

Philippines -Very High Risk/Ongoing Atrocity Crimes

The risks of atrocities in the Philippines remain high despite significant decline in the number of killings related to the Duterte administration's anti-drug war since July 2016. This is because of expected increase in political violence and killings related to the mid-term elections in 2019, as well as the continuing extra-judicial killings (EJKs) perpetrated against indigenous peoples, environmental activists, and media practitioners. Despite Duterte's signing of the Bangsamoro Organic Law on 26 July, the risk of political violence in Mindanao remains high not only because of the upcoming 2019 elections but also due to continuing threats posed by ISIS-affiliated extremists who will exploit disaffection within the Muslim community with regard to the slow pace of rehabilitation and rebuilding of Marawi. Deadlock in the peace negotiations between the government and the leaders of the communist party means that civilians—particularly indigenous peoples—will continue to be at risk as they continue to be caught in the crossfire between military forces and communist insurgents in conflict-affected areas of Mindanao.

Drug-related killings have remained significantly low since the first quarter of 2018 compared to the first 18 months of the Duterte administration following the takeover of the Philippine Drug Enforcement Agency (PDEA) of the anti-drug operations from the Philippine National Police (PNP) in October last year. This may be due to the adoption of new PNP rules of engagement in January this year, which saw the number of deaths (292 total) decrease thus far to 1 per 100 drug operations (or 1.66% out of 17,566 total operations from 19 January to 15 May) compared to 3,987 deaths or 5 per 100 operations (or 4.86% out of a total of 81,919 total operations from July 2016 to 18 January 2018).¹ With the new rules also came supplemental guidelines issued by the new PNP leadership that underscored the importance of adhering to the rule of law and respect for human rights, as well as ensuring that local anti-drug units involve only vetted cops who passed stringent screening and strict background check.²

Notwithstanding these positive developments, the PNP reports that the total number of deaths in Duterte's anti-drug war from 1 July 2016 to 30 June 2018 has now reached 4,354.³ This figure is of course disputed by human rights defenders and civil society groups who place the figure at close to 20,000. But an independent analysis of drug war-related killings as reported by media sources in the Philippines apparently confirms the significant abatement in deaths following the suspension of PNP-led operations in 2017 after the murder of a Korean businessman by some policemen and the transfer of the operations from the PNP to the PDEA in October 2017.⁴ The discrepancies between the official figures provided by the PNP and other sources may be attributed to the number of deaths still under investigation, which as of April 2018 was at about 16,000. Of this figure, the PNP claimed that it has

¹ Rambo Talabong, "Drug war: Killings continue, but fewer at police hands," Rappler Online, 30 June 2018, from <https://www.rappler.com/nation/206119-new-pnp-war-on-drugs-campaign-deaths-operations>, accessed on 24 July 2018.

² Ibid.

³ Marilly Rome Bondoc, "PNP tally: 4,354 dead in anti-drug PNP tally: 4,354 dead in anti-drug ops during Duterte admin," GMA News Online, 11 July 2018, from <http://www.gmanetwork.com/news/news/nation/660096/pnp-tally-4-354-dead-in-anti-drug-ops-during-duterte-admin/story/>, accessed on 12 July 2018.

⁴ Clarissa C. David, Ronald U. Mendoza, Jenna Mae L. Atun, Radxeanel Cossid, and Cheryll Soriano, "Building a dataset of publicly available information on killings associated with the antidrug campaign," The Drug Archive online, undated, from <https://drugarchive.ph/post/14-antidrug-dataset-public-info-killings>, accessed on 28 June 2018.

