



# “IF YOU ARE POOR, YOU ARE KILLED”

EXTRAJUDICIAL EXECUTIONS IN THE PHILIPPINES’ “WAR ON  
DRUGS”

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**Cover photo:** *The body of one of four men killed by unknown armed persons is taken out of the alleged 'drug den' where the shootings took place, 12 December 2016, Pasig City, Metro Manila. The case was one of two documented by Amnesty International delegates observing journalists' night-shift coverage of police activities.*  
Screengrab, © Amnesty International (photographer Alyx Ayn Arumpac)

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# EXTRAJUDICIAL EXECUTIONS

● Locations with cases documented by Amnesty International



# EXECUTIVE SUMMARY

**“I was in favour of [Duterte’s] slogan ‘Change’. All Filipinos want change. But no Filipino wants dead bodies all over the streets, and for the police killing people to become the norm.”**

Woman whose husband was unlawfully killed in a police operation

President Rodrigo Duterte has made no secret of how he views people linked to drugs or crime; for him, they are less than human and deserving of death. Since taking office in the Philippines on 30 June 2016, his administration’s “war on drugs”<sup>1</sup> has borne that out to a devastating degree. Statistics from the Philippine National Police indicate that police officers and unknown armed persons<sup>2</sup> collectively carried out 7,025 drug-related killings between 1 July 2016 and 21 January 2017, roughly an average of 34 per day.

In the poorest neighbourhoods of the Philippines, police officers on operation and unknown armed persons on motorcycles regularly target people with an alleged connection to drugs. Family members visit morgues to identify their loved one amongst the many other bodies that arrive each night riddled with bullet holes. The sight of bodies on the street has become commonplace; the fear of being or knowing the next victim, pervasive. Despite repeated denunciations by activists within the Philippines and by foreign governments, the relentless incitement and killings both continue unabated.

This report examines the human rights violations associated with President Duterte’s violent campaign against drugs. It is based primarily on field research carried out in the Philippines in November and December 2016, during which Amnesty International delegates interviewed 110 people, including direct witnesses to extrajudicial executions; relatives of those killed; people who currently use drugs; police officers and paid killers involved in anti-drug operations; local authorities; and civil society activists.

Amnesty International investigated 33 incidents of drug-related killings in 20 different cities and towns, spread primarily across the National Capital Region as well as the provinces of Cebu and Cotabato. In the 33 incidents, of which 20 involved police operations and 13 involved unknown armed persons, 59 total people were killed. Based on corroborating witness statements and other credible information, the vast majority of these killings appear to have been extrajudicial executions—that is, unlawful and deliberate killings carried out by government order or with its complicity or acquiescence.

In killings carried out during formal operations, police reports are startlingly similar from case to case. Amnesty International reviewed police incident reports for 12 of the 33 cases it documented, and, in 30 cases, examined media reports that included a police account. Whether during a raid on a suspect’s home

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<sup>1</sup> Throughout the report, Amnesty International uses quotation marks around “war on drugs,” a term commonly used to describe the Duterte administration’s policies and operations against alleged drug offenders. These operations do not fit the definition of an armed conflict under international law.

<sup>2</sup> In the Philippines, the commonly used term is “unknown gunmen.” Amnesty International uses a gender neutral term throughout the report, as women are likewise perpetrators of drug-related killings.

or during a “buy-bust” operation in which undercover police officers purchase drugs to effect an arrest, the police near-universally claim that the suspect pulled a gun and shot at them, which, the police say, forces them to return fire and kill the person. In several cases Amnesty International reviewed, the police even alleged the suspect’s gun “malfunctioned” when trying to shoot them. As of 21 January 2017, these purported “shootouts” have led to the death of 2,500 alleged drug offenders and 35 police officers.

Direct witness testimony and independent investigations present a far different—and, based on Amnesty International’s field research, far more credible—account of what happens during many drug-related police operations. Police officers routinely bust down doors in the middle of the night and then kill in cold blood unarmed people suspected of using or selling drugs. In several cases documented by Amnesty International, witnesses described alleged drug offenders yelling they would surrender, at times while on their knees or in another compliant position. They were still gunned down. To cover their tracks, police officers appear often to plant “evidence” and falsify incident reports.

The Duterte administration’s relentless pressure on the police to deliver results in anti-drug operations has helped encourage these abusive practices. Worse, there appear to be financial incentives. A police officer with more than a decade of experience on the force, and who currently conducts operations as part of an anti-illegal drugs unit in Metro Manila, told Amnesty International that there are significant under-the-table payments for “encounters” in which alleged drug offenders are killed. He also said a racket between the police and some funeral homes leads to payments for each body brought in.

In addition to killings during police operations, there have been more than 4,100 drug-related killings by unknown armed persons. Amnesty International found strong evidence of links between state authorities and some armed persons who carry out drug-related killings. The police officer said officers sometimes disguise themselves as unknown armed persons, particularly when the target is someone whose family might bring a complaint or whose death might lead to greater suspicion; he mentioned female targets in particular. Two individuals paid to kill alleged drug offenders told Amnesty International that their boss is an active duty police officer; they reported receiving around 10,000 pesos (US \$201) per killing.<sup>3</sup> They said that before President Duterte took office, they had around two “jobs” a month. Now, they have three to four a week.

Victims of drug-related killings tend to have two things in common. First, they were overwhelmingly from the urban poor. Many were unemployed and lived in informal settlements or squatter communities. The killings mean further misery for already impoverished families, at times compounded by police officers stealing from them during crime scene investigations. A woman whose husband was killed said the police took goods she sold on commission, money she set aside for the electric bill, and even new shoes she bought for her child.

Second, in most cases documented by Amnesty International, there is a link to a “drug watch list” prepared by local government officials and shared with the police. Both the concept of the “watch list” itself and the way they are put together are deeply problematic. Inclusion is at times based on hearsay and community rumour or rivalry, with little to no verification. Lists are not comprised solely of persons reasonably suspected of crimes—for instance, past drug use, no matter how distant, is often sufficient. And being friends with or even neighbours of someone on a “watch list” can in practice be a death sentence. Amnesty International documented several cases in which bystanders or other people not on a “watch list” were killed, because they found themselves with or near alleged drug offenders. One victim was an 8-year-old boy. All extrajudicial executions, irrespective of who the victim is, are unlawful.

The drug-related killings represent a flagrant violation of international human rights law that is legally binding on the Philippines. At their forefront is the non-derogable human right to life, which extrajudicial executions violate. Other human rights, including the right to due process, the right to health, prisoners’ right to humane treatment and the rights of victims’ family members have also been violated.

Amnesty International is deeply concerned that the deliberate and widespread killings of alleged drug offenders, which appear to be systematic, planned and organised by the authorities, may constitute crimes against humanity.

In response, Philippine authorities, while claiming to investigate such killings, have failed to prosecute those responsible. No member of the police has faced criminal charges for a drug-related killing since Duterte took office. A relative of a man killed during an alleged “buy-bust” operation told Amnesty International that investigators from the National Bureau of Investigation discouraged her from pursuing a case, telling her that doing so would be “futile.” When families do fight against all odds and pursue a complaint, they are often profoundly afraid of police reprisal; several described instances of intimidation. As the state has failed in its

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<sup>3</sup> Throughout the report, conversions from Philippine pesos to US dollars reflect the rate from 25 January 2017.

responsibility to investigate promptly, impartially and efficiently, the Commission on Human Rights and civil society organisations are trying to fill the gap, but, in addition to intimidation, confront a scarcity of resources and a system built to block progress.

While the killings have generated headlines, the government's violent anti-drug campaign has also undermined many people's right to enjoy the highest attainable standard of health. "Surrender" programmes claim to be "voluntary," but many people who use drugs say they see their choice as between surrendering or being killed. Once they surrender, they find themselves in programmes that are poorly funded and not comprehensive or evidence-based in what they offer. In many instances, community drug rehabilitation consists of Zumba fitness classes, listening to occasional lectures on drugs' harm, and submitting oneself to perpetual surveillance. Any slip-up in using drugs can invite a police operation, with deadly consequences. On the national scale, the government has started building "mega" rehabilitation facilities inside military bases, raising additional human rights concerns.

As the government has largely ignored a public health approach in favour of a law enforcement approach to drug use, many people who use drugs have become terrified of accessing health services that might link them to drugs. Harm reduction programmes like needle exchange have also ceased, lest they invite a government crackdown on non-governmental organisations and health providers. In places like Cebu City, people who inject drugs fear a police response if they seek out HIV testing or treatment, and now struggle to find or pay for clean needles. State authorities are therefore directly restricting the health options of people living with HIV and hepatitis C, significantly increasing the risk of transmission of blood-borne diseases.

The Philippine government needs to urgently adopt a different approach to drugs and criminality, one which promotes, respects and fulfils the human rights of all concerned. Police and judicial authorities should ensure accountability for any unlawful killing by police officers or unknown armed persons, promptly, impartially and efficiently investigating allegations and prosecuting those involved. The impunity that currently reigns has facilitated killing on a massive scale, hitting the poorest and most marginalized segments of the population in particular.



# METHODOLOGY

This report is based primarily on field research carried out in the Philippines in November and December 2016. Amnesty International interviewed 110 people, including direct witnesses to extrajudicial executions; relatives of those killed; people who currently use drugs; police officers and paid killers involved in anti-drug operations; members of the Commission on Human Rights; local government officials; civil society activists; and religious leaders. In total, Amnesty International documented 33 cases of drug-related killings, 20 of which occurred during formal police operations and 13 of which involved unknown armed persons.

In addition to interviews, Amnesty International reviewed police incident or spot reports for 12 of the 33 specific incidents it documented through first-hand testimony, as well as for several other drug-related killings that it did not document directly. Spot reports are official police documents, generally a page in length, that contain the basic police account of what happened. For 30 of the 33 documented incidents, Amnesty International examined media reports that included either reference to police reports or public statements by relevant police officials that provided the police account. There were only two documented incidents for which Amnesty International had access neither to public reporting about the police account nor to a copy of a police report; both incidents involved unknown armed persons, not a police anti-drugs operation. In three cases, Amnesty International had access to significant parts of the complete confidential police file, including a formal police investigation report that was more detailed than the initial spot report. Amnesty International obtained autopsy reports in seven cases.

The research was undertaken in the three island groups that comprise the Philippines: Luzon, Visayas, and Mindanao. In total, Amnesty International documented drug-related killings in 20 different cities, spread primarily across Metro Manila, also known as the National Capital Region (NCR), as well as the provinces of Cebu and Cotabato.

Amnesty International undertook all but two of the interviews in person. The two exceptions were done by telephone, one for security reasons and the other because the delegates had already left the country. Some interviews were conducted in English, while others, including a majority of interviews with witnesses and relatives, were conducted in Tagalog or Visayan, with English translation. Interviews were carried out in private, typically at a location preferred by the interviewee. Interviewees were not offered any incentive for speaking, and they were able to end an interview at any time.

Amnesty International has included the names of certain individuals who were interviewed, based on those individuals' informed consent. Other people spoke on condition of anonymity, citing fears of police reprisals should it become known they spoke with Amnesty International delegates. Their names and any identifying information have been withheld.

Before and after its fieldwork, Amnesty International examined relevant international and domestic law, Philippine police operation manuals, and government publications related to drugs and public health. Amnesty International also reviewed the extensive body of media reporting, both international and national, on the government's anti-drug campaign, including related to dozens of specific drug-related killings.

On 12 January, Amnesty International wrote to the Philippine National Police with questions related to their anti-drug operations. At time of publication, no response had been received.

# 1. BACKGROUND

**“You drug pushers, hold-up men and do-nothings, you better go out. Because I’d kill you.”**

President Duterte, during his election campaign

**“Allegations of drug-trafficking offences should be judged in a court of law, not by gunmen on the streets.”**

Agnes Callamard, UN Special Rapporteur on extrajudicial executions, and Dainius Puras, Special Rapporteur on the right to health, August 2016

Despite rapid economic growth in the Philippines in recent years, many people have not benefited. According to the UN, as of 2015, 25.2% of people in the Philippines remain below the national poverty line,<sup>4</sup> and the country, which has a population of 100 million, continues to struggle with one of the highest unemployment rates in Southeast Asia.<sup>5</sup> Successive governments have failed to reduce significantly the gap between rich and poor. In Metro Manila alone, more than four million people live in informal settlements or squatter communities, which suffer from a lack of access to adequate housing, food, water and basic sanitation.<sup>6</sup> Other urban areas face similar or even worse problems.<sup>7</sup>

High levels of crime, which arise in part from persistent poverty and formal and informal corruption,<sup>8</sup> remain a concern for many people in the Philippines.<sup>9</sup> The country’s justice system has been plagued by a backlog of court cases,<sup>10</sup> while the prison administration has seen high profile scandals in which drug lords have been exposed as living in luxury in prison.<sup>11</sup> This has led to a profound disenchantment with traditional institutions responsible for ensuring the rule of law, particularly in relation to drug crime.

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<sup>4</sup> United Nations Development Programme, Human Development Report 2015: Work for Human Development, p. 229, [http://hdr.undp.org/sites/default/files/2015\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf). The same report indicated that 19 percent of the population has a purchasing power of less than US \$1.25 per day. *Ibid.*

<sup>5</sup> Yuji Vincent Gonzales, “PH has worst unemployment rate despite high GDP growth–Ibon,” *The Philippine Daily Inquirer*, 24 May 2016.

<sup>6</sup> Marife M. Ballesteros, “Linking Poverty and the Environment: Evidence from Slums in Philippine Cities,” *Philippine Institute for Development Studies Discussion Paper Series No. 2010-33*, p. 1, <http://dirp4.pids.gov.ph/ris/dps/pidsdps1033.pdf>.

<sup>7</sup> See, for example, Edita Abella Tan, “Solving the slum problem,” *The Philippine Daily Inquirer*, 16 August 2015.

<sup>8</sup> For more on corruption in the Philippines, see, for example, Amanda Taub, “How Countries Like the Philippines Fall Into Vigilante Violence,” *New York Times*, 11 September 2016; Aika Rey, “IN NUMBERS: Impact of corruption on the Philippines,” *Rappler*, 5 January 2017. The information on *Rappler* updates regularly. Amnesty International last accessed the webpage on 21 January 2017.

<sup>9</sup> Jee Y. Geronimo, “Filipinos’ growing concern: avoiding being a crime victim – survey,” *Rappler*, 13 January 2017. In 2013, the United Nations Office on Drugs and Crime (UNODC) reported that the homicide rate in the Philippines, 8.8 per 100,000 population, was more than double the regional average. UNODC, *Global Study on Homicide 2013*, p. 22, [http://www.unodc.org/documents/gsh/pdfs/2014\\_GLOBAL\\_HOMICIDE\\_BOOK\\_web.pdf](http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf).

<sup>10</sup> According to *Agence France-Presse*, the average length of a criminal trial in the Philippines is around seven years. AFP, “Philippine Crime War Packs Decaying Jails,” 30 July 2016.

<sup>11</sup> AFP, “Prisoners ‘living like kings’ in Philippines’ Bilibid jail with secret luxury cells, raid reveals,” 20 December 2014.

