

The Philippines Risk: High

The Philippines remains at high risk for atrocities as drug-war related killings continue under the administration of President Ferdinand R. Marcos Jr. In 2022, a total of 324 people died in the government's anti-drug campaign, with 175 killed since the Marcos administration took over in July 2022, even surpassing 149 killed in the last six months of the Duterte administration. State agents were the primary assailants and pushers as the top targets in war on drugs. Hotspots in the campaign shifted from the National Capital Region (NCR) and Negros Occidental to Davao City and Cebu.¹ For the month of January 2023, 20 people died in the government's drug war, with 5 deaths recorded in the NCR, followed by Cebu and Davao del Sur, and state agents topping the attacks against targets.² In the first week of February 2023, 11 were already killed in total, of which 6 were conducted by unidentified killers and 5 by state agents.³

Meanwhile, on 27 January 2023, the International Criminal Court's pre-trial chamber granted the prosecutor's request to resume the investigation into the Philippines drug war killings during the Duterte administration. It found that the Philippine government has not satisfactorily conducted the relevant investigations that would warrant a deferral of the ICC's investigation based on the principle of complementarity. Specifically, it pointed out that the government's efforts to probe the drug war killings did not amount to "tangible, concrete and progressive investigative steps" that sufficiently mirror the Court's investigation.⁴ While human rights advocates welcomed the decision of the pre-trial chamber of the ICC, the Marcos administration's solicitor general said that it will appeal the decision of the chamber and "exhaust legal remedies" by elevating the matter to the Court's appeals chamber. The government formally filed its appeal on 3 February 2023, which specifically disagreed and rejected the reasons cited by the pre-trial chamber.⁵ For his part, Justice Secretary Crispin Remulla said that the ICC investigation will not be welcomed in the country even as he asserted that the country has "a functioning justice system" and that the resumption of the ICC probe on the drug war is "an irritant."⁶

Overall, it is unlikely that the Philippine government's appeal to the ICC will be reversed given the unsatisfactory progress made by the Marcos administration to conduct a thorough investigation on the drug war of the Duterte administration. While efforts are being made to upgrade number of pathology experts in the country by inviting the UN Special Rapporteur on Extra Judicial Killings (EJK) Morris Tidball-Binz who is an expert in forensic science,⁷ as well as calls made by the Secretary of Interior and Local Government (DILG) for all high ranking officials of the Philippine National Police (PNP) to tender their courtesy resignations as part of internal cleansing against alleged corrupt cops involved in drug smuggling,⁸ these actions do not immediately address the issue of accountability for drug-war killings committed by PNP and other government agencies during the previous administration. Meanwhile, Duterte supporters, including some current government officials and legislators in the country, continue to assert the Philippines sovereignty against ICC probe into the drug-related killings. Such assertions go against the unanimous resolution adopted by all justices of the Philippine Supreme Court in 2021 that declared the ICC's jurisdiction to be valid during the time that the country was a party to the Rome Treaty following the cases filed against the Duterte administration before its withdrawal as State Party to the treaty in 2019.

Recommendations

The Philippines government should:

- Uphold its' primary responsibility to protect by complying with international norms on human rights protection. 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 during the Duterte administration and after.

- Vigorously advocate for the amendment of Republic Act 6891 on Witness Protection Program (WPP) to cover law enforcers as part of encouraging them to turn state witness in the drug war related killings and other EJKs
- Reconsider its position on membership of the International Criminal Court (ICC)
- Permit the Office of the Prosecutor of the ICC to resume its investigation of drug war related killings during the term of President Duterte and cooperate fully.
- Abide by the Supreme Court's 2021 resolution that declared the ICC to have jurisdiction over the country.
- Encourage PNP and Department of Justice to pursue vigorous investigation of killings involving policemen and other law enforcement agents in relation to the drug war and file appropriate criminal charges against them.

¹ Dahas, UP TWSC Facebook page, 6 January 2023, <https://www.facebook.com/up.twsc>, accessed on 13 February 2023.

² Ibid., 6 February 2023.

³ Ibid., 9 February 2023.

⁴ John Eric Mendoza, "ICC resumes probe on PH's drug war," Inquirer News online, 27 January 2023, from <https://globalnation.inquirer.net/210094/fwd-icc-resumes-probe-on-phs-drugs-war>, accessed on 13 February 2023.

⁵ Tetch Torres-Tupas, "PH appeals ICC's revival of drug war probe," Inquirer News online, 8 February 2023, from <https://globalnation.inquirer.net/210508/ph-appeals-iccs-revival-of-drug-war-probe>, accessed on 13 February 2023.

⁶ Ibid.

⁷ Paolo Romero and Neil Jayson Servallos, "UN rapporteur to kickstart Philippine pathology upgrade," Philstar online, 7 February 2023, from <https://qa.philstar.com/headlines/2023/02/07/2243149/un-rapporteur-kickstart-philippine-pathology-upgrade>, accessed on 13 February 2023.

⁸ Paula Antolin, "DILG to PNP officials: Tender courtesy resignations," Daily Tribune online, 5 January 2023, from <https://tribune.net.ph/2023/01/05/dilg-to-pnp-officials-tender-courtesy-resignations/>, accessed on 13 February 2023.