effectivity of the Philippines' withdrawal will not commence until a year later and the Court retains full jurisdiction over crimes alleged to have been committed whilst The Philippines was a state party.

Meanwhile, the extension of martial law in Mindanao until the end of this year was overwhelmingly approved by the Philippine legislature and upheld by the Supreme Court despite the fact that majority

of the public did not support it. [10] Those who opposed the extension were mainly from human rights groups and some opposition legislators who were mainly concerned about potential human rights abuses by military and police forces even as they expressed fears that the scope of the martial law could be expanded to cover the whole country and pave the way for one-man rule a la Marcos. Nonetheless, the threat of another militant or extremist attacks following the siege of Marawi remains high. In the first quarter of the year, the Armed Forces of the Philippines (AFP) conducted ground and air attacks against ISIS-affiliated Bangsamoro Islamic Freedom Fighters (BIFF) in Mindanao, which resulted in more than 50 militants and 1 soldier killed, and some 2,500 civilians fleeing their villages.[11] Increased clashes between the military and militants indicate that local ISIS-affiliates in Mindanao have regrouped following the end of the siege of Marawi in October last year and are expected to recruit more followers especially amongst residents of Marawi and nearby provinces. [12] The rehabilitation of Marawi is estimated to cost about US\$1 billion, which could probably increase further once a more comprehensive implementation plan is approved.[13] The urban rehabilitation of Marawi will be long and contentious even as displaced residents attempt to go back to rebuild their lives. Apart from clearing the area of unexploded ordnance and IEDs, properties destroyed and land claims complicate the rebuilding of Marawi. Most properties did not have formal titles even as a Marcos-era presidential decree declared a large part of Marawi as a military reservation.[14] A plan by the national government to construct a four-lane highway in the city and implement urban development projects could result in further displacement of former residents, thereby increasing discontent among the population and serve as fertile ground for recruitment by ISIS-affiliated local extremists.[15] Further delays in the passage of the Bangsamoro Basic Law (BBL) could alienate further many younger generation of Muslims in Mindanao, which could lead to increased support for local extremists.

The extension of martial law in Mindanao also has implications for protection of indigenous peoples who are caught in the cross-fire between government troops and communist rebels. With the collapse of peace talks with the Communist Party of the Philippines (CCP)/New People's Army (NPA) last year, President Duterte recently declared the CPP/NPA and its legal fronts as a terrorist organization. Human rights advocates who are promoting the rights of indigenous peoples fear that the "terrorist" tag could lead to increased rights violations, including the freedom of expression, association, and assembly as well as endanger the lives of those who are engaged in legitimate advocacy activities.[16] Recently, local and international human rights advocates denounced the terror list generated by the Department of Justice, which consists of 600 individuals that included the UN Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, who denied the allegation that she was a member of the CPP/NPA.[17] The inclusion of Tauli-Corpuz in the terrorist list was deemed by some of her colleagues as an act of retaliation for her criticisms of the military's attacks on indigenous peoples in Mindanao.

Recommendations

With regard to the anti-drug war, the Philippine government should:

1. Take positive steps to ensure that the security forces conduct themselves in a manner consistent with their legal obligations under international human rights law.
2. Continue to ensure that the Philippines Drug Enforcement Agency leads anti-drug policy, and that there is adequate oversight of police.
3. Ensure that allegations of extra-judicial killings are properly investigated, and the perpetrators held accountable before the law.
4. Immediately cease the public incitement of violence against drug users, drug dealers and other targeted communities.

5. Comply with the Supreme Court's ruling by providing full documentation of police operations taken as part of the anti-drug war. as part of ensuring accountability.
6. Fulfil its international legal obligations by cooperating with the Prosecutor of the International Criminal Court.
7. Reconsider its decision to withdraw from the International Criminal Court

With regard to the peace in Mindanao and the rehabilitation of Marawi, the Philippine government should:

1. Continue to provide protection for civilians and support humanitarian assistance to internally displaced persons especially those who are now returning to their residence in Marawi.
2. Respond adequately and effectively to the needs of residents of Marawi as they attempt to rebuild their lives and address the concerns in relation to the government's rehabilitation plans.
3. Investigate alleged violated international humanitarian law and international human rights law during the siege of Marawi and hold perpetrators accountable.
4. Push for the immediate passage of the Bangsamoro Basic Law.

With regard to the communist insurgency, the Philippine government should:

1. Reviving the peace talks with the CPP/NPA
2. Review the terror list generated by the Department of Justice, remove the names of those included in the list and who were falsely accused of being supporters of the CPP/NPA, and ensure the protection of their rights to contest their inclusion in the list

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