President Duterte entered office in June 2016 vowing to wipe out crime within six months and announcing a policy that would target those using and selling drugs.<sup>12</sup> His approach was popular with voters tired of the political establishment and its failure to tackle crime, poverty and corruption. Although homicide rates are above average for the region,<sup>13</sup> the President and senior officials linked the problem of crime to drugs in particular, even when there was little supporting evidence.<sup>14</sup> The use of methamphetamines, known as “shabu” in the Philippines, is high for the region,<sup>15</sup> but the overall prevalence of drug use is relatively low. In September 2016, the Philippine Dangerous Drugs Board estimated that 1.8 million people in the country had used drugs at some point during the 13-month period its survey examined, which is roughly 2.3 percent of the population between the ages of 10 and 69.<sup>16</sup> A report from the United Nations Office on Drugs and Crime (UNODC) in 2016 estimated the annual prevalence of illicit drug use across the world to be 5.2 percent, while estimating that only 12 percent of those who used drugs ever develop drug dependence.<sup>17</sup>

While Duterte’s threats to kill criminals made headlines, his 22-year legacy as mayor of Davao City provided the best indication of what was to come.<sup>18</sup> In that role, Duterte oversaw a massive crackdown on alleged criminals, including those suspected of using and selling drugs. Human rights organisations and Philippine media outlets estimate that, since the late 1990s, “death squads” with links to the local government killed more than 1,400 people, most of whom were alleged criminals and “drug users.”<sup>19</sup> After hearings on killings that occurred between 2005 and 2009 in particular, the Philippine Commission on Human Rights recommended an investigation into Duterte himself for potential administrative or criminal responsibility.<sup>20</sup> The authorities failed to do so, and there was scant accountability as well for police officers implicated.<sup>21</sup>

Almost immediately after Duterte was sworn in as President, reports began to emerge of the killing nationwide of alleged drug offenders. As of 21 January 2017, less than seven months into his presidency, there had been 7,025 estimated drug-related killings.<sup>22</sup> Although the National Capital Region has seen a particularly high number of cases, killings have taken place throughout the country’s three geographical divisions: Luzon, Visayas, and Mindanao. The victims have largely been male, unemployed, and underprivileged. According to the Dangerous Drugs Board, people who use drugs in the Philippines tend to be part of families with an average monthly income of 10,172 pesos (US \$205),<sup>23</sup> which is below the national poverty threshold, defined as the amount a family would need to afford basic necessities.<sup>24</sup>

Extrajudicial executions are not new to the Philippines. The military and police are reported to have killed more than 3,000 political opponents during the government of President Ferdinand Marcos (1965–1986), particularly during the years of dictatorship.<sup>25</sup> In 2008, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions reported, after a visit to the Philippines, that the previous six years had been marked

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<sup>12</sup> Alexis Romero, “Rody wants 6 more months for war on drugs, crime,” *The Philippine Star*, 19 September 2016; Pia Ranada, “Duterte bares details of 3-to-6-month anti-crime plan,” *Rappler*, 14 April 2016.

<sup>13</sup> UNODC, *Global Study on Homicide 2013*, p. 22.

<sup>14</sup> Clare Baldwin and Andrew R.C. Marshall, “As Death Toll Mounts, Duterte Deploys Dubious Data in Drug War,” *Reuters*, 24 October 2016.

<sup>15</sup> UNODC, *World Report on Drugs 2011*, p. 134, [https://www.unodc.org/documents/data-and-analysis/WDR2011/World\\_Drug\\_Report\\_2011\\_ebook.pdf](https://www.unodc.org/documents/data-and-analysis/WDR2011/World_Drug_Report_2011_ebook.pdf). Shabu also accounts for almost 97 percent of the country’s admissions into treatment centres. Dangerous Drugs Board, *2015 Statistics*, 26 August 2016, <http://www.ddb.gov.ph/research-statistics/statistics/45-research-and-statistics/287-2015-statistics>.

<sup>16</sup> A video of the Dangerous Drugs Board’s press conference to discuss the survey’s results is available at <https://www.youtube.com/watch?v=XwKOnS9a9Es>. The information about the survey covering a period of 13 months in examining drug use prevalence comes from Jodesz Gavilan, “DDB: Philippines has 1.8 million current drug users,” *Rappler*, 19 September 2016 (indicating that people who currently use drugs were defined that way based on use between 1 January 2015 and 5 February 2016); Clare Baldwin and Andrew R.C. Marshall, “As death toll rises, Duterte deploys dubious data in ‘war on drugs,’” *Reuters*, 18 October 2016.

<sup>17</sup> UNODC, *World Report on Drugs 2016*, p. 1, [https://www.unodc.org/doc/wdr2016/WORLD\\_DRUG\\_REPORT\\_2016\\_web.pdf](https://www.unodc.org/doc/wdr2016/WORLD_DRUG_REPORT_2016_web.pdf). For more on drug use and crime in the Philippines, see, for example, Mike Ives, “Methamphetamine Abuse Colors Politics in the Philippines,” *New York Times*, 13 October 2016; *Rappler*, “EXPLAINER: How serious is the PH drug problem? Here’s the data,” 27 August 2016.

<sup>18</sup> Floyd Whaley, “Rodrigo Duterte’s Talk of Killing Criminals Raises Fears in the Philippines,” *New York Times*, 18 May 2016.

<sup>19</sup> Andrew R.C. Marshall and “Philippine death squads very much in business as Duterte set for presidency,” *Reuters*, 26 May 2016; Phelim Kine, “Rodrigo Duterte: The Rise of the Philippines’ Death Squad Mayor,” *The Mark News*, 7 July 2015; Judy Quiros and Karlos Manlupig, “Davao ‘Death Squad’ strikes again,” *The Philippine Daily Inquirer*, 27 June 2013.

<sup>20</sup> Jodesz Gavilan, “Davao Death Squad: What ever happened to the investigations?” *Rappler*, 28 June 2016.

<sup>21</sup> Human Rights Watch, “Philippines: Probe Mayor’s Alleged ‘Death Squad’ Links,” 19 May 2015, <https://www.hrw.org/news/2015/05/19/philippines-probe-mayors-alleged-death-squad-links>.

<sup>22</sup> Michael Bueza, “IN NUMBERS: The Philippines’ ‘War on Drugs,’” *Rappler*, 21 January 2017, <http://www.rappler.com/newsbreak/iq/145814-numbers-statistics-philippines-war-drugs>. The figures update regularly on *Rappler*. Amnesty International last accessed the webpage on 21 January 2017.

<sup>23</sup> Dangerous Drugs Board, *2015 Statistics*, 26 August 2016, <http://www.ddb.gov.ph/research-statistics/statistics/45-research-and-statistics/287-2015-statistics>.

<sup>24</sup> Mikas Matsuzawa and Patricia Viray, “Casualties of Rody’s war,” *The Philippine Star*, 19 September 2016.

<sup>25</sup> See, for example, Rishi Iyengar, “The Killing Time: Inside Philippine President Rodrigo Duterte’s War on Drugs,” *Time*, 25 August 2016; Felipe Villamor, “Ferdinand Marcos Is Buried in Philippine National Cemetery,” *New York Times*, 18 November 2016.

by “a spate of extrajudicial executions of leftist activists, including human rights defenders, trade unionists, land reform advocates, and others,” implicating military forces in particular in the killings.<sup>26</sup>

Security forces implicated in extrajudicial executions and other human rights abuses have rarely been held to account in the Philippines.<sup>27</sup> The impunity of the police in particular was a problem even before the Duterte administration.<sup>28</sup> In addition, the ratio of the Philippine police force to the overall population is small compared to other countries,<sup>29</sup> which, combined with a lack of basic equipment like bulletproof vests, has contributed to an environment in which some officers look for shortcuts.<sup>30</sup> In 2014, Amnesty International documented widespread torture and other cruel, inhuman or degrading treatment or punishment in the Philippines, with the overwhelming majority of cases involving police officers.<sup>31</sup>

Still, the sharp increase in extrajudicial executions over the past seven months, as well as the regular incitement to kill coming from the President himself, is unprecedented in the Philippines. Despite consistent reports of serious human rights violations, President Duterte has defended police actions and continued his calls to wipe out criminals.<sup>32</sup> Senior officials, including the Chief of Police, cite statistics on the number of people who have “surrendered” to local authorities as evidence that their policies are working.<sup>33</sup> Meanwhile, the death toll rises as impunity continues.

In December 2016, President Duterte said that while mayor of Davao, he had personally killed people who were allegedly involved in crime. During a speech on 12 December, he said, “I’d go around in Davao with a motorcycle, with a big bike around, and I would just patrol the streets, looking for trouble also. I was really looking for a confrontation, so I could kill.”<sup>34</sup> He said he did so “just to show to the guys [police] that if I can do it, why can’t you?”<sup>35</sup> Several days later, when asked about his comments, Duterte said he had “killed about three of them. ... I don’t really know how many bullets from my gun went inside their bodies. ... It happened. I cannot lie about it.”<sup>36</sup>

His remarks quickly drew international condemnation and calls for an investigation,<sup>37</sup> as has his role in the violent anti-drug campaign more generally. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right to health have stated that the President may be guilty of “incitement to violence and killing, a crime under international law.”<sup>38</sup> In another warning to the President and senior officials, the Prosecutor of the International Criminal Court, Fatou Bensouda, expressed concerns over the killings and indicated her office may initiate a preliminary examination into the situation.<sup>39</sup> So far, these warnings have had little effect.

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<sup>26</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Mission to the Philippines, UN Doc. A/HRC/8/3/Add.2, 16 April 2008, para. 11, <http://www.refworld.org/docid/484d2b2f2.html>.

<sup>27</sup> *Ibid.*, para. 45; Human Rights Watch, “No Justice Just Adds to the Pain”: Killings, Disappearances, and Impunity in the Philippines, 18 July 2011, <https://www.hrw.org/report/2011/07/18/no-justice-just-adds-pain/killings-disappearances-and-impunity-philippines>.

<sup>28</sup> See, for example, Concluding Observations of the Committee against Torture on the Philippines, UN Doc. CAT/C/PHL/CO/2, 29 May 2009, para. 9, <http://www2.ohchr.org/english/bodies/cat/docs/cobs/CAT.C.PHL.CO.2.pdf>; Amnesty International, *Above the Law: Police Torture in the Philippines*, December 2014, p. 98, <https://www.amnesty.org/en/latest/news/2014/12/above-law-police-torture-philippines/>.

<sup>29</sup> European Institute for Crime Prevention and Control and UNODC, *International Statistics on Crime and Justice*, HEUNI Publication Series No. 64, 2010, pp. 135-36, [https://www.unodc.org/documents/data-and-analysis/Crime-statistics/International\\_Statistics\\_on\\_Crime\\_and\\_Justice.pdf](https://www.unodc.org/documents/data-and-analysis/Crime-statistics/International_Statistics_on_Crime_and_Justice.pdf). At that time, the Philippines had less than half the police officers per 100,000 people as compared to the world average. *Ibid.* See also, for example, GMA News, “A few good men? Roxas says PNP shorthanded, needs 80,000 new cops,” 27 August 2014.

<sup>30</sup> GMA News, “Bato vows more bulletproof vests as front-line cop killed in anti-drug operation,” 19 September 2016; Associated Press, “27,000 Filipino policemen don’t have official guns,” 29 February 2012; Reuters, “Police in Philippines suffering from no funding,” 13 May 2016. The police officer involved in anti-drug operations told Amnesty International that he had to buy his own bulletproof vest off a secondary market. Amnesty International interview, Metro Manila, 13 December 2016.

<sup>31</sup> Amnesty International, *Above the Law: Police Torture in the Philippines*, December 2014.

<sup>32</sup> See, for example, Martin Petty and Karen Lema, “Duterte Defends Deadly Crime Crackdown in National Address,” Reuters, 25 July 2016.

<sup>33</sup> See, for example, Amita Legaspi, “PNP chief assures no kill quota for war on drugs,” GMA News, 3 October 2016.

<sup>34</sup> A video of the speech was posted by the Philippine Star and is available at [http://www.dailymotion.com/video/x55eheu\\_i-used-to-do-it-personally-duterte-says-about-killings\\_news](http://www.dailymotion.com/video/x55eheu_i-used-to-do-it-personally-duterte-says-about-killings_news) (last accessed 23 January 2017). The speech was also widely reported on by the media. See, for example, AFP, “Duterte says he personally killed people,” 14 December 2016; Russell Goldman, “‘I Cannot Lie,’ Rodrigo Duterte Says, Confirming He Did Kill People as Mayor,” New York Times, 16 December 2016.

<sup>35</sup> See the video posted by the Philippine Star, available at [http://www.dailymotion.com/video/x55eheu\\_i-used-to-do-it-personally-duterte-says-about-killings\\_news](http://www.dailymotion.com/video/x55eheu_i-used-to-do-it-personally-duterte-says-about-killings_news). See also, for example, AFP, “Duterte says he personally killed people,” 14 December 2016.

<sup>36</sup> See, for example, Russell Goldman, “‘I Cannot Lie,’ Rodrigo Duterte Says, Confirming He Did Kill People as Mayor,” New York Times, 16 December 2016; Jessica Meyers, “Philippine President Duterte confirms he killed people as mayor, with no remorse,” Los Angeles Times, 16 December 2016.

<sup>37</sup> See, for example, OHCHR, “Zeid urges investigation into Philippines president’s claim to have killed three people,” 20 December 2016, <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=21052&LangID=E#sthash.IQzQGfIo.dpuf>.

<sup>38</sup> UN News Centre, “UN rights experts urge Philippines to end wave of extrajudicial killings amid major drug crackdown,” 18 August 2016, <http://www.un.org/apps/news/story.asp?NewsID=54707#.WIVSBfkrJD8>.

<sup>39</sup> International Criminal Court, Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda concerning the situation in the Republic of the Philippines, 13 October 2016, <https://www.icc-cpi.int/Pages/item.aspx?name=161013-otp-stat-php>.

# 2. APPLICABLE LAW

## 2.1 INTERNATIONAL LEGAL OBLIGATIONS

The Philippine authorities are bound by international and domestic obligations, which among other things protect the right to life of all persons as well as their right to fair trial and the right to enjoy the highest attainable standard of health.

The Philippines is a state party to several human rights treaties, among them the International Covenant on Civil and Political Rights (ICCPR), which prohibits the arbitrary deprivation of life and guarantees the right to a fair trial. It is also a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which protects the right to enjoy the highest attainable standard of health.

In accordance with international law, the Philippine authorities are obligated to:

- Respect and protect the right to life at all times;
- End incitement to violence against people suspected of using or selling drugs immediately;
- Investigate all killings which may be unlawful, including suspected extrajudicial executions, and provide adequate protection from harassment and reprisals for witnesses and complainants;
- Bring to justice those responsible for unlawful killings; and
- Provide remedy and redress to victims.

