

extrajudicial executions and impunity, arbitrary detention and unfair trials

Pre-UPR Presentation - August 30, 2022
In Defense of Human Rights and Dignity Movement (iDEFEND)
Philippines



EJK statistics

Government Source



#RealNumbers from JULY 01, 2016 to SEPTEMBER 30, 2021

June 2020 Office of the High Commissioner for Human Rights : conservative number of **8,633 victims of killing** (from official Govt records

- > as of 31 January 2020 (5,601) by Police operations
- > as of 4 February 2019 (3,062) drug-related 'deaths under inquiry'

June 2021 ICC prosecutor's request for an investigation: estimate of between 12,000 and 30,000 civilian fatalities

Nov 2021 : CSO ACLED currently estimates that at least 7,742 civilians have been killed in the drug war since 2016. 2 • This is 25% higher than the government's September 2021 count of 6,201

Philippine National Police reported t that from 2016 to February 2021, there were 12,416 cases of riding-in-tandem incident

CSO - CLRDC report : 150 children were killed from July 2016 - June 2021.

UPR 3rd Cycle RECOMMENDATIONS on EJK

GAPS/CHALLENGES

STOP the killings - there is significant decline and lethality however EJKs within the WoD campaign but killings continues -

Alternative approach to WoD/Holistic approach -

- Bill on Public health approach has not been enacted
- Those who were incarcerated / survivors have not received assistance to improve economic condition
- Mega rehabilitation center constructed have very minimal clients
- Reimposition of Death Penalty against drug crimes has always been the priority Bills filed in Congress

Visit of SRs/Cooperation with Int'l Mechanisms -

- No SR on critical HR concerns were allowed visits despite repeated requests
- Philippines withdrew from the Rome Statute/ICC and the new Administration already stated that it will not rejoin the ICC
- OHCHR Report (June 2020) resulted HRC Resolution on Technical Cooperation but STILL WANTING/WEAK

Prevent Government incitement / State Sponsored Killings :

- The past Government did not rescind Memoranda on the WoD
- The current Governments pronouncement is not yet clear on its stand on its campaign against WoD

MAJOR GAP : INVESTIGATION/PROSECUTION

- In November 2018, - 3 Police personnel were convicted (still on appeal) with the killing of 17 y/o Kian Delos Santos - first and still the only successful prosecution on EJK under the WoD

Supreme Court Action:

- PNP documents furnished to Private Lawyers who have filed cases as ordered by the Supreme Court are inadequate/not substantial

Intimidation of families of victims / Waivers

- > Documents are difficult to obtain from the Police to file cases
- > Few who have filed cases were threatened
- > Police personnel asking families to sign waivers that they will not file cases against the Government

Commission on Human Rights Actions:

- CHR only investigated more than 1,000 EJK cases and concluded violations of right to life
- PNP refuse to provide and cooperate with the CHR by the order of the President

MAJOR GAP : INVESTIGATION/PROSECUTION

- **October 2021 : Department of Justice (DOJ) created a Task Force to Investigate and completed review of 302 cases**
 - > **52 incidences from the Phil. Nat'l Police**
 - > **250 from the National Prosecution Office**

The first report was not made public and reported only to Pres. Duterte

The 52 cases of police anti-drug operations with 58 persons killed was made public with minimal details

**Findings: light punishments such as 30 days of suspension.
: criminal charges ought to be levied against 154 police officers**

**Status : 7 cases for build up
6 dismissed due to lack of witnesses**

ICC Prosecutor NOT satisfied with the result of actions:

- > **mere desk review**
- > **very small percentage of total incidences**
- > **only observations and remarks on how the victims died and noted lapses in procedure**
- > **the referred cases fail to consider responsibility of perpetrators who are of higher rank—those who had a hand in planning, coordinating and enforcing the operations.**

Impunity

The problem of impunity in the Philippines continue not only on EJK

2009 Anti-Torture Law (RA Republic Act No. 9745 - only 1 case with conviction of 2 police personnel

- > Medical Action Group (MAG) reported 542 cases of torture between 2018 and 2020
- > National Preventive Mechanism have not been enacted (2012 ratification of OPCAT)

2011 - Philippine Act on Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity
- [Republic Act No. 9851](#) or the “ (Convictions against Isis members)

2012 _ RA 10353 Anti-Enforced Disappearance case - No convictions of cases that happened after its enactment

- > FIND recorded 130 cases of enforced disappearance during Duterte’s administration. Forty-one (41) cases were documented, 21 victims are missing to date, 7 surfaced alive while 13 were found dead.
- > UN Working Group on Enforced or Involuntary Disappearances (WGEID) 625 reported cases of disappearances which occurred between 30 June 1975 and 3 January 2012 = 2 convictions from AO 35 actions
- > ICAED has not been ratified

2012 A.O. 35 Investigation of EJK, Torture, Enforced Disappearance and IHL : 385 cases in 7 years covering 4 Administrations with 13 convictions (Not specified in the report)

- > 270 Extra-Legal Killings 80 Torture , 28 Enforced Disappearance at 28 and 7 IHL violations

110 lawyers were killed from 1972 to the present.
61 of those killings have taken place since 2016.