resolved 8,700 cases and asserted that not all of them were related to anti-drug operations.⁵ As well, the PNP claimed that the crime rate in the Philippines went down over the last two years (1 July 2016 to 30 June 2018) under Duterte by 21.48 percent (or a total of 1,040,987 reported crimes) compared to the same period between 2014 and 2016 (with a total of 1,325,789 reported crimes). It attributed this decline to the government's "effective anti-drug war" policy. Although crimes against persons such as homicide, physical injuries, and rape also went down, the PNP acknowledged that the murder rate increased by 1.19 percent over the last two years (or 19,210 total), with Metro Manila registering an increase of 112 percent (or a total of 3,444 compared to 1,621 between 2014 and 2016).⁶

In his state of the nation address at the opening of Congress in July, Duterte reiterated his government's resolve to continue with the campaign. In his speech, he stated that the illegal drugs war "will be as relentless and chilling," even as he criticised human rights advocates for failing to condemn "drug-lordism, drug dealing, and drug pushing." He also stated that while critics of his administration were concerned about human rights, he was concerned about human lives, particularly the lives of "the youth who are being wasted and families being destroyed" all because of illegal drugs.⁷ Public opinion remains favourable towards President Duterte, with 69 percent of Filipinos saying that the drug war and fighting criminality (50 percent) are his top achievements.⁸ His trust and approval ratings remain very high as well—at 88 percent and 87 percent, respectively—across geographic areas and income classes.⁹

In the coming months, the level of political violence in the Philippines may be expected to increase in the run-up to the 2019 mid-term elections for local government posts and seats in both houses of Congress that are up for grabs. Between 19 February and 11 July this year, six local government officials have already been killed in different parts of the country, four of whom were gunned down in July alone.¹⁰ One of these officials is a defense lawyer of a suspected drug lord and another one is included in the government's narco list of politicians allegedly involved in drug trade. Thus far, there have been 6 vice mayors and 10 mayors who were assassinated since Duterte started his term in July 2016.¹¹ In the village-level election held in May, 33 people were killed and 19 others wounded. While this year's number of casualties is significantly lower compared to the last village elections in 2013 (with 109 people killed and 59 injured), the risk of election-related violence is likely to increase in the

⁵ "Half of all 'deaths under investigation' resolved - NCRPO chief," ABS-CBN News online, 24 April 2018, from <http://news.abs-cbn.com/news/04/24/18/half-of-all-deaths-under-investigation-resolved-ncrpo-chief>, accessed on 27 July 2018.

⁶ Maan Macapagal, "PNP: Crime rate drops, but murder rate up in 2 years," ABS-CBN News online, 20 July 2018, from <http://news.abs-cbn.com/news/07/19/18/pnp-crime-rate-drops-but-murder-rate-up-in-2-years>, accessed on 24 July 2018.

⁷ "FULL TEXT: Duterte's 2018 SONA speech," Philstar.com, 23 July 2018, from <https://www.philstar.com/headlines/2018/07/23/1836195/full-text-dutertes-2018-sona-speech>, accessed on 24 July 2018.

⁸ Patricia Lourdes Viray, "Drug war, fighting criminality Duterte's top achievement — Pulse Asia," Philstar.com, 23 July 2018, from <https://www.philstar.com/headlines/2018/07/23/1836071/drug-war-fighting-criminality-dutertes-top-achievement-pulse-asia#qT584x30ygALQBTA.99>, accessed on 29 July 2018.

⁹ "88% of Filipinos approve of Duterte before 'God is stupid' remark, Rappler online, 13 July 2018, from <https://www.rappler.com/nation/207184-duterte-approval-rating-pulse-asia-survey-june-2018>, accessed on 29 July 2018.

¹⁰ Jodesz Gavilan, "Mayors, vice mayors killed under Duterte gov't," Rappler Online, 11 July 2018 (updated), from <https://www.rappler.com/newsbreak/iq/206262-list-mayors-vice-mayors-killed-since-july-2016-duterte-government>, accessed on 28 July 2018.

¹¹ Ibid.

coming months.¹² Elected village heads play a crucial role in local and national elections in 2019 as they act as grassroots organisers for political parties.