Under the ICCPR, the right to life is non-derogable, that is, cannot be restricted even “in time of public emergency which threatens the life of a nation.”<sup>40</sup> The right to life must be protected by law, and no one should be arbitrarily deprived of his or her life.<sup>41</sup> The UN Human Rights Committee speaks of the right to life as the “supreme right” and has called on states parties to “take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The law must strictly control and limit the circumstances in which a person may be deprived of his life.”<sup>42</sup>

For anyone charged with a criminal offence, the ICCPR also enshrines the right “to a fair and public hearing by a competent, independent and impartial tribunal established by law,” with the presumption of innocence.<sup>43</sup> In addition, states parties must “ensure that any person whose rights or freedoms ... are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in official capacity.”<sup>44</sup>

Article 12 of the ICESCR recognizes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,” and enumerates specific steps for states to take, including the “prevention, treatment and control” of diseases and the “creation of conditions which would assure to all medical service and medical attention in the event of sickness.”<sup>45</sup>

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<sup>40</sup> International Covenant on Civil and Political Rights (ICCPR), adopted 16 December 1966, entered into force 23 March 1976, Art. 6 (right to life) and Art. 4 (concerning emergencies). The quotation is from Art. 4(1).

<sup>41</sup> ICCPR, Art. 6.

<sup>42</sup> Human Rights Committee, General Comment No. 6: The right to life (art. 6), 30 April 1982, paras. 1, 3.

<sup>43</sup> ICCPR, Art. 14.

<sup>44</sup> ICCPR, Art. 2.

<sup>45</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted 16 December 1966, entered into force 3 January 1976, 993 U.N.T.S. 3, Art. 12.

The Special Rapporteur on the right to health has emphasised that an “individual’s use of drugs cannot constitute grounds for curtailing her/his rights, irrespective of whether she or he has a recognized dependence syndrome or whether the applicable drug control regime allows for imprisonment or other sanctions.”<sup>46</sup> The UN High Commissioner on Human Rights has stressed that “individuals who use drugs do not forfeit their human rights.”<sup>47</sup>

Under the ICESCR, the state must “take steps, individually and through international assistance and co-operation ... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means,” including through the implementation of appropriate laws.<sup>48</sup> The Committee on Economic, Social and Cultural Rights (CESCR) has stated that the right to health requires that health and health care facilities, goods and services be available, accessible, acceptable and of good quality.<sup>49</sup>

## USE OF FORCE BY LAW ENFORCEMENT OFFICIALS

At the heart of the international human rights standards governing the use of force by police and other law enforcement officials lies the right to life, enshrined in Article 3 of the Universal Declaration of Human Rights and provided in the ICCPR, as described above.

Under these standards, law enforcement officials are required to, “as far as possible, apply non-violent means before resorting to the use of force.”<sup>50</sup> Where the use of force is unavoidable, they must “[e]xercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved,” minimise damage and injury, and “[e]nsure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.”<sup>51</sup>

International standards emphasise the importance of proportionality in judging whether the use of force is legitimate and strictly unavoidable, in order to protect life. Principle 9 of the Basic Principles states that “officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury” or to prevent “a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger” and “only when less extreme means are insufficient to achieve these objectives.”<sup>52</sup> The Principle continues: “In any event, intentional lethal use of firearms may only be made when strictly unavoidable to protect life.”<sup>53</sup>

With the exception of circumstances of extreme, immediate danger, law enforcement officials must identify themselves as such and “give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed.”<sup>54</sup>

## EXTRAJUDICIAL EXECUTIONS

There is no explicit definition of extrajudicial executions under international law. Amnesty International defines extrajudicial executions as unlawful and deliberate killings carried out by order of a government or with its complicity or acquiescence, which is along the lines of descriptions provided by international experts. Extrajudicial executions would under this understanding include unlawful killings both by state forces and by non-state groups and individuals that state authorities fail to properly investigate and prosecute.<sup>55</sup> In the context of the “war on drugs” in the Philippines, extrajudicial executions therefore encompass both unlawful police killings and killings by unknown armed persons that the authorities are complicit or acquiescent in, including by failing to properly investigate and prosecute.

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<sup>46</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UN Doc. A/65/255, 6 August 2010, para. 8.

<sup>47</sup> Office of the UN High Commissioner for Human Rights, “High Commissioner calls for focus on human rights and harm reduction in international drug policy,” 10 March 2009, [http://www.ohchr.org/documents/Press/HC\\_human\\_rights\\_and\\_harm\\_reduction\\_drug\\_policy.pdf](http://www.ohchr.org/documents/Press/HC_human_rights_and_harm_reduction_drug_policy.pdf).

<sup>48</sup> ICESCR, Art. 2.

<sup>49</sup> Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Art. 12), 11 August 2000, UN Doc. E/C.12/2000/4, para. 12.

<sup>50</sup> UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN Basic Principles), adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, Principle 4. These Principles are widely accepted as reflecting customary international law.

<sup>51</sup> *Ibid.*, Principle 5.

<sup>52</sup> *Ibid.*, Principle 9.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*, Principle 10.

<sup>55</sup> The UN Special Rapporteur on extrajudicial executions has defined the concept similarly. See, for example, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Mission to the United States of America, UN Doc. A/HRC/11/2/Add.5, 28 May 2009, para. 3; Center for Human Rights and Global Justice, UN Special Rapporteur on Extrajudicial Executions Handbook, available at <http://www.extrajudicialexecutions.org/LegalObservations.html>.

## DUTY TO INVESTIGATE, PROSECUTE AND PROVIDE REMEDY

Whenever unlawful use of force is suspected, in particular by or with the involvement of state officials and where such force has led to injury or death, prompt, impartial and effective investigations must take place. Under Article 2(3) of the ICCPR, states parties undertake, among other things, to ensure an “effective remedy” for persons whose Covenant rights have been violated. The Human Rights Committee, in its authoritative General Comment on Article 2, has referred to a “general obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies” and added that “failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.”<sup>56</sup>

The UN Principles on the Effective Investigation of Extra-legal, Arbitrary and Summary Executions similarly state that there should be a “thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions.”<sup>57</sup> In addition, “[c]omplainants, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation.”<sup>58</sup>

Where sufficient, admissible evidence is found, individuals suspected of responsibility, including those with command responsibility, must be prosecuted in fair proceedings. Thus, the Human Rights Committee stated that where investigations “reveal violations of certain Covenant rights, States Parties must ensure that those responsible are brought to justice. As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant.”<sup>59</sup> It added that the obligations to investigate and prosecute “arise notably in respect of those violations recognized as criminal under either domestic or international law, such as ... torture and ... summary and arbitrary killing.”<sup>60</sup>

Victims and survivors must be offered reparation.<sup>61</sup> All relevant officials must at all times be held accountable for their actions through a transparent system of investigatory and judicial proceedings, without the promise of protective immunity or amnesties.

The anti-drug operations violate a number of other fundamental human rights including:

- The absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment;
- The right to liberty and security of person;
- The right to non-discrimination;
- The right to recognition and equality before the law; and
- The best interests of the child principle.

## 2.2 NATIONAL FRAMEWORK

The Philippine Constitution strongly entrenches the rights to life, human dignity and due process.<sup>62</sup> It further guarantees all persons equal protection of the law,<sup>63</sup> as well as the presumption of innocence until proven guilty and the right to “a speedy, impartial, and public trial.”<sup>64</sup>

Related to the right to enjoy the highest attainable standard of health, the Constitution provides that the government “shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available at affordable cost.”<sup>65</sup>

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<sup>56</sup> Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, UN Doc. CCPR/C/74/CRP.4/Rev.6, 21 April 2004, para. 15.

<sup>57</sup> UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989, Principle 9.

<sup>58</sup> *Ibid.*, Principle 15.

<sup>59</sup> Human Rights Committee, General Comment No. 31, para. 18.

<sup>60</sup> *Ibid.*

<sup>61</sup> See, for example, Human Rights Committee, General Comment No. 31, para. 16; UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 20.

<sup>62</sup> The Constitution of the Republic of the Philippines, 1987, Art. III: Bill of Rights, Sec. 1, <http://www.gov.ph/constitutions/1987-constitution/>.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*, Art. III: Bill of Rights, Sec. 14.

<sup>65</sup> *Ibid.*, Art. XIII: Social Justice and Human Rights, Sec. 11.

There is no law in the Philippines that specifically criminalises the act of “extrajudicial” or “extra-legal” execution. However, any perpetrator of an extrajudicial execution, including law enforcement officials, fall under the Revised Penal Code’s provisions on murder and homicide.<sup>66</sup> Murder includes any killing “in consideration of a price, reward, or promise,”<sup>67</sup> such as when police officers or paid killers are paid for killing alleged drug offenders.

Under a rule issued by the Supreme Court of the Philippines, a specific remedy known as a petition for writ of amparo, to which the court can respond by taking preventive or protective measures, is available to “any person whose right to the life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.”<sup>68</sup> The right to petition for a writ of amparo explicitly applies to extrajudicial executions.<sup>69</sup> In addition, the writ of habeas data—a court order for authorities to provide, correct or destroy information they hold on a person—provides a remedy “to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity.”<sup>70</sup> In cases of extrajudicial execution, petitions for both writs may be filed by relatives of the aggrieved party.<sup>71</sup>

In 2012, Administrative Order No. 35 created an inter-agency committee that is mandated to investigate and prioritise the resolution of cases of extrajudicial executions, among other serious abuses.<sup>72</sup>

The Comprehensive Dangerous Drug Act, enacted and signed into law in 2002, outlines the penalties for the use and sale of drugs in the Philippines,<sup>73</sup> while the Philippine National Police Operations Manual dictates the procedures under which police officers are to carry out operations, use firearms, and investigate crimes.<sup>74</sup>

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<sup>66</sup> The Revised Penal Code of the Philippines (Act No. 3815), 8 December 1930, Art. 248 (Murder), Art. 249 (Homicide), [http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/PHL\\_revised\\_penal\\_code.pdf](http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/PHL_revised_penal_code.pdf).

<sup>67</sup> *Ibid.*, Art. 248.

<sup>68</sup> Supreme Court of the Philippines, The Rule on the Writ of Amparo (A.M. No. 07-9-12 SC), September 25, 2007, Sec. 1.

<sup>69</sup> *Ibid.*

<sup>70</sup> Supreme Court of the Philippines, The Rule on the Writ of Habeas Data (A.M. No. 08-1-16-SC), January 22, 2008, Sec. 1.

<sup>71</sup> Supreme Court of the Philippines, The Rule on the Writ of Habeas Data, Sec. 2; Supreme Court of the Philippines, The Rule on the Writ of Amparo, Sec. 2. In the absence of relatives, the petition for a writ of amparo may also be filed by “any concerned citizen, organization, association or institution.” *Ibid.*

<sup>72</sup> President of the Philippines, Administrative Order No. 35: Creating the Inter-agency Committee on Extra-legal killings, Enforced Disappearances, Torture and other Grave Violations of the Right to Life, Liberty and Security of Persons, 2012, <http://www.gov.ph/2012/11/22/administrative-order-no-35-s-2012/>.

<sup>73</sup> Republic Act No. 9165: An Act Instituting the Comprehensive Dangerous Drugs Act of 2002, 7 June 2002, [http://www.lawphil.net/statutes/repacts/ra2002/ra\\_9165\\_2002.html](http://www.lawphil.net/statutes/repacts/ra2002/ra_9165_2002.html).

<sup>74</sup> Philippine National Police Handbook, Revised Philippine National Police Operational Procedures, December 2013, [http://www.pnp.gov.ph/images/transparency\\_seal/2016/manuals/PNPOperationsManual.pdf](http://www.pnp.gov.ph/images/transparency_seal/2016/manuals/PNPOperationsManual.pdf).



# 3. EXTRAJUDICIAL EXECUTIONS AND RELATED VIOLATIONS

**“I don’t think it’s a war on drugs, it looks like a war on justice. They could have just arrested him, why did they gun him down?”**

Marcos Baja, father of 33-year-old Ulyses, who was unlawfully killed by police in Cebu Province

**“It’s a big difference from before [Duterte]. Police officers are trying so hard to please the President.”**

Police officer in an anti-illegal drugs unit in Metro Manila

During his presidential campaign, Duterte promised to suppress drugs and crime within his first six months of office, including by killing 100,000 criminals.<sup>75</sup> He cited “drug pushers” in particular as he pledged to “fatten all the fish” in Manila Bay from the dumping of dead bodies.<sup>76</sup> Seven months into his administration, his threats look all too real.

According to figures by a news website citing the Philippine National Police (PNP), 7,025 people have been killed in the government’s “war on drugs” as of 21 January 2017.<sup>77</sup> Amnesty International documented 33 specific incidents in which a total of 59 people were killed. These cases demonstrate that police operations are regularly marred by serious human rights violations, including extrajudicial executions. Unknown armed persons, at least some of whom have direct links to the police, appear to be acting on Duterte’s call for people to implicate themselves in killing those who use or sell drugs. Spurred by the almost daily barrage of

<sup>75</sup> Mariz Revalos, “Duterte vows to rid country of illegal drugs, corruption in 3-6 months,” GMA News, 22 February 2016; Nestor Corrales, “Duterte wants to target heinous crimes in 3-6 months,” The Philippine Daily Inquirer, 18 September 2016; Floyd Whaley, “Rodrigo Duterte’s Talk of Killing Criminals Raises Fears in Philippines,” New York Times, 17 May 2016.

<sup>76</sup> BBC, “Philippines President Rodrigo Duterte in quotes,” 30 September 2016; Floyd Whaley, “Rodrigo Duterte’s Talk of Killing Criminals Raises Fears in Philippines,” New York Times, 17 May 2016.

<sup>77</sup> Michael Bueza, “IN NUMBERS: The Philippines’ ‘war on drugs,’” Rappler, 21 January 2017. The figures update regularly on Rappler. Amnesty International last accessed the webpage on 21 January 2017.

inciting rhetoric during the President's speeches and media interviews, there has been a devastating dehumanization of anyone currently, or previously, involved in any way in drugs.

To date, the unlawful killings and other abuses associated with the violent anti-drug campaign have fallen overwhelmingly on the poorest segments of Philippine society. Many victims' relatives, including children, have directly witnessed the execution of their loved one and hear state authorities declare repeatedly that such deaths are deserved.

### UNLAWFUL POLICE KILLING OF GENER RONDINA



*A friend of Gener Rondina mourns in front of his casket during his wake, 7 December 2016, Cebu City. A witness said police shot the 38-year-old man during a raid on his house in November despite Gener kneeling on the floor, raising his arms and pleading "I will surrender!" © Amnesty International*

At 2 a.m. on 25 November, a loud knock woke the household of 38-year-old Gener Rondina. Those at home peeked through the window and saw a large gathering of police officers surrounding the house in Cebu City. Gener removed the wall air-conditioning unit and tried to escape, but quickly returned inside when police shone a flashlight on him.

A witness told Amnesty International that Gener then began yelling that he would surrender. "The police kept pounding, [and] when they got in he was shouting, 'I will surrender, I will surrender, sir,'" the witness recalled less than two weeks later. The police ordered Gener to lie down on the floor; a witness said Gener kneeled and raised his arms behind his head. Another person in the house was ordered out of the room. Soon after, the witness heard gunshots.

Relatives said Gener was using and selling drugs, though he had been trying to stop both activities. "When he was using, he was very thin," one family member said. "When he stopped, he started to gain weight again. He was slowly starting to stop selling [too], but he was waiting for money to be remitted from his buyers. He wanted to stop."

His difficulty in stopping, particularly selling drugs, may have been aggravated by corrupt police officers. A family member asked Gener to surrender, but he felt it was unnecessary, saying, "Why would I when the

police just keep making money out of me?” Several weeks before he was killed, a family member heard that Gener had been seen with police; when confronted about it, he said he had paid off a police officer.

