

**The Philippines Risk: High/Ongoing**

The Philippines remains at very high risk for atrocities as the Duterte government's drug war campaign continued unabated as the country battles rising COVID-19 cases. Human rights violations also increased as the government used the Anti-Terrorism Act (ATA) to crackdown on suspected communist or leftist sympathisers, human rights defenders, indigenous people, media reporters, and other critics of the Duterte administration. Notwithstanding over 30 petitions against the ATA, which is currently being heard in the Supreme Court, the law remains in effect as there is no temporary restraining order issued by the court.

In November 2020, the Philippine National Police (PNP) reported that close to 8,000 suspects have been killed during anti-drug operations since 2016. Between September and October 2020, the PNP reported 2,423 drug suspects killed or an average of 13 killings a day.<sup>1</sup> However, the civilian-led Philippine Drug Enforcement Agency (PDEA) reported that only 6,011 persons have died in anti-drug operations between 1 July 2016 to 31 December 2020.<sup>2</sup>

For its part, Human Rights Watch reported that drug war killings in the Philippines increased by more than 50 percent during the pandemic, citing the PNP figures.<sup>3</sup> It also said that a total of 160 political activists have been killed thus far since 2016 based on reports by human rights monitors. A number of those killed were "red-tagged" as communist sympathisers or supporters by the Philippine military, the police, and local anti-communist groups in the country.<sup>4</sup> On 30 December, nine local indigenous leaders were killed and 17 others were arrested by police and military forces in the island of Panay in an anti-communist insurgency operation. The military claimed that the targets resisted arrest and fired at positions of law enforcers but was refuted by the local village chief who claimed that the victims were unarmed and were asleep when the government troops came.<sup>5</sup> Indigenous rights advocates claimed that the victims were targeted for their resistance to militarization and opposition to government-backed infrastructure projects in the island.<sup>6</sup>

In light of these developments, the Philippine Commission on Human Rights (CHR) asked the PNP to address human rights concerns that stemmed from arrests and killings of activists in the country. Specifically, six trade unionists and a journalist were arrested based on illegal possession of firearms and explosive charges. A number of irregularities were noted in the implementation of the search warrant and the arrest even as those arrested claimed that the seized firearms, ammunition, and grenades were planted by the police.<sup>7</sup>

Meanwhile, the Office of the Prosecutor of the International Criminal Court (ICC) in December found "reasonable basis to believe that alleged crimes against humanity were committed" under the Duterte government's drug war campaign. Fatou Bensouda said that her office expects to make a decision in the first half of 2021 on whether to seek authorisation to open an investigation into the situation in the Philippines.<sup>8</sup> As expected, government officials denounced the ICC prosecutor's report and asserted that the international court does not have any jurisdiction in the Philippines as it already withdrew as state party to the Rome Treaty in March 2019. In a recent interview, Duterte's spokesperson even erroneously expressed hope that the incoming ICC prosecutor from the UK would consider the decision of Bensouda in December not to call for an open investigation into allegations of mistreatment of Iraqi detainees in UK custody after the invasion of Iraq in 2003 as something that will also be applied in the case of the Philippines.<sup>9</sup> As a matter of fact, Bensouda's decision not to pursue a full investigation of alleged war crimes by UK troops was based on her findings that there was no proof that UK authorities had blocked investigations or were unwilling to pursue them.<sup>10</sup>

As human rights advocates and victims of the government's drug war welcomed the ICC prosecutor's report, more evidence against President Duterte were submitted by local human rights defenders to the prosecutor's office in January 2021. Specifically, they included the report on the situation in the Philippines by the UN High Commissioner for Human Rights in June 2020, which found that more than 8,600 people have been killed in the government's drug war. They also claimed that Duterte's threats against the ICC officials was in violation of Article 70 of the Rome Statute.<sup>11</sup>

Recommendations:

The government of the Philippines should:

- Uphold its primary responsibility to protect by complying with international norms on human rights protection and humanitarian law. Specifically, it should hold accountable law enforcers and other members of the security sector for violations of human rights in relation to the war on illegal drugs and campaign against terrorism;
- Ensure that fundamental human rights are protected in the implementation of the new anti-terrorism law. It should not use the new law to silence legitimate dissent and critics of the government;
- Cooperate with the ICC Prosecutor's Office if it decides to conduct a formal investigation into the drug war killings under the Duterte administration since 2016. It should refrain from making threats against ICC officials and allow for a full and impartial investigation of alleged crimes against humanity committed by law enforcement agents.

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<sup>1</sup> Neil Jasyon Sarvallos, "PNP: Nearly 8,000 suspects slain in anti-drug war," Philstar online, 5 November 2020, from <https://www.philstar.com/headlines/2020/11/05/2054720/pnp-nearly-8000-suspects-slain-anti-drug-war>, accessed on 16 February 2021.

<sup>2</sup> "#REALNUMBERSPH from 1 July 2016 to 31 December 2020," Philippine Drug Enforcement Agency online, [https://pdea.gov.ph/index.php?option=com\\_content&view=article&layout=edit&id=279](https://pdea.gov.ph/index.php?option=com_content&view=article&layout=edit&id=279), accessed on 16 February 2021.

<sup>3</sup> "Philippines: 'Drug War' Killings Rise During Pandemic," Human Rights Watch, 13 January 2021, from <https://www.hrw.org/news/2021/01/13/philippines-drug-war-killings-rise-during-pandemic>, accessed on 16 February 2021.

<sup>4</sup> Ibid.

<sup>5</sup> "Philippine authorities kill nine indigenous leaders in raid on 'communists'," ASEAN Today, 4 January 2021, from <https://www.aseantoday.com/2021/01/philippine-authorities-kill-nine-indigenous-leaders-in-raid-on-communists/>, accessed on 4 January 2021.

<sup>6</sup> Ibid.

<sup>7</sup> Gabriel Pabico Lalu, "CHR to PNP: Address rights concerns, translate gov't words to actual reforms," Inquirer.net, 13 December 2020, from <https://newsinfo.inquirer.net/1371236/chr-to-pnp-address-rights-concerns-translate-govt-words-to-actual-reforms>, accessed on 16 February 2021.

<sup>8</sup> Cliff Venzon, "International court finds evidence of crimes in Duterte drug war," Nikkei Asia online, 15 December 2020, from <https://asia.nikkei.com/Politics/International-court-finds-evidence-of-crimes-in-Duterte-drug-war>, accessed on 16 February 2021.

<sup>9</sup> Virgil Lopez, "Palace banking on ICC reso when new prosecutor take on Philippines war on drugs," GMA News online, 15 February 2021, from <https://www.gmanetwork.com/news/news/nation/776056/palace-banking-on-icc-reso-when-new-prosecutor-takes-on-philippines-war-on-drugs/story/>, accessed on 16 February 2021.

<sup>10</sup> Owen Bowcott, "ICC Abandons inquiry into alleged British war crimes in Iraq," The Guardian.com, 10 December 2020, from <https://www.theguardian.com/uk-news/2020/dec/09/icc-abandons-inquiry-into-alleged-british-war-crimes-in-iraq>, accessed on 16 February 2021.

<sup>11</sup> "Rights group submits more evidence in ICC case vs Duterte, drug war," GMA News online, 13 February 2021, from <https://www.gmanetwork.com/news/news/nation/775844/rights-group-submits-more-evidence-in-icc-case-vs-duterte-drug-war/story/>, accessed on 16 February 2021.