Meanwhile, the number of environmental activists killed in the Philippines in 2017 increased by 71 percent to 48 compared to 28 in 2016, according to a Global Witness annual report released recently. It was the highest recorded number of environment related killings in Asia in a single year and the Philippines ranked second after Mexico (which had a total of 57 killings).¹³ The report said that 20 of the killings (or 41.6 percent) were linked to protests against agribusiness, with soldiers suspected of having been involved in 56 percent of the murders, and 67 percent of these happened in resource-rich conflict areas of Mindanao. Accordingly, indigenous peoples in these areas were the primary victims of attacks against environmental activists and human rights defenders, allegedly perpetrated by military forces who are also conducting counter-insurgency operations against communist rebels in Mindanao.¹⁴

Journalists continue to be targets of assassinations or EJKs. Four media practitioners were killed between 2 May and 23 July this year, bringing the total of journalists murdered in the country since 1992 to 79.¹⁵ In 2017, the Philippines ranked sixth among countries in Asia with four journalists who were killed out of a total of 26 in the region.¹⁶

In the meantime, the Duterte administration should be commended for ending the more than 20 years of conflict with the Moro Islamic Liberation Front, with the signing of the Bangsamoro Organic Law (BOC). While this positive development would no doubt contribute significantly to reducing violence in the areas covered by the law, the risk of atrocities remain especially in parts of Mindanao where pro-ISIS militants and former members of MILF who refuse to recognise the peace agreement continue to wage war against government forces. They are likely to recruit more militants not only from factions within the MILF who may later be frustrated with unmet expectations in the transition process of implementing the BOC, as well as from communities who are growing impatient with the slow pace of rehabilitation following the Marawi siege by militants last year. The implementation of the government's comprehensive rehabilitation and recovery program of Marawi has been delayed following the disqualification of a Chinese-led development consortium in late June. However, the task force overseeing the program remained optimistic that the rehabilitation of Marawi is still on track to be completed in December 2021.¹⁷ Even so, Maranao residents in Marawi continue to strongly oppose the government's China-funded commercial centres and military bases in the city.

¹² "Philippines: Election-related violence leaves 33 dead," Al Jazeera online, 14 May 2018, from <https://www.aljazeera.com/news/2018/05/philippines-election-related-violence-leaves-33-dead-180514080913889.html>, accessed on 29 July 2018.

¹³ Inday Espina-Varona, "Under Duterte, Philippines ranked Asia's most dangerous country for environment defenders," ABS-CBN News online, 25 July 2018, from <http://news.abs-cbn.com/news/07/25/18/under-duterte-philippines-ranked-asias-most-dangerous-country-for-environment-defenders>, accessed on 25 July 2018.

¹⁴ See "At what cost? Irresponsible business and the murder of land and environmental defenders in 2017," Global Witness, from https://www.globalwitness.org/documents/19392/Defenders_report_layout_AW2_lowres.pdf, accessed on 29 July 2018.

¹⁵ "Journalists Killed in The Philippines since 1992," (The Philippines/Asia), Committee to Protect Journalists online, from <https://cpi.org/asia/philippines/>, accessed on 29 July 2019.

¹⁶ Johanna Chishlom, "The Philippines ties for sixth worst in the world for number of journalists killed, report finds," Southeast Asia Globe online, 23 January 2018, from <http://sea-globe.com/ifj-reporters-killed/>, accessed on 25 July 2018.

¹⁷ Sofia Tomacruz, "Marawi rehab 'on track' despite search for new developer," Rappler online, 3 July 2018, from <https://www.rappler.com/nation/206396-marawi-rehabilitation-on-track-despite-consortium-disqualification>, accessed on 24 July 2018.