Police allege Gener fought back. Family members said he did not own a gun, and the witness who spoke to Amnesty International indicated it was inconceivable, after he was already kneeling and pleading for mercy, that he could have somehow resisted. “The room is just [a couple meters] wide, [and] there were so many officers they couldn’t fit, some were on the stairs,” the witness told Amnesty International. “He was squeezed between cabinets beside him, the bed, the AC unit. His hands were raised, he couldn’t go anywhere. He was really frightened. I find it hard to accept he resisted arrest.”

Some time after he was killed, police read out a search warrant; a person present saw them record video as they did, saying it was to have proof. “What’s the point?” the person asked. “He’s dead.” Eventually, a police officer asked a colleague for help in removing Gener’s body. A witness recalled them “carrying him like a pig” and then placing his body near a sewer before eventually loading it into a vehicle.

When family members were allowed back in the house six hours after Gener’s death, they described seeing blood splattered everywhere. Valuables including a laptop, watch, and money were also missing, and, according to family members, had not been accounted for by police in the official inventory of the crime scene.

Gener’s father, Generoso, served in the police force for 24 years before retiring in 2009. He told Amnesty International he was “ashamed” of his son’s drug use and prior record for “snatching.” He also professed support for the government’s anti-drug efforts. “But what they did was too much,” he said. “Why kill someone who had already surrendered?”<sup>78</sup>

## 3.1 OPLAN TOKHANG (OPERATION KNOCK AND PLEAD)

On 1 July 2016, one day after President Duterte assumed office, the new Chief of the Philippine National Police, Ronald Dela Rosa, signed Command Memorandum Circular (CMC) No. 16-2016. This circular laid out the new administration’s anti-drugs plan, known as Operation Double Barrel. Its stated purpose is to set forth police guidelines “in support to the Barangay Drug Clearing Strategy of the government and the neutralization of illegal drug personalities nationwide.”<sup>79</sup> A “barangay” is the smallest administrative division in the Philippines, overseen by an elected barangay captain and barangay councillors.

The name “Double Barrel” comes from a purported two-prong strategy: one, known as Project HVT, which focuses on drug syndicates and traffickers; and the other, known as Project or Oplan Tokhang, which focuses on low-level sellers and people who use drugs.<sup>80</sup> “Oplan” stands for “operation plan,” and “Tokhang” fuses two words that translate as “knock and plead”—as the strategy involves door-to-door visitations by the police to request that people involved in drugs “voluntarily” surrender to the authorities and cease their drug activities.

At the heart of Oplan Tokhang is a collaboration between the police and barangay officials to compile and maintain a list, commonly known as a “drug watch list,” of all suspected “drug users” and “pushers” in a given area. This practice predated the Duterte administration. A 2015 circular from the Department of Interior called on Barangay Anti-Drug Abuse Councils (BADAC) to “continuously gather ... data ... in the barangay including listing of suspected drug users and pushers” and to submit that list to municipal and police authorities.<sup>81</sup> News reports indicate the creation of “watch lists” may date to at least 2005.<sup>82</sup>

The leader of a purok, or barangay subdivision, in Mindanao told Amnesty International he had been asked to submit a list of names for his area; the police told him, and other community leaders, that “those using

<sup>78</sup> Text box based on Amnesty International interviews, Cebu City, 7 December 2016.

<sup>79</sup> PNP Office of the Chief, Command Memorandum Circular No. 16-2016, PNP Anti-Illegal Drugs Campaign Plan - Project: “Double Barrel” (hereinafter CMC No. 16-2016), 1 July 2016, pp. 1-2.

<sup>80</sup> *Ibid.*, pp. 3-7. The Circular uses the term “suspected drug personalities.”

<sup>81</sup> Department of the Interior and Local Government, Memorandum Circular No. 2015-63, June 16, 2015.

<sup>82</sup> See, for example, “Barangays to Have Drug Watch List,” Manila Bulletin, 18 June 2005, <http://www.mapinc.org/drugnews/v05/n983/a03.html>; “Police nab no. 6 in city’s drug watchlist,” The Freeman (Cebu), 23 November 2007.

drugs, even if it was in the past,” should be included.<sup>83</sup> “Some of those on my list were based on my personal knowledge,” he said. “There were also names given to me by other members of the community.”<sup>84</sup> For the names given to him by others, he tried to ask some people directly if they used drugs, “but they would not confide to me,” so he decided to submit all the names to police and let them figure it out.<sup>85</sup> Barangay officials in Metro Manila described a similar process during interviews with Amnesty International.

This practice raises a number of major concerns. The very compiling for police use of lists not comprised solely of persons reasonably suspected of crimes is highly problematic, constituting in effect unsubstantiated blacklists. In addition, people seem to be tarred by any past drug use, no matter how many months or years ago they stopped using drugs, and regardless of whether the person has developed a dependence that requires treatment or not.

Moreover, local officials’ reliance on community members in compiling “watch lists” has, at best, encouraged a practice of spying on neighbours and, at worst, given people a way to get rid of personal or political rivals.<sup>86</sup> This encouraging of communities to report on their own is indeed being formalized through a barangay-level programme known by the acronym MASA MASID.<sup>87</sup> Finally, in some instances, there seems to be little verification before lists are submitted to the police. Worryingly, a police officer with an anti-illegal drugs unit in Metro Manila told Amnesty International that he relied upon the barangays to monitor who is a “drug user” or “pusher” and that while the police might conduct surveillance before a specific operation, they did not systematically verify the accuracy of the lists.<sup>88</sup> Indeed, he said it was entirely up to barangay officials to remove someone’s name from a “watch list” if he or she did not belong.<sup>89</sup>

The Duterte administration has used these lists as a key basis for both lawful and unlawful police actions. Police rely heavily on them to target the houses where they “knock” and demand a person surrender. People who currently use drugs, relatives of those killed in police operations, and local activists all said that people targeted in such operations face a double-edged sword: if they refuse to surrender, they will be seen as not cooperating and possibly killed; if they do surrender, they must “voluntarily” provide detailed information, submit fingerprints, be photographed, and accept surveillance and drug testing—in addition to pledging they will no longer use or sell drugs.

The provision of that information is then often seen to make someone an easier target for a further police operation; activists say many such people, particularly if they return to using or selling drugs, are killed. A barangay captain in Metro Manila said her office explained “the consequences of not stopping” drug use to those who surrender; when asked what those consequences were, she said being jailed or killed.<sup>90</sup> Another barangay captain in Metro Manila told Amnesty International that while those who surrendered to his office were spared, “those who surrender to the municipality (police), they were killed”—counting more than 20 dead in his barangay alone.<sup>91</sup>

## 3.2 POLICE KILLINGS

Between 1 July 2016 and 21 January 2017, at least 2,500 people were killed during police anti-drug operations, according to figures from a news website citing the Philippine National Police.<sup>92</sup> The same news

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<sup>83</sup> Amnesty International interview, Cotabato Province, 10 December 2016.

<sup>84</sup> Amnesty International interview, Cotabato Province, 10 December 2016.

<sup>85</sup> Amnesty International interview, Cotabato Province, 10 December 2016.

<sup>86</sup> A barangay captain in Metro Manila was explicit in saying, “My agents of intelligence are their wives, their mothers or fathers, their sons or daughters, their friends, girlfriends, boyfriends. They are my agents.” Amnesty International interview, 5 December 2016.

<sup>87</sup> See, for example, GMA News, “DILG encourages communities to ‘rise up’ vs. illegal drugs, criminality,” 28 September 2016. Ismael Sueno, the secretary of the Department of the Interior and Local Government (DILG), said the government launched the MASA MASID programme so that “citizens and other concerned sectors can help the government in its campaign to rid the country of crime and illegal drugs.” Republic of the Philippines DILG, “MASA MASID: Uniting communities against illegal drugs,” 28 September 2016, <http://www.dilg.gov.ph/news/MASA-MASID-Uniting-communities-against-illegal-drugs/NC-2016-1168>.

<sup>88</sup> Amnesty International interview, Metro Manila, 13 December 2016. The police officer had the rank of Senior Police Officer (SPO) 1. At the time of the interview in December, he was actively involved in anti-drug operations, often as one of the highest-ranking police officers on the ground for a given operation. He spoke with first-hand knowledge about different issues discussed in this report, including payments for fatal shootings, the planting of “evidence,” and the links between the police and certain unknown armed persons. Information that he provided was corroborated independently.

<sup>89</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>90</sup> Amnesty International interview, Metro Manila, 5 December 2016.

<sup>91</sup> Amnesty International interview, Metro Manila, 5 December 2016.

<sup>92</sup> Michael Bueza, “IN NUMBERS: The Philippines’ ‘war on drugs,’” Rappler, 21 January 2017. The figures update regularly on Rappler. Amnesty International last accessed the webpage on 21 January 2017.

source reported that 35 police officers have been killed and 83 wounded during operations, indicating some incidents in which officers' use of force may have been appropriate.<sup>93</sup>

Of the 33 drug-related killings documented by Amnesty International, 20 occurred during formal police operations. The vast majority appear to have been extrajudicial executions.



*A pool of blood is filmed by a cameraman following a killing on 12 December 2016, Caloocan City, Metro Manila. The killing in a police “buy-bust” operation was one of two cases documented by Amnesty International delegates observing journalists’ night-shift coverage of police activities. Screenshot, © Amnesty International (photographer Alyx Ayn Arumpac)*

Police killings tend to fall within three categories: during acknowledged police raids on homes or alleged “drug dens”; during operations that police claim are “buy busts,” but witnesses and family members describe as raids; and after police have detained an alleged drug offender. Based on credible information, these killings appear often motivated by pressure coming from the highest levels of the government and police force, with the killing of alleged drug offenders treated as a positive result; and, in some instances, by under-the-table payments to police officers involved in fatal shootings of alleged drug offenders. The police officer with an anti-illegal drugs unit in Metro Manila spoke with first-hand knowledge of these incentives to kill, among other issues discussed in the report; at the time of the interview with Amnesty International, he had been on the force for 13 years and was actively involved on the ground in anti-drug operations.<sup>94</sup>

Family members and witnesses repeatedly contested the police description of how people were killed. Police descriptions bore striking similarities from incident to incident; official police reports in several cases documented by Amnesty International claim the suspect’s gun “malfunctioned” when he tried to fire at police, after which they shot and killed him.<sup>95</sup> In many instances, the police try to cover up unlawful killings or ensure convictions for those arrested during drug-related operations by planting “evidence” at crime scenes and falsifying incident reports—both practices the police officer said were common.

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<sup>93</sup> *Ibid.*

<sup>94</sup> Amnesty International interview, 13 December 2016.

<sup>95</sup> Confidential police incident reports, on file with Amnesty International (specifics withheld to protect the confidentiality and safety of witnesses).

## ACKNOWLEDGED POLICE RAIDS ON HOMES

In at least six cases documented by Amnesty International, including the Gener Rondina case detailed in a text box on page 18, police killed alleged drug offenders during officially acknowledged raids on places of residence. While police reports uniformly indicate the suspect resisted arrest and tried to shoot at the police, witnesses and other people with direct knowledge instead describe police officers killing unarmed men. Officers involved routinely flouted police rules and regulations.

In Batangas City, police claim they were serving a search warrant on the house of an alleged member of a drug syndicate when he resisted and fired at them.<sup>96</sup> The victim's wife, who was present, told Amnesty International that, after entering the house, the police surrounded her husband and began frisking him. Unarmed, he was then shot at close range and killed, she said, after which police pulled her outside and beat her, leaving bruises. She claims her husband had worked as a police "asset."<sup>97</sup>

Witnesses to the other five acknowledged police raids documented by Amnesty International said the police did not identify themselves and ask for permission to enter before breaking into the home, nor inform the person of his or her rights, as required under the police's operational procedures.<sup>98</sup> A confidential police case file for the 28 September 2016 killing of 33-year-old Elvin Del Mar Sison, seen by Amnesty International, included a search warrant they obtained after allegedly conducting an undercover test buy with Sison. However, Sison's mother, Perlita Del Mar, told Amnesty International that police forcibly entered her house in Mandaue City in the middle of the night and did not identify themselves or their purpose before going upstairs to her son's bedroom. She said Sison had twice surrendered to the police, once at her pleading and a second time after police carried out Oplan Tokhang at the house in late August.<sup>99</sup>

The confidential police file raises many questions, including why the police did not arrest Sison when they carried out the alleged undercover drug purchase a week earlier. The police file indicates that there were at least 15 officers involved in the operation and that when they arrived at 4 a.m., Sison was outside and pulled a gun as he ran toward the house, where officers chased and cornered him in his room. There, police say, Sison tried to fire, but a police officer pushed the gun down such that the bullet hit the officer's toe; the officer returned fire and killed Sison "in self-defense and life preservation."<sup>100</sup> In this account, the officer was close enough to deflect Sison's gun, yet, as he grappled with Sison, was able to remove his own gun and fire.

Sison's mother, Perlita, says the police version is inaccurate:

*I know [Elvin] was sleeping, because it was 3:30 a.m. It was very quiet, like a twilight zone. The police entered my house—no knocking or anything. I asked, 'Why are you there?' They didn't respond. ... I said, 'Sir, please! Sir, stop! Sir, please!' Each time, I heard a shot. 'Sir, please!' Shot. 'Sir, stop!' Shot. It was six [gunshots] in total. They say my son shot them. No. They say my son ran. No.*

*I was not expecting them to do that to my son. The one who led the operation, that's the one I spoke with at the station—when I begged him to help my son stop using drugs. ... When they went out, the last one said, 'Ma, we're just doing our job.' It's a dirty job.<sup>101</sup>*

Although there were stretchers in the house, due to a family member's work with search and rescue, Perlita said she had to turn away as police "dragged" Sison's body out "like he was a pig. The blood was all over his body, and they pulled him like a pig. Now, I don't want to see policemen. I even told my grandson, don't go near the police."<sup>102</sup>

The dehumanization of alleged drug offenders, including in the treatment of their bodies after being killed, was a repeated complaint of family members. Elizar Matadero, 30, was killed in Talisay City on 10 August 2016 during a police raid on an illegal gambling ring. The police told local media that he was into drugs and

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<sup>96</sup> The information comes from a media report quoting a senior police official in Batangas City. It is not cited here, in order to ensure the confidentiality and safety of people interviewed by Amnesty International.

<sup>97</sup> Amnesty International interview, Metro Manila, 6 December 2016.

<sup>98</sup> Philippine National Police Handbook, Revised Philippine National Police Operational Procedures, December 2013, Rule 13.5(a) (Serving of Warrant of Arrest), Rule 13.6 (Duties of the Arresting Officer), and Rule 14.5 (Authority of Police Officers when Conducting Search).

<sup>99</sup> Amnesty International interview, Cebu City, 8 December 2016.

<sup>100</sup> Confidential police investigation report, 5 October 2016, seen by Amnesty International.

<sup>101</sup> Amnesty International interview, Cebu City, 8 December 2016.