Detention Gaps & Challenges

At the height of the campaign on War on Drugs - More than 600% overcrowding in jails/detention facilities

Improve detention facilities, in particular to address overcrowding and sanitation problems (Uganda/RoKorea)

June 2022 - Jails/holding facilities dropped to 387% congection from 612% in 2017 (DILG data)

- Correction facilities with 300% congestion (0.8 % are women with around 64% are drug related)
- DOJ said that conviction rate of drug cases stands at a measly 21 percent out of the total 291,393 cases filed since 2016.
- 2019 Good Conduct Time Allowance Law (GCTA) under Republic Act No. 10592 (RA 10592) aimed also to decongest facilities but was abused and racked by scandal

Provide separate detention facilities for child offenders (RoKorea)

Only 75 Detention facilities (Balay Pagasa) are functioning from More than 40,000 plus municipalities

- only 14 are accredited by the DSWD
- Most have inadequate food, beddings, sanitation facilities and programs for the children
- Minors, including children less than 15 years old, are locked away and put in inhumane detention regardless of their case status and background.
- CLRDC has documented 143 cases of torture and ill treatment of minors/children in 4 cities in the National Capital Region September from 2017 to December 2021

meet the minimum standards for the treatment of prisoners (NZ).

- 291,393 cases, some 22,000 ended with conviction, 5,753 were dismissed, and 223,579 (77%) are pending (DILG)
- Numerous torture incidences documented by CSOs

Fair Trial Gaps & Challenges

World Justice Project 2021 overall rate of the Philippines 0.48, down 3 ranks from 2020 On Criminal Justice factor : 0.31 , #120 of 130 countries

independence of the judiciary and the capacity of the judicial system

- > Former Chief Justice Sereno were removed from her post while another Justice was continuously threatened to have the same fate
- > The judiciary agencies are dependent on the policy pronouncements of the Past Government
- > 14 out of 15 Justices were appointed by the Past Administration
- > Supreme Court ordered Continuing Trial in 2017, however with many vacancies among judges and prosecutors and backlogs in cases, the effect of the order is still not significantly felt

Adopt measures to strengthen the administration of justice and the national human rights commission

- > NHRI (CHRP) and Commissioners were attacked, red tagged by the government y being independent and true to their mandates
- > The appointment of new set of Commissioners should be among human rights advocates to maintain the integrity and credibility of the institution

Major Recoms on Ending Impunity

1. End impunity for extrajudicial killings, enforced disappearances and torture, in particular those perpetrated by security forces, by undertaking thorough investigations and vigorous prosecutions of perpetrators.
2. Embark on a substantial reform of the judicial system to ensure that perpetrators of severe human rights violations are brought to justice and to expedite judicial proceedings of such cases.
3. Provide immediate justice and compensation to victims of WoD, to prioritize families of children victims
4. Amend the Dangerous Drug Acts and enact a public health approach to the issue of illegal drugs.
5. Enact a law defining and criminalizing extrajudicial killings.
6. Cooperate fully with the Prosecutor and the ICC in all their proceedings

Major Recoms on Ending Impunity

7. Rejoin the International Criminal Court
8. Honor its commitment to the Second Optional Protocol to the ICCPR, and refrain from legislative measures seeking the re-imposition of death penalty on drug offenses or any offense.
9. Ratify the International Convention for the Protection of All Persons from Enforced Disappearances.
10. Conduct Oversight on the implementation of Anti-Torture Act, Anti-Enforced Disappearance Act
11. Fully cooperate and issue a standing invitation to all Special Rapporteurs with thematic mandates and working groups of the UN Human Rights Council, in particular the SRs on the situation of human rights defenders, on extrajudicial executions, the Working Group on enforced or involuntary disappearances and an investigative mission of inquiry to the country.
12. Manifest sincerity and operationalize with concrete targets, time bound the implementation of the UN Joint Program