Some 140,000 Marawi residents continue to be displaced as the government has cordoned off the former war zone due to unexploded bombs and IEDs.¹⁸ A recent survey of Marawi residents, including those living in IDP camps, showed that only 30 to 50 percent that President Duterte is concerned about Muslims, which is significantly lower than the 83 percent average in the provinces of predominantly Muslim provinces of Lanao del Sur and Maguindanao. Those living in camps feel neglected (30 percent), while overall Marawi residents feel that their present quality of life is worse now (56 to 80 percent).¹⁹

Civilians in Mindanao are also at risk in areas affected by ongoing counter-terrorist operations by the military, specifically against the ISIS-affiliated group Bangsamoro Islamic Freedom Fighters (BIFF), which in early July foiled an attempt by the latter to occupy a town hall in Maguindanao.²⁰ In early June, some 20,000 civilians were forced to flee their villages in Maguindanao and North Cotabato as the Armed Forces of the Philippines (AFP) conducted air strikes and ground operations against the BIFF forces in effort to destroy the militants' explosives factory in southern Liguasan.²¹

In the months ahead, the risk of election related violence in Mindanao is likely to increase prior to the 2019 national and local elections. In the last village-level elections in May, the Commission on Elections (COMELEC) designated 295 villages as areas of concern in northern Mindanao where intense political rivalries and private armies exist.²² In eastern Mindanao, some 8,500 military forces were deployed to ensure peaceful and orderly conduct of elections.²³ In 2009, the Philippines enacted its first domestic law against genocide and crimes against humanity following the massacre of over 50 people, which included 37 journalists in Maguindanao.

Recommendations:

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

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.

¹⁸ JC Gotinga, "Philippines: Maranao people oppose Marawi rehabilitation plan," Al Jazeera online, 27 June 2018, from <https://www.aljazeera.com/news/2018/06/philippines-maranao-people-oppose-marawi-rehabilitation-plan-180626153252968.html>, accessed on 29 July 2018.

¹⁹ Carmela Fonbuena, "Marawi folks less convinced Duterte has concern for Muslims – SWS," Rappler online, 19 July 2018, from https://www.rappler.com/nation/207670-marawi-residents-duterte-muslims-sws-survey-april-2018?utm_campaign=Echobox&utm_medium=Social&utm_source=Facebook#Echobox=1531979152, accessed on 29 July 2019.

²⁰ Carmela Fonbuena, "Troops clash with BIFF in Maguindanao town center," Rappler Online, 4 July 2018, from <https://www.rappler.com/nation/206483-afp-biff-clash-town-center-maguindanao-july-3-2018>, accessed on 30 July 2018.

²¹ Edwin Fernandez, "20,000 flee air, ground strikes vs BIFF rebels," Inquirer.net, 12 June 2018, from <http://newsinfo.inquirer.net/999835/20000-flee-air-ground-strikes-vs-biff-rebels>, accessed on 12 June 2018.

²² Rod Bolivar, "Comelec tags 295 Northern Mindanao villages as 'election areas of concern'," ABS-CBN News online, 5 May 2018, from <http://news.abs-cbn.com/news/05/05/18/comelec-tags-295-northern-mindanao-villages-as-election-areas-of-concern>, accessed on 29 July 2018.

²³ Antonion Colina IV, "8,500 troops deployed in Eastern Mindanao to secure barangay, SK polls," Mindanews.com, 13 May 2018, from <http://www.mindanews.com/top-stories/2018/05/8500-troops-deployed-in-eastern-mindanao-to-secure-barangay-sk-polls/>, accessed on 29 July 2018.

3. Ensure that allegations of extra-judicial killings committed by police and security forces against drug suspects, journalists, indigenous peoples, and environmental protection activities 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 violations of international humanitarian law and international human rights law during the siege of Marawi and hold perpetrators accountable.
4. Ensure the smooth transition process and effective implementation of the Bangsamoro Organic Law.

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

1. Revive the peace talks with the CPP/NPA as soon as possible, and ensure accountability for violators of human rights committed by both soldiers and communist rebels against civilians, particularly indigenous peoples, in resource-rich conflict areas in Mindanao.
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.