<sup>102</sup> Amnesty International interview, Cebu City, 8 December 2016.

that he had a gun and pulled its trigger, “but the gun did not fire, giving the policemen a chance to shoot the suspect.”<sup>103</sup> This claim of a malfunctioning weapon appeared in several cases documented by Amnesty International. After Matadero was killed, a witness recalled, “Two members of the SWAT were dragging him by the feet. The house doesn’t have cement [floors]. It’s just soil, full of rocks. He was dragged along these rocks.”<sup>104</sup> When family members saw his body at the morgue, it had wounds all along the back of his head, in addition to the bullet holes.<sup>105</sup>

## ALLEGED “BUY-BUST” OPERATIONS

In at least ten drug-related killings documented by Amnesty International, the police allege they were performing a “buy-bust” operation, in which they made an undercover purchase of drugs with the purported aim of arresting the suspect. In each case, the police allege the suspect opened fire upon realising it was the police, prompting them to return fire. Witnesses and families indicated that each encounter was instead an unlawful killing.

Ulyses Baja, a 33-year-old father of five in Tuburan, Cebu Province, sold and used drugs, according to relatives. Police visited him under Oplan Tokhang, after which he surrendered. Then, on the evening 15 August 2016, police attempted to carry out a “buy-bust” operation, according to the police spot report. The police allege that Baja pulled a gun from his waist when “he sensed that he was transacting a police officers (*sic*) ... but luckily his firearm malfunctioned and because of his hostile act, said team resorted a (*sic*) deadly force in order to neutralize the subject.”<sup>106</sup>

Several witnesses interviewed by Amnesty International said the police version was false. A woman walking with friends to a disco saw Baja sitting on a wooden shed, next to another man. From across the street, they exchanged greetings. Immediately afterwards, she saw a blue car pull up and four men emerge wearing black uniforms.<sup>107</sup> She described what followed:

*Two men were asking, ‘Who among you us is Ulyses?’ The other guy said, ‘Sir, it’s not me.’ They told the guy, ‘Run, you didn’t see anything.’ The guy ran in front of us. ... I saw Ulyses raise his arms and say, ‘Sir, I already stopped doing that.’ ... I was just across the street. I was nervous, at the first gunshot I wanted to run but I couldn’t because I was too nervous, by the third gunshot I ran, when I stopped at a store [down the street], I could see my knees shaking.*

*There didn’t seem to have been a conversation. Ulyses immediately raised his hands and said, ‘I already stopped.’ I only expected they would arrest Ulyses, I didn’t expect they would kill him.<sup>108</sup>*

A relative visited the morgue that night and saw a bullet hole in Baja’s face and three more in his chest and abdomen.<sup>109</sup> Baja’s father, Marcos, disapproved of his son’s drug involvement and implored him to stop, but was outraged at the police’s actions. “I don’t think it’s a war on drugs, it looks like a war on justice,” he told Amnesty International. “They shouldn’t kill people just because of that. Should we waste lives just because of drugs? It’s not good. They could have just arrested him, why did they gun him down?”<sup>110</sup>

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<sup>103</sup> Mariana B. Alagabre, “Suspect allegedly tried to shoot cops: Alleged drug personality killed in anti-gambling raid,” *The Freeman* (Cebu), 12 August 2016.

<sup>104</sup> Amnesty International interviews, Cebu City, 8 December 2016.

<sup>105</sup> Amnesty International interviews, Cebu City, 8 December 2016.

<sup>106</sup> Tuburan Police Station, Certification: Entry No. 160374, 17 August 2016, on file with Amnesty International.

<sup>107</sup> Amnesty International interview, Tuburan, 9 December 2016.

<sup>108</sup> Amnesty International interview, Tuburan, 9 December 2016.

<sup>109</sup> Amnesty International interview, Tuburan, 9 December 2016.

<sup>110</sup> Amnesty International interview, Tuburan, 9 December 2016.



*Two bullet holes are still visible, 9 December 2016, on the tree trunk in front of which Ulyses Baja was sitting when police shot him dead in August, Tuburan, Cebu. Police say Baja allegedly pulled a gun from his waist during a “buy-bust” operation, but a witness told Amnesty International she saw no gun or exchange of drugs. © Amnesty International*

Police also allege they were conducting a “buy-bust” operation when a man was killed in Antipolo City in July.<sup>111</sup> Amnesty International did not interview a direct witness to the killing. However, the victim’s wife said he had been a police “asset” for months and that he had not been afraid to sell drugs because he believed he had police protection.<sup>112</sup> Amnesty International documented several killings in which family members alleged the deceased was either a police “asset” or paid off the police while selling drugs. Several human rights defenders and journalists involved in investigating drug-related killings raised concerns that the police were targeting people who might have inside knowledge of police anti-drug operations.<sup>113</sup>

In the vast majority of alleged “buy-bust” cases documented by Amnesty International, there appears to have been no undercover purchase at all. Instead, witnesses to these killings said the police carried out a raid on a residence without a search or arrest warrant and without informing the person of his or her rights. In late July in Metro Manila, a 30-year-old tricycle driver was killed during a police operation. According to the police spot report, the anti-illegal drugs unit was sent on a “buy-bust” operation; as they tried to arrest the suspect after purchasing shabu, they allege he “engaged in a shootout” that led to his death.<sup>114</sup>

However, a witness told Amnesty International there was never any “buy bust” outside; rather, four police officers entered the house she shared with the victim, as he was “packing shabu.”<sup>115</sup> She said, “The police came in and shouted, ‘On the floor! On the floor!’ before shooting the man twice in the face.”<sup>116</sup> He started bleeding profusely, but was still alive. As the police failed to call an ambulance, “I told him to keep on trying to breathe, because he was still alive,” she recalled. “I could see him gasping for breath. After 30 minutes, that’s when he expired.”<sup>117</sup> According to the witness, who was also a family member, the man was on the

<sup>111</sup> Antipolo City Police Station, Spot Report, on file with Amnesty International (date withheld to protect the relative’s confidentiality).

<sup>112</sup> Amnesty International interview, Metro Manila, 8 December 2016.

<sup>113</sup> Amnesty International interviews, Metro Manila and Cebu City, December 2016.

<sup>114</sup> Police Spot Report, on file with Amnesty International (location and date withheld to protect the witness’s confidentiality and safety).

<sup>115</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>116</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>117</sup> Amnesty International interview, Metro Manila, 13 December 2016.



“drug watch list” but had chosen not to surrender to authorities under Oplan Tokhang, as he heard those who surrendered were killed.<sup>118</sup>

In another case, a relative of a 21-year-old man in Cebu Province watched out of a bathroom peephole as two police officers in uniform cornered the victim in an alley, during raids on two neighbouring houses. She heard the policemen ask the man three times the location of a known drug dealer, shooting him each time he failed to respond.<sup>119</sup> The drug dealer, who lived nearby, was killed in his home soon after. The official police account is that there was a “buy-bust” operation in which the two deceased were together and fired shots at the police.<sup>120</sup>

Although the police almost always claim the alleged drug offender opened fire,<sup>121</sup> exceedingly few officers have been killed or wounded during anti-drug operations.<sup>122</sup> In only one of the 20 incidents of police killings documented by Amnesty International was there even an allegation that an officer was wounded in the line of duty—the case of Elvin Sison, discussed previously. An investigation of 50 drug-related killings by the Philippine news network ABS-CBN similarly found only two cases in which the police recorded casualties and the alleged drug offenders “appeared to have clearly fought back.”<sup>123</sup> In contrast, as documented by Reuters in an examination of 51 police shootings, the police appear to have a near-perfect record of killing in purported “shootouts,” rarely just wounding alleged drug offenders.<sup>124</sup> Such statistics, particularly combined with consistent witness testimony, indicate a pattern of extrajudicial executions by the police.

On 19 October 2016, police say they were performing a “buy-bust” operation in Caloocan City when Florjohn Cruz, a 34-year-old father of three, realized who they were, ran into his house, “pulled a firearm and successively shot the lawmen prompting the same to return fire.”<sup>125</sup> Cruz’s family says he was on the “watch list” and had used drugs in the past, but stopped when President Duterte took office because of reports of “drug pushers” being killed. Cruz’s mother, Policarpia, says there was no “buy-bust” operation; rather, she was sitting on her bed watching Cruz fix her broken radio when at least five police officers entered their home.<sup>126</sup> A police officer yelled at her to get out of the house; as she left, she saw one officer slap Cruz as another pointed a gun at him.

Policarpia told Amnesty International, “I thought they’d just handcuff him. Then when I was already outside the house, I heard my son: ‘There’s nothing! There’s nothing! Please don’t!’”<sup>127</sup> Then she heard gunshots.<sup>128</sup> An autopsy report shows he was shot three times, including once in the head; dried blood still stained the tile where Cruz was killed when Amnesty International visited his family home. Both Cruz’s mother and his estranged wife Rita said he did not own a gun—and that they would have known if he did, particularly since the mother and Cruz shared a small house. Rita said further, “And what they’re saying is that he resisted the police, can you see how small the living area is? How many men entered our house? It’s impossible no one among them would get shot. Only an idiot would believe he had a gun and fought back.”<sup>129</sup>

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<sup>118</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>119</sup> Amnesty International interview, location withheld, 9 December 2016.

<sup>120</sup> Police Report, on file with Amnesty International (specifics withheld to protect the confidentiality and safety of witnesses). Senior police officials provided a similar account to media outlets the day after the killing. The references are not cited here to protect those who spoke with Amnesty International and feared reprisal if the police could identify them.

<sup>121</sup> In addition to reviewing either police incident reports or media reports quoting senior police officials for almost all of the 33 specific incidents Amnesty International documented through first-hand accounts, delegates read media reporting for dozens of other drug-related killings involving the police, in which the police near-unanimously claimed the victim was armed and tried to fire a gun at them.

<sup>122</sup> Compared to the 2,500 alleged drug offenders killed during police operations, Rappler reports that, as of 21 January, 35 police officers have been killed and 83 wounded. Michael Bueza, “IN NUMBERS: The Philippines’ ‘war on drugs’,” Rappler, 21 January 2017. The figures update regularly on Rappler. Amnesty International last accessed the webpage on 21 January 2017.

<sup>123</sup> Jhoanna Ballaranabs, “War on Drugs, The Unheard Stories: ‘Cops gun down suspects begging for their lives’,” ABS-CBN News, October 2016. ABS-CBN reported that, in many of its cases, “victims were even sleeping before they were killed, contrary to the police version that they were the subject of buy-bust operations.” *Ibid.*

<sup>124</sup> Clare Baldwin, Andrew R. C. Marshall, and Damir Sagoli, “Police rack up an almost perfectly deadly record in Philippine drug war,” Reuters, 5 December 2016.

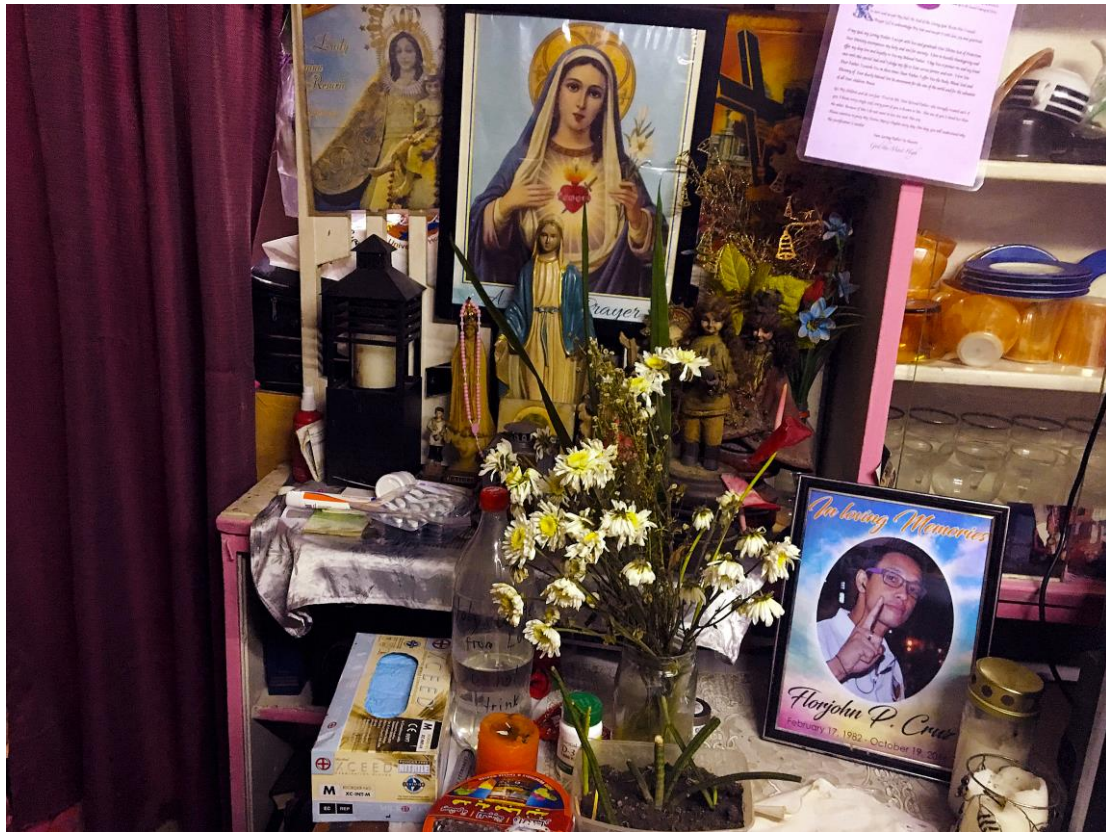
<sup>125</sup> Caloocan City Police Station, Report on Shooting Encounter Resulting in the Death of One FlorJohn Placer Cruz and Arrest of Two (2) Others, 19 October 2016, on file with Amnesty International.

<sup>126</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>127</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>128</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>129</sup> Amnesty International interview, Metro Manila, 1 December 2016.



*The picture of Florjohn Cruz sits next to his home altar, 1 December 2016, Caloocan City, Metro Manila. Police say the 34-year-old father of three pulled a firearm and shot at them during a “buy-bust” operation in October, but the family maintains he was unarmed and fixing a broken radio when the cops barged into his house. © Amnesty International*

In an accusation echoed by witnesses to other killings, both Policaripa and Rita also said that police from the Scene of the Crime Operatives (SOCO) unit, media, and funeral services, among others, were either waiting outside or arrived almost immediately after Cruz’s death.<sup>130</sup> “What does that mean, they were just waiting for my husband to be killed before they do something?” Rita asked. Just days before he died, she said she had watched as Florjohn and his daughter put powder and lipstick on their faces in preparation for Halloween.<sup>131</sup>

Unlawful police killings during alleged “buy-bust” operations have left victims’ relatives and neighbours, many of whom said they once supported the Duterte administration, angry and disillusioned. A 30-year-old woman interviewed by Amnesty International said that, several months earlier, she had heard a knock on the door as she prepared a bottle of milk for her infant. Her husband had belatedly celebrated his birthday that night with several friends, one of whom opened the door. She recalled, “When he opened the door, [he] said ‘Sir, please don’t. There’s nothing here.’ Then there was one gunshot. When I heard one gunshot, I heard footsteps hurriedly going upstairs. When they got up, they said, ‘This is a raid, no one runs!’ And then there were six consecutive gunshots.”<sup>132</sup> She then saw policemen in the house, one of whom forced her and her children to leave. When she was able to return several hours later, “our house was wrecked,” she said. “The roof in our living room fell down. There were drops of blood outside because in our house, our floor is soil. ... When I went upstairs, the spot where [my husband’s friend] was lying down, it was full of blood. And the place where my husband was lying down, it was also full of blood.”<sup>133</sup> Five people were killed in total.

Police alleged, yet again, that it was a “buy bust,” and that the suspects started shooting when they realized it was police.<sup>134</sup> The witness said the police report even misidentified who answered the front door—a person

<sup>130</sup> Amnesty International interviews, Metro Manila, 1 December 2016.

<sup>131</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>132</sup> Amnesty International interview, Metro Manila, 12 December 2016.

<sup>133</sup> Amnesty International interview, Metro Manila, 12 December 2016.

<sup>134</sup> The information comes from multiple media reports citing the police spot report and police officials. Those media reports are not cited here, in order to ensure the confidentiality and safety of people interviewed by Amnesty International.

the police claimed sold the undercover officers the drugs. “[Duterte’s] slogan at first was good. I was in favour of his slogan ‘Change’,” she said. “All Filipinos want change. But no Filipino wants dead bodies all over the streets, and for the police killing people to become the norm.”<sup>135</sup>

## KILLINGS IN DETENTION

Amnesty International documented three cases in which police killed drug-related suspects after detaining them. In each case, police allege the person attacked them, an account disputed by credible witnesses.

After learning he was on the barangay drugs list as a “pusher,” Jaypee Bertes cleared his small house of drugs and decided to surrender to the municipal authorities in Pasay City, according to his wife, Harra Kazuo. She said the office was closed when Jaypee arrived the evening of 6 July 2016, so he decided he would return the next morning.<sup>136</sup> According to a police spot report, the police “chanced upon” Jaypee and his father, Renato Bertes, engaged in illegal gambling on the street around 10 p.m. that night, and discovered sachets of shabu when searching them.<sup>137</sup> Kazuo told Amnesty International that the report was false, and that police descended upon their house without knocking before midnight, as the family got ready to sleep. Several police officers beat Jaypee badly, while others ransacked the house in looking for drugs, she said; Jaypee and Renato, who had tried to intervene, were eventually arrested and taken to the police station.<sup>138</sup> An autopsy report showed that Jaypee had a broken bone in his right arm and contusions consistent with being repeatedly hit by blunt objects; Renato was likewise bruised and battered.<sup>139</sup>

The next morning around 10 a.m., Kazuo went to the Pasay City police station where Jaypee and Renato were still alive and held by the Station Anti-Illegal Drugs-Special Operations Task Group (SAID-SOTG). Around 5 p.m., she received a call that they were dead; she told Amnesty International she was in denial until she saw their bodies at the morgue, riddled with bullet holes.<sup>140</sup> A police incident report claims 47-year-old Renato tried to grab the firearm from a police officer while being escorted within the holding area, which led the officer to shoot and kill him. The same report alleges that Jaypee, upon seeing his father shot, grabbed the gun from the same officer, leading another police officer to shoot and kill him.<sup>141</sup> An investigation by the Commission on Human Rights noted the men’s serious injuries, including Jaypee’s broken right arm, at the time they supposedly tried to assault the police officers while in a police station.<sup>142</sup> It concluded that it was “not possible” that Renato and Jaypee had attacked and tried to take the officer’s gun; it also found the illegal gambling that was the alleged basis for the initial arrest never happened.<sup>143</sup> According to the *Philippine Daily Inquirer*, the two police officers were suspended but, as of mid-November, had not been indicted and remained free.<sup>144</sup>

The Bertes’ killings resemble arguably the violent anti-drug campaign’s highest profile killings to date: those of Albuera Mayor Ronaldo Espinosa and his cellmate in November 2016, a case not specifically documented by Amnesty International. On 2 August, Espinosa surrendered to police after President Duterte’s spokesperson said the mayor and his son would have a “shoot on sight” order issued against them if they did not surrender within 24 hours over alleged links to the drug trade.<sup>145</sup> On 5 November, one month after Espinosa was formally arrested and charged with illegal possession of drugs and arms, police shot and killed him and his cellmate in Baybay City Provincial Jail, in what the officers involved claim was a shootout.<sup>146</sup> On 6 December, the National Bureau of Investigation (NBI) ruled the killings had instead been a “rub out,” in which the police officers had “criminal intent” to kill Espinosa, who was unarmed.<sup>147</sup> The NBI recommended murder and perjury charges against the officers involved; President Duterte responded that he would “not

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<sup>135</sup> Amnesty International interview, Metro Manila, 12 December 2016.

<sup>136</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>137</sup> Pasay City Police Station, Spot Report, 6 July 2016.

<sup>138</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>139</sup> Confidential autopsy report, on file with Amnesty International. See also Richard C. Paddock, “Chilling Tale in Duterte’s Drug War: Father and Son Killed in Police Custody,” *New York Times*, 19 August 2016.

<sup>140</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>141</sup> Pasay City Police Station, Incident Report, 7 July 2016.

<sup>142</sup> Commission on Human Rights, Final Investigation Report, 1 August 2016, on file with Amnesty International.

<sup>143</sup> Commission on Human Rights, Final Investigation Report, 1 August 2016, on file with Amnesty International.

<sup>144</sup> “Extrajudicial killing witness of Senate fears for her life,” *Philippine Daily Inquirer*, 14 November 2016.

<sup>145</sup> GMA News Online, “From the arrest to the killing of Albuera Mayor Rolando Espinosa,” 5 November 2016.

<sup>146</sup> *Ibid.* Espinosa had been released soon after his initial surrender, but returned to custody in late August upon receiving threats when he submitted an affidavit in which he alleged drug connections for specific high-level officials. *Ibid.*

<sup>147</sup> Anjo Alimario, “NBI: Espinosa killing a rubout,” *CNN Philippines*, 6 December 2016. See also, for example, Patricia Lourdes Viray, “NBI: Espinosa slay was a rubout, not shootout,” *The Philippine Star*, 6 December 2016.

allow these guys to go to prison.”<sup>148</sup> According to a news report on 18 December, the head of the Department of Justice has said it is completing a “preliminary investigation” into the NBI complaint.<sup>149</sup>

In addition to killings in formal custody, police have, at times, killed alleged drug offenders after detaining them at the site of the operation. Efrén Morillo, a 28-year-old fruit vendor, told Amnesty International that in the early afternoon of 21 August 2016, he was playing billiards with friends when three Quezon City police officers arrived in civilian clothes, accompanied by two other men, believed to be police informants. He said the police shouted, “Don’t run! We’re police!” before handcuffing and frisking those inside.<sup>150</sup> Morillo said he did not have anything illegal on him, but the police found drug paraphernalia on other people present. The police detained five people and, according to Morillo, led them into a backyard, where he and a friend were pushed inside a room that had a curtain for a door.<sup>151</sup> He described what followed:

*One police officer pointed a gun at me. I was the first to be pointed at with a gun inside that room. I said, ‘Sir I don’t have anything to do with this, I’m clean. I only sell fruits in Divisoria.’ He said, ‘Really? Really?’ then I heard a gunshot. I was shot in the chest. It penetrated to the other side. ... I was losing my vision, and I struggled to breathe. I heard two gunshots and saw my friend with two shots on his chest. ... I saw him fall from the chair, then he spit out blood. [The police officer] knew he was still alive, so he shot him again in the head.*

*There were five [people affiliated with the police], four of them were watching over the three others [who were detained] outside the room in the backyard. One was watching over us at the door. I played dead and prayed to the Lord to please let me live, because my kids are still small. When the police [officer] who shot us knew my friend was dead, he went out of the room. Then I heard [many] gunshots outside. ... When they thought we were dead, they went back in front of the house. And that’s when I had the chance to escape. ... I slid off a hill [near the house and] traversed the creek. ... I walked until I reached a street [and] saw a [public transport] driver who I know, and I told him to bring me to the hospital.<sup>152</sup>*

Of the five who were detained, only Morillo survived, in what the police described as a shootout during an Oplan Tokhang operation.<sup>153</sup> Yet Morillo’s ordeal was not over. He said he was brought to a clinic, which could nurse his wounds but not provide the emergency treatment he needed; before he could be moved to a hospital, however, the police apprehended him at the clinic.<sup>154</sup> They took him to the station before eventually transferring him under police guard to a hospital. He spent 10 days in the hospital handcuffed and under police surveillance, and was charged with assaulting the police officers who shot him, based on the allegation that he resisted and fired at them first.<sup>155</sup> He is now awaiting trial.

On the night of 8-9 July 2016, eight men were killed during a police anti-drug operation in Matalam, on the island of Mindanao.<sup>156</sup> A witness interviewed by Amnesty International said she heard gunshots before midnight and, upon looking outside her gate, saw four men on the ground. Police officers in black uniforms stood over them. “A police officer was about to shoot one of the men. ... I grabbed his uniform and said ‘No, sir!’ ... because [the men] were labourers who worked for the market carrying rice, corn, [and] okra,” she recalled.<sup>157</sup> The police officer didn’t pull the trigger at the time, but one of the four men—known to be using drugs—was taken away by the police. She later learned he had been killed that night.<sup>158</sup>

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<sup>148</sup> Dharel Placido, “Police in Espinosa ‘rubout’ won’t go to prison: Duterte,” ABS-CBN News, 7 December 2016. See also, for example, Rappler, “NBI: Mayor Espinosa’s death a ‘rubout,’” 6 December 2016.

<sup>149</sup> Christine O. Avendaño, “‘Premeditated murder’: Senate agrees with NBI on Espinosa killing,” Philippine Daily Inquirer, 18 December 2016. According to another media report, the police’s Internal Affairs Service is pursuing administrative measures against those involved, which could lead to dismissal from the police force. UNTV News, “PNP-IAS ends pre-trial on Marvin Marcos, et al,” 10 January 2017.

<sup>150</sup> Amnesty International interview, Metro Manila, 2 December 2016.

<sup>151</sup> Amnesty International interview, Metro Manila, 2 December 2016.

<sup>152</sup> Amnesty International interview, Metro Manila, 2 December 2016.

<sup>153</sup> Joint Affidavit for Arrest, August 2016, part of a confidential case file, on file with Amnesty International. See also, for example, Romina Cabrera, “4 drug suspects slain in Quezon City shootout,” The Philippine Star, 23 August 2016.

<sup>154</sup> Amnesty International interview, Metro Manila, 2 December 2016.

<sup>155</sup> Amnesty International interview, Metro Manila, 2 December 2016. The information is further corroborated by a confidential case file related to Morillo’s arrest and ongoing legal proceedings, on file with Amnesty International delegates.

<sup>156</sup> See, for example, ABS-CBN News, “8 killed in North Cotabato drug raid,” 9 July 2016; Ferdinandh Cabrera, “8 killed in Cotabato raid – police,” GMA News, 9 July 2016.

<sup>157</sup> Amnesty International interview, Matalam, 10 December 2016.

<sup>158</sup> Amnesty International interview, Matalam, 10 December 2016.

The police told the press that, when beginning their operation, they were shot at, so they returned fire. There were no reported police casualties, compared to the eight alleged drug offenders who were killed.<sup>159</sup> Another witness interviewed by Amnesty International contested the police narrative. Police officers pounded on his door around midnight, asking if they could search the house. They then asked him to point out the house of Tahir Salipuddin. He said he was told to return inside, which he did, as the police went towards Salipuddin's house. He later heard gunshots. Salipuddin was one of the eight people killed.<sup>160</sup>

The police officer with an anti-illegal drugs unit in Metro Manila told Amnesty International there is another way the police at times kill suspects already in detention: "Sometimes some of those who are still alive [after the operation], the police take them to the hospital under the pretext they're [going for treatment] but kill them on the way."<sup>161</sup> He said he knew specific cases in which this had happened.<sup>162</sup>

## PRESSURE, INCENTIVES THAT ENCOURAGE POLICE KILLINGS

Under-the-table payments when the police fatally shoot alleged drug offenders, as well as concerted pressure to demonstrate results in anti-drug operations, have helped fuel widespread police killings. The pressure, in particular, arises directly from the PNP Chief's 1 July 2016 Command Memorandum Circular (CMC) that formalized the new administration's "anti-illegal drug campaign plan."<sup>163</sup>

The police officer with an anti-illegal drugs unit in Metro Manila, who has served in the force for 13 years and often leads or participates directly in anti-drug operations, described to Amnesty International certain payments that his and other units receive for killing alleged drug offenders:

*There are different types of benefits [for these operations]. We always get paid by the encounter. That's the word we use, 'encounter.' The amount ranges from 8,000 pesos (US \$161) to 15,000 pesos (US \$302). ... The ones we really go after are pushers. There are categories [of pushers]—different levels based on their notoriety. Higher levels are paid more. ... That amount is per head. So if the operation is against four people, that's 32,000 pesos (US \$644).*

*The PNP incentive isn't announced. ... We're paid in cash, secretly, by headquarters. The payment is [split by] the unit. ... There's no incentive for arresting. We're not paid anything.<sup>164</sup>*

The officer described an "encounter" as occurring when there is a shootout during a police operation. When asked if police officers would receive the payment if they fired their guns but only wounded, not killed, the alleged drug offender, he said, "It never happens that there's a shootout and no one is killed."<sup>165</sup> In addition to payments by police headquarters, he also indicated that some, but not all, local governments in Metro Manila "provide additional benefits" for "encounters."<sup>166</sup>

The officer told Amnesty International that, from his experience, station commanders and station chiefs of police are intimately involved in all aspects of anti-drug operations, including through giving direct orders.<sup>167</sup> The size and, according to the police officer, regularity of the under-the-table payments for "encounters" suggest knowledge or other complicity even higher within the police hierarchy, which could indicate that these attacks on alleged drug offenders are systematic.

In all three cases in which Amnesty International had access to confidential police investigation reports, there was reference, following a fatal shooting of an alleged drug offender, to the officers involved being given "appropriate awards" for their actions.<sup>168</sup> The payment scheme and price for drug-related killings the

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<sup>159</sup> Ferdinand B. Cabrera, "8 killed in war against drugs in Matalam," Minda News, 9 July 2016.

<sup>160</sup> Amnesty International interview, Matalam, 10 December 2016.

<sup>161</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>162</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>163</sup> CMC No. 16-2016, p. 3. The term "drug personalities" is earlier described as including anyone who is a "drug user, pusher, manufacturer, [or] marijuana cultivator." *Ibid.*, p. 2.

<sup>164</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>165</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>166</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>167</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>168</sup> Confidential police investigation reports, on file with Amnesty International. The reports, which come from different cities and police stations, were signed by either a Police Chief Inspector or a Police Superintendent.

police officer described is also similar to that which two paid killers, overseen by a serving police officer, detailed for their hits on “drug users” and “pushers” (see page 37).

In addition to financial rewards, the police officer described the demands that he and others face:

*The anti-illegal drugs unit operates seven days a week. ... Especially the [operations] team leaders, they have lots of pressure. There are higher-ups. If they ask the team leader to do something, they have to do it. If they want to see more [operations], if they think the numbers are low, we have to do more. ... It's a big difference from before [Duterte]. Police officers are trying so hard to please the President.*

*Usually, in our list, we classify who is a user and who is a pusher. The target is really the pusher. But sometimes we make mistakes [and kill a user]. The mentality can be to neutralize the drug presence entirely.<sup>169</sup>*

This pressure appears to follow directly from the police circular establishing Project “Double Barrel.” The CMC instituted a system of reporting at every level of the police force that demanded quick and measurable progress against drug use and sale. It called for police offices and stations to “consolidate daily reports” from the anti-illegal drug units and to submit weekly and monthly reports, as well as periodic assessments, on their implementation of the Circular.<sup>170</sup> Police offices and stations are assigned 27 tasks, including the maintenance of an “updated watch/target list” and “intensified anti-illegal drugs operations ... in the clearing of drug affected barangays by focusing on the neutralization of street level drug personalities.”<sup>171</sup> Focus teams are likewise instructed to “[n]eutralize [h]igh value and street level targets to include their support systems (Drug Lords, their protectors, coddlers and supporters).”<sup>172</sup>

The CMC stresses further, “Performance of commanders will be review and assess [sic] by the Oversight Committee every month.”<sup>173</sup> An unsigned Memorandum Circular seen by Amnesty International references CMC No. 16-2016 and institutes guidelines for the removal of police station commanders “whose performance is not at par with the standards set” by anti-illegal drugs oversight committees.<sup>174</sup> This system of demands, in which police across the country are regularly expected to prove a decrease in drug presence in their area, appears to have trumped the CMC’s call to “strictly observe the Rights of the Accused,” including reference to those under international law and to “due observance of human rights.”<sup>175</sup>

## PLANTING “EVIDENCE” AND FALSIFYING POLICE REPORTS

While Efen Morillo pretended to play dead after police shot him in the chest, he recalled hearing “a policeman say they should leave us with evidence, call the SOCO and tell them we resisted the police.”<sup>176</sup> Witnesses and victims’ families interviewed by Amnesty International, particularly related to police killings during raids, repeatedly alleged the police planted “evidence” and falsified incident reports. The police officer with an anti-illegal drugs unit in Metro Manila described such tampering as common practice.

A witness to the 15 August killing of Ulyses Baja in Tuburan said she did not see a gun on him when walking by seconds before,<sup>177</sup> though police allege they recovered a .38 calibre gun that “malfunctioned” when he tried to fire upon them.<sup>178</sup> Baja’s 63-year-old father, Marcos, said his son did not own a gun but that the police “planted a .38 calibre gun on Ulyses’s body. ... They normally plant a gun [on suspects].”<sup>179</sup>

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<sup>169</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>170</sup> CMC No. 16-2016, p. 16. The CMC also established Anti-Illegal Drugs Monitoring Centers at the national, regional, provincial, district, and city levels to report to their respective directors on a daily, weekly, and monthly basis about “all Anti-illegal Drugs operations and activities.” *Ibid.*, p. 8.

<sup>171</sup> *Ibid.*, p. 15.

<sup>172</sup> *Ibid.*, p. 16.

<sup>173</sup> *Ibid.*, p. 18.

<sup>174</sup> PNP Office of the Chief, Command Memorandum Circular No. \_\_\_\_: Guidelines in the Placement and Relief of Unit Commanders and Other Key Officers in the Implementation of the PNP Anti-Illegal Drugs Campaign Plan 16-2016 Project “Double Barrel”.

<sup>175</sup> CMC No. 16-2016, p. 17.

<sup>176</sup> Amnesty International interview, Metro Manila, 2 December 2016.

<sup>177</sup> Amnesty International interview, Tuburan, 9 December 2016.

<sup>178</sup> Tuburan Police Station, Certification: Entry No. 160374, 17 August 2016.

<sup>179</sup> Amnesty International interview, Tuburan, 9 December 2016.



*In this photo taken 9 December 2016, Marcos Baja holds up a picture of his son, Ulyses, who was killed in an alleged police “buy-bust” operation in August while sitting in a shed near his house, Tuburan, Cebu. Ulyses, 33, had surrendered to police under Oplan Tokhang, but allegedly returned to selling drugs. © Amnesty International*

The police report for the 19 October 2016 death of Florjohn Cruz similarly alleges that he ran into his mother’s house in Caloocan City and pulled a gun, identified by SOCO as a .38 calibre revolver.<sup>180</sup> Yet, in an interview with Amnesty International, his mother Policarpia was adamant that “he didn’t have a gun. ... We’ve been living together for so long. Everything that’s written on the police report is a lie.”<sup>181</sup> His estranged wife said similarly, “He didn’t have a gun, he would never hold a gun because there are kids here, he knew that. ... And he would not be able to obtain a gun. He didn’t have money.”<sup>182</sup>

Many families complained to Amnesty International that they had no access to the crime scene for hours after the killings, a period during which they believed the police planted “evidence” that was then photographed for a case file. Generoso Rondina, a former policeman, said he “couldn’t understand why the police stayed on until 8 a.m.,” around six hours after his son Gener was killed during a November 2016 raid on Gener’s small house in Cebu City.<sup>183</sup> Another family member said the police inventory and crime scene photos featured a box of drug paraphernalia that Gener did not own, but avoided mention of a box of money that was in the house and police took.<sup>184</sup>

The brother and witness to the drug-related killing of young man who lived in a town outside Cebu City was similarly convinced the police planted key “evidence”:

*Police said members of SOCO will be arriving, and we weren’t allowed in. We were puzzled why the person who went inside was not SOCO but someone in plainclothes carrying a bag. ... After a while, they allowed teenagers to come in the house and carry*

<sup>180</sup> Caloocan City Police Station, Report on Shooting Encounter Resulting in the Death of One FlorJohn Placer Cruz and Arrest of Two (2) Others, 19 October 2016.

<sup>181</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>182</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>183</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>184</sup> Amnesty International interview, Cebu City, 7 December 2016.

*my brother's body. ... The teenagers told us they saw my brother lying in bed holding a gun. They said it was a .38 calibre shiny pistol. ... The police showed us a photo on a cell phone of my brother holding a gun. The police told us, 'Your brother attempted to resist, that's why he was shot.' It's impossible that my brother would carry a gun, we would not have allowed him to carry a gun because we know he has a mental problem.*<sup>185</sup>

The witness also said his brother had been asleep when the police raided the house.<sup>186</sup>

After five men were killed during a drug operation in Metro Manila, a witness said she asked for photos from the crime scene and was shown pictures of several guns, bullets, and shabu packets that she said the men did not own. "I kind of argued with the police," she said to Amnesty International. "I asked, 'Where can we get all these guns and ... shabu?' The police replied, 'Please don't be angry at us, we just took photos of the crime scene, all we saw was what was left at the crime scene, because the other police had already left.'"<sup>187</sup>

Witnesses and relatives routinely contested the police account, as described above in the section on "buy-bust" operations. In a particularly egregious example, a police incident report from Pasay City alleged police were conducting a foot patrol just after midnight on 23 August 2016 when they saw "two suspected drug personalities," including Eric Sison, a 21-year-old father of an infant. The police allege Sison pulled a gun and fired on them, which led them to respond in kind, hitting him as he fled. The officers claim they pursued Sison to a rooftop and into a house, from which the owner emerged and "shouted for help"; they allege they tried to get Sison to submit to an arrest but he continued "to fight it out," so they shot and killed him.<sup>188</sup>

A family member said Sison did not own a gun, nor even knew how to hold one. She also said he occasionally used cannabis, but never shabu, which police allege he was carrying.<sup>189</sup> In a video filmed by a neighbour, which circulated widely in Philippine media and was shared with Amnesty International, a woman is heard pleading with police to stop before a man, believed to be Sison, yells, "Here! Please! I surrender!" followed by numerous gunshots.<sup>190</sup> An After Mission Report by the Commission on Human Rights indicated that witnesses and other neighbours reported that Sison was unarmed. When the police officers approached him, the investigation found, Sison ran in fear, at which point the officers fired and struck him in the leg.<sup>191</sup> Sison was shot again while on the roof, causing him to "fall down"—rather than jump—to the neighbour's house.<sup>192</sup> As he hid there, the police officers "forcibly entered" and "ordered its occupants to go outside"; Sison "pleaded for mercy," the investigation found, but the officers shot him at least a dozen times.<sup>193</sup> The three officers involved were reportedly relieved of their posts and transferred but do not appear to have been prosecuted for their actions.<sup>194</sup>

The police officer with an anti-illegal drugs unit in Metro Manila told Amnesty International that, in the incident reports that police officers produce after a suspect is killed, "sometimes the police misstate" what happened.<sup>195</sup> From his own experience, he also admitted that "everyone plants evidence. ... You can't put anyone in jail if you follow the book. If the person's really connected [to drugs], if he's really guilty, it doesn't matter if the evidence is planted or not."<sup>196</sup> The officer said the practice of planting evidence began before the Duterte administration and stems from the perceived slowness and inefficacy of the judicial system: "If you get unlucky because there's not enough evidence, the case is weak [and] you will even be dismissed from your job, and that person will go back to pushing [drugs]."<sup>197</sup>

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<sup>185</sup> Amnesty International interview, location withheld, 8 December 2016.

<sup>186</sup> Amnesty International interview, location withheld, 8 December 2016.

<sup>187</sup> Amnesty International interview, Metro Manila, 12 December 2016.

<sup>188</sup> Pasay City Police Station, Incident Report, 23 August 2016.

<sup>189</sup> Amnesty International interview, Metro Manila, 4 December 2016.

<sup>190</sup> Video, on file with Amnesty International (translated from Tagalog).

<sup>191</sup> Commission on Human Rights, After Mission Report, 25 August 2016, on file with Amnesty International.

<sup>192</sup> *Ibid.*

<sup>193</sup> *Ibid.*

<sup>194</sup> Dexter Cabalza, "Pasay folk say cops killed drug suspect already wounded and surrendering," Philippine Daily Inquirer, 25 August 2016.

<sup>195</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>196</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>197</sup> Amnesty International interview, Metro Manila, 13 December 2016.



## CRIMES AGAINST HUMANITY

Crimes against humanity are prohibited acts committed as part of widespread or systematic attack against a civilian population as part of a government or organizational policy. The Rome Statute of the International Criminal Court, to which the Philippines is a state party, defines crimes against humanity in Article 7: “For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack ....”<sup>198</sup> Article 7(1) lists 11 crimes, or “acts,” including “[m]urder” and “[p]ersecution against any identifiable group” on any “grounds that are universally recognized as impermissible under international law,” as well as “[o]ther inhumane acts.”<sup>199</sup> “Attack directed against any civilian population” is defined in Article 7(2)(a) as “a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a state or organizational policy to commit such attack.”<sup>200</sup> The definition in the Rome Statute reflects to a large extent rules of customary international law binding on all states, regardless of whether or not a state is party to the Statute.

The contextual elements of crimes against humanity require that each individual act be perpetrated in the context of a widespread or systematic attack directed against a civilian population and with knowledge of the attack. Each element of these requirements must be proved before any accused person can be convicted of crimes against humanity. Amnesty International is of the view that these contextual elements may be met in the Philippines and that further investigation by a competent authority is required to determine whether crimes against humanity have been committed. However, this requires a determination of whether the killings and extrajudicial executions were deliberately directed against the civilian population in accordance with a governmental policy, which are questions that should be determined as part of any independent, impartial and effective investigation of the crimes documented in this report.

## 3.3 VIGILANTE-STYLE KILLINGS

**“There’s been a lot of change. Before, we had like two jobs per month. . . . Now, there’s more jobs. We’re always on a job. Now, it’s drug addicts, drug pushers.”**

Paid killer involved in drug-related killings, overseen by active-duty police officer

Between 1 July and 9 January 2017, unknown armed persons have killed 4,146 people—an average of roughly 20 a day—in cases associated with the anti-illegal drug campaign.<sup>201</sup> Of the 33 drug-related killings documented by Amnesty International, 13 fall into this category.

Some killings by unknown armed persons appear to be the result of fighting between and within drug gangs. Other cases, however, have a direct link to the police, with police officers either hiring paid killers to kill specific individuals or disguising themselves and carrying out the killings.

## CASES OF KILLINGS BY UNKNOWN ARMED PERSONS

Across the Philippines, masked individuals arrive on motorcycles in groups of two and target people who allegedly use or sell drugs—a practice known commonly as “riding in tandem.”

<sup>198</sup> Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90, *entered into force* 1 July 2002, Art. 7(1)

<sup>199</sup> *Ibid.*

<sup>200</sup> *Ibid.*, Art. 7(2)(a).

<sup>201</sup> Michael Bueza, “IN NUMBERS: The Philippines’ ‘War on Drugs,’” Rappler, 21 January 2017, <http://www.rappler.com/newsbreak/iq/145814-numbers-statistics-philippines-war-drugs>. The figures, which come from data from the Philippine National Police, update regularly on Rappler. Amnesty International last accessed the webpage on 21 January 2017, at which time the number of “murder cases outside police operations” was 4,146, with 9 January 2017 the date they were last updated.

At times, gunmen target people in their homes, particularly at night. On 19 October 2016, Crisostomo Diaz and four of his eight children went to sleep in their small, one-room home in Caloocan City. Three masked men entered the house and turned on the lights. Diaz, who was on the “drug watch list” and had surrendered to local authorities in July, asked, “Who are you?” after which the men opened fire. Diaz died, after being hit by at least five bullets. Four more men and one woman waited with four motorcycles and drove the three killers away.<sup>202</sup>

In a town in northern Cebu Province, a man in his 20s decided to surrender at the municipality after hearing his name was on a “drug watch list.” “He said he was very happy to surrender so that he wouldn’t have to worry about anything or fear anyone,” recalled his live-in partner.<sup>203</sup> Two weeks later, as they were about to sleep, they heard a loud noise in the direction of a neighbour’s house. “I initially thought it was my partner’s niece just pulling a prank,” she said, so they went to the door to look.<sup>204</sup> She told Amnesty International:

*When he opened the door, he was immediately shot in the head. There were no words exchanged. ... [Our] baby was lying in one side of the room where one of the bullets almost hit. When [my partner] fell on the floor, I also noticed there was a hole in his neck; the bullet went through his throat and came out the other side. There were three holes in the head, one in the neck. ... I was soaked in blood because I was the only one trying to pick him up to take him to the hospital. He was comatose for six days [before dying].<sup>205</sup>*

Paulo Tuboro, a 24-year-old with two children, was one of five people killed by unknown armed persons in a single incident on the night of 31 October 2016. Witnesses told Amnesty International they saw at least three gunmen enter the house of Manuel Evangelista in Mandaluyong City, wearing masks and motorcycle helmets. The gunmen told several children present to leave; after the children ran to a nearby house, witnesses heard gunshots.<sup>206</sup> Tuboro’s sister heard rumours her brother had been killed and ran to the scene. “There was a lot of blood,” she recalled, and several bodies remained; she identified her brother for the police.<sup>207</sup> She said Tuboro neither used nor sold drugs: “No one told Paulo that you’re one of the targets. The neighbourhood believes Paulo is innocent, he was just at the wrong place at the wrong time.”<sup>208</sup> The chief of the city’s police investigation unit told local media that two of the five people killed were on the barangay’s “drug watch list.”<sup>209</sup> In early December 2016, a small work of graffiti near the house read: “Kill drugs, not people. Just saying.”

In other cases, unknown armed persons kill people on the street or while at work. Jerry Tulalian, a 37-year-old tricycle driver with two children and a pregnant wife, was killed in Pasay City on 30 November 2016 at around 10 p.m. After dropping off customers, two people appeared on motorbike; according to a relative and a police report, the rider on back descended and fired two shots, hitting Tulalian in the head and around one of his armpits.<sup>210</sup> Police found a placard in the tricycle with the Tagalog words, “Drug pusher, don’t follow me.”<sup>211</sup>

Similarly, at around 11 p.m. on 24 September 2016, four people pulled up on motorcycles next to Sandrex Ampo-an, a 31 year old sitting in a tricycle in Manila’s Santa Ana neighbourhood. Police later found his “lifeless body,” with multiple gunshot wounds, “in [a] sitting position in a tricycle.”<sup>212</sup> As part of Oplan Tokhang, Ampo-an had surrendered as a user to the Eastern Police Station. A family member told Amnesty International, “People are being killed like chickens now. You just cut their throat and let them die.”<sup>213</sup>

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<sup>202</sup> Amnesty International interviews with witness, Metro Manila, 1 December 2016; and family member, Metro Manila, 1 December 2016.

<sup>203</sup> Amnesty International interview, location withheld, 9 December 2016.

<sup>204</sup> Amnesty International interview, location withheld, 9 December 2016.

<sup>205</sup> Amnesty International interview, location withheld, 9 December 2016.

<sup>206</sup> Amnesty International interviews, Metro Manila, 3 December 2016.

<sup>207</sup> Amnesty International interview, Metro Manila, 3 December 2016.

<sup>208</sup> Amnesty International interview, Metro Manila, 3 December 2016.

<sup>209</sup> Jodee A. Agoncillo, “Halloween Massacre: Masked men kill 6 drug users,” *Philippine Daily Inquirer*, 2 November 2016.

<sup>210</sup> Amnesty International interview, Metro Manila, 2 December 2016; Pasay City Police Station, Incident Report, 1 December 2016, on file with Amnesty International.

<sup>211</sup> Pasay City Police Station, Incident Report, 1 December 2016, on file with Amnesty International (identifying the message in Tagalog as “DRUG PUSHER AKO HUWAG TULARAN”).

<sup>212</sup> Manila Police District, Spot Report, 24 September 2016, on file with Amnesty International.

<sup>213</sup> Amnesty International interview, Metro Manila, 2 December 2016.



*Policemen wait on the ground floor of a house where four people were killed by unknown armed persons in an alleged “drug den,” 12 December 2016, Pasig City, Metro Manila. Crime scene investigators had not arrived yet to work the case—one of two incidents documented by Amnesty International delegates observing journalists’ night-shift coverage of police activities. © Amnesty International*

Many killings by unknown armed persons are shockingly brazen. In a town in Cotabato Province, a witness interviewed by Amnesty International watched as a friend was killed in November 2016 while working at a cafeteria outside a local school. Students were packed in for the lunch hour, as the assailant pulled out a gun. The witness recalled thinking she “was in a movie, I thought it was a joke, that it was a toy gun. The gunman put the gun to the back of [his] head. ... Then there was a loud sound. It sounded like a firecracker.”<sup>214</sup> As the children screamed, the paid killer left with a companion on a motorcycle.

Case to case, the facts are startlingly similar—the clothes and masks worn, the use of motorcycles, the killing by gunfire at close range, and the frequent placement of cardboards or other evidence that links the victim to drugs. A 45-year-old man, who has been part of a group of paid killers for ten years, told Amnesty International the similarity is by design. “We all cover ourselves up with helmets, bonnets. We all use the same methods,” he said, so that every group looks like the others, making investigations more difficult.<sup>215</sup>

The victims, too, often share a common feature: they are on barangay “drug watch lists” or, as with Paulo Tuboro, are killed while with others on such a list. The male paid killer identified most of his targets as “those who have surrendered [or] who are confirmed as pushers, even small-time pushers.”<sup>216</sup> Police officers at times appear to excuse killings on these grounds. At 11:15 p.m. on 12 December, unknown armed persons entered Bernie Halcon’s home in Pasig City and killed him along with three others. Amnesty International delegates were at the scene as police investigated. A police senior inspector spoke briefly with those present, indicating that witnesses had seen motorcycles driving in the area before the shooting. She continued, “According to barangay [officials], Bernie Halcon had already surrendered to Tokhang but continued to sell drugs. This place is a known drug den run by Bernie Halcon. It is believed they were having a pot session when the incident happened.”<sup>217</sup>

<sup>214</sup> Amnesty International phone interview, Davao, 11 December 2016.

<sup>215</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>216</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>217</sup> Amnesty International interview, Metro Manila, 13 December 2016.



*Police Senior Inspector Katherine Kinney addresses journalists waiting outside the house of Bernie Halcon, one of four people killed by unknown armed persons, 12 December 2016, Pasig City, Metro Manila. Kinney said Halcon was allegedly running a “drug den” at that location. © Amnesty International*

Several families blamed themselves for their loved one’s death at the hands of unknown armed persons, as they had pressured the person to surrender in the belief it would provide safety—only to then see the person killed. Rickhen Singson, a 28-year-old candle maker in Kidapawan City, briefly went into hiding after discovering he was on a “drug watch list,” a family member recalled.<sup>218</sup> He had a young child, and several family members pleaded with him to return home and surrender. He did, as Duterte took the oath of office. Six weeks later, Singson was sitting at a fruit stand. A witness recalled, “When I looked back at [him], I saw a man putting a gun to his neck, to the left side.”<sup>219</sup> The masked gunman fired at point-blank range before boarding a motorcycle on which a companion waited. Police were slow to get Singson to a hospital, where he died after 28 days in a coma. A family member, who broke down repeatedly, told Amnesty International:

*We wanted a change of government, that’s why we voted for [President Duterte]. Had we known that [Rickhen] would be killed, we wouldn’t have voted for him. Had we known, we would have never asked him to surrender. Maybe we should have asked him to go somewhere else. I don’t think surrendering helped. ... Every week they would ask for them to go [to meetings], and he would be the first to go. Sometimes we would forget he has to go to the municipal hall, but he would remind us. Surrendering doesn’t make sense. His friends who did not surrender are still alive. Good for them.*<sup>220</sup>

<sup>218</sup> Amnesty International interview, Kidapawan City, 10 December 2016.

<sup>219</sup> Amnesty International interview, Kidapawan City, 10 December 2016.

<sup>220</sup> Amnesty International interview, Kidapawan City, 10 December 2016.

## DIRECT LINKS TO STATE AUTHORITIES

In his inaugural speech after being sworn into office, President Duterte exhorted the Philippines population, “If you know of any addicts, go ahead and kill them yourself.”<sup>221</sup> Three months later, he said he’d “be happy to slaughter” all of the country’s “drug addicts.”<sup>222</sup> The constant incitement from the highest levels of the government has created a climate in which widespread killings by unknown armed persons are not simply tolerated, but actively encouraged.

In many instances, there seems to be an even more direct link between state authorities and “riding-in-tandem” cases. The police officer in an anti-illegal drugs unit in Metro Manila told Amnesty International that while some drug-related murders are carried out by drug syndicates, in an effort to target enemies or witnesses, “sometimes the police are the ones who are involved [as unknown armed persons], either themselves or through” hiring paid killers.<sup>223</sup> He further explained:

*The police officers usually [act as unknown armed persons] when they feel the target does not have the capacity to fight back, or if the family has the ability to file a case. If the target is a woman ... we cannot conduct a police operation, because that would be an obvious rub-out since a woman can't fight back. So we would carry that out as vigilantes. If it's a bigger target [who owns] guns, a known pusher, then we'd do it as a [police] operation.*<sup>224</sup>

Amnesty International further confirmed the direct involvement of the police in killings by unknown armed persons through interviews with a man and woman who are regularly paid to kill alleged drug offenders. Both said their boss is an active-duty police officer.<sup>225</sup> “He still works as a policeman,” the male paid killer said. “Every time we get a job order, it comes through him. The information all comes through [him]. We have no direct contact with [who] orders the killing.”<sup>226</sup> The two paid killers told Amnesty International that other members of their group include former police officers.

Since President Duterte took office, the paid killers said the demand for their work is “rampant,” averaging three to four “orders” per week.<sup>227</sup> The male paid killer said further, “When we’re given an order, there’s an envelope. It has the person’s name, a picture, the address, what the person likes to do. It’s almost a complete profile. ... Someone else has already been assigned to do surveillance.”<sup>228</sup> They then watch the target and “wait for the right moment,” before typically carrying out a “riding-in-tandem” hit-and-run.<sup>229</sup>

When the police handler gives them an envelope with the job, payment is provided up front. “All our envelopes now give a drug link,” the female paid killer told Amnesty International. “The rate depends. For a user, it’s 5,000 pesos (US \$100). For a pusher, 10,000 to 15,000 pesos. It depends by the person. Usually we don’t have multiple targets per project, but [when we do], we’re paid per head.”<sup>230</sup> If they work in pairs, they split the payment.

Similar to the police during their operations, the paid killers said they often plant “evidence” to link the person to drugs. “Sometimes we’re provided the drugs—shabu—we’re going to plant,” described the male paid killer. “There was an instance when the target was crossing the street, and when the target was taken down, we just threw drugs [towards] the body.”<sup>231</sup>

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<sup>221</sup> “Philippines president Rodrigo Duterte urges people to kill drug addicts,” The Guardian, 30 June 2016.

<sup>222</sup> Felipe Villamor, “Duterte, Citing Hitler, Says He Wants to Kill 3 Million Addicts in Philippines,” New York Times, 30 September 2016. Duterte estimated the number of “drug addicts” in the country as three million, without any evidence to support that figure. The Philippine Dangerous Drugs Board recently estimated the country had 1.8 million people who used drugs at some point over a 13-month period, not distinguishing between use and dependence. A video of the Dangerous Drugs Board’s press conference to discuss the survey’s results is available at <https://www.youtube.com/watch?v=XwKOnS9a9Es>. See also, for example, Jodesz Gavilan, “DDB: Philippines has 1.8 million current drug users,” Rappler, 19 September 2016; Clare Baldwin and Andrew R.C. Marshall, “As death toll rises, Duterte deploys dubious data in ‘war on drugs,’” Reuters, 18 October 2016.

<sup>223</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>224</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>225</sup> Amnesty International interviews, Metro Manila, 14 December 2016.

<sup>226</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>227</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>228</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>229</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>230</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>231</sup> Amnesty International interview, Metro Manila, 14 December 2016.

Both paid killers said they could not refuse a job, even if they occasionally felt sympathy in seeing a target with young children. They also both saw themselves as working on the government's behalf. "For me, it's just work," the male paid killer said. "I'm helping the government take out the trash of society."<sup>232</sup>

In several drug-related killings documented by Amnesty International, witnesses and other family members strongly believed the police either acted as unknown armed persons or supported them. As described in the text box on page 46, 8-year-old San Niño Batucan was killed when four men in bulletproof vests arrived on motorcycles and fired at an alleged drug financier who noticed them and fled. San Niño's parents, both witnesses to the killing in Consolacion, believe it was the police themselves, based, among other factors, on the shooters' collaboration with a known police "asset" and their wearing bulletproof vests. Police officials have denied publicly that any officers were involved in an operation there.<sup>233</sup>



*Family members sit next to pictures of Prolly Bolo placed by the home altar, 3 December 2016, in Caloocan City, Metro Manila. Family members say Bolo, a 42-year-old barangay captain who was killed by unknown armed persons in September, had a contentious relationship with the police over the latter's release in exchange for money of people who sold drugs. © Amnesty International*

On 7 September 2016, 42-year-old Barangay Captain Prolly Bolo, a father of five children, was killed in broad daylight by unknown armed persons while drinking with friends at his Caloocan City junk shop. Several witnesses told Amnesty International that a police patrol vehicle pulled up at the location not long after 3 p.m.; Bolo approached the vehicle and spoke with the police. Less than 10 minutes later—a timeline confirmed by CCTV footage in Amnesty International's possession, which shows the full incident—a friend watched as four armed persons, wearing helmets and face masks, arrived on two motorcycles. "Prolly shouted, 'We're not your enemies!'" the friend recalled. "The first assailant was close. Prolly was holding his hands up. Tat-tat-tat. ... Two shot him," killing Bolo instantly, as the shooters left.<sup>234</sup>

<sup>232</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>233</sup> Amnesty International interviews, Consolacion, 7 December 2016. Ador Vincent Mayol & Nestle Semilla, "Killed by a stray bullet," Philippine Daily Inquirer, 12 December 2016.

<sup>234</sup> Amnesty International interview, Metro Manila, 3 December 2016.

Several family members believed strongly that the police patrol vehicle was a lookout, to ensure Bolo was at the designated place when the unknown armed persons arrived. They also pointed to CCTV footage showing the killers near a local police station before and after the killing. “If this was just a gun for hire, you wouldn’t walk this near to the police station,” one relative said. “The one who is responsible for this is the police.”<sup>235</sup>

Relatives said Bolo had a contentious relationship with the local police. One recalled Bolo saying, not long before he was killed, “Why should I give them lists when the police know who the addicts and pushers are, but they let these people go because they give [the police] money?”<sup>236</sup> His wife similarly remembered how, several weeks before he was killed, they saw on the news a story about another barangay captain being killed: “[Proly] said he’d just spoken with him. He shook his head and said the lives of the barangay captains are in danger—we don’t know who the real enemies are, the police or the drug traders.”<sup>237</sup>



Posters reading “Justice for Captain Proly Bolo” hang on an overpass near his house, 3 December 2016, Caloocan City, Metro Manila. Bolo, a 42-year-old barangay captain, was killed by unknown armed persons while drinking with friends in his junkshop in September. © Amnesty International

<sup>235</sup> Amnesty International interview, Metro Manila, 3 December 2016.

<sup>236</sup> Amnesty International interview, Metro Manila, 3 December 2016.

<sup>237</sup> Amnesty International interview, Metro Manila, 3 December 2016.

## 3.4 WAR ON THE POOR

**“Why are drugs still able to get into this country? [The authorities are] going after the twigs and the leaves, but leaving the roots and trunk. So the tree will still be there.”**

Marilou Batucan, mother of 8-year-old San Niño, killed as a bystander in December 2016

The victims of extrajudicial executions—carried out both by police officers and unknown armed persons—come overwhelmingly from the most impoverished segments of society. The police often add insult to injury by stealing from families as they work a crime scene and by running a racket with funeral homes that increases costs on grieving families, who at times are forced to borrow money to receive the body for burial. Several local human rights activists told Amnesty International that, if anything is to derail the popularity of President Duterte’s anti-drug campaign, it is the growing realization that poor, small-time users and dealers are being hit in a way that major drug lords and traffickers are not.

### WHO IS, AND WHO IS NOT, TARGETED

The vast majority of the victims of drug-related killings reside in the Philippines’ poorest urban neighbourhoods. In an ABS-CBN review of 50 drug-related killings, “[a]lmost all of the victims were poor” and “lived in the slums and outskirts of the provinces.”<sup>238</sup> The death often puts families in an even more precarious financial position and leaves many relatives embittered, as they see authorities overwhelmingly target the poor.

Many of the families visited by Amnesty International lived in makeshift homes in densely packed urban areas. Several families were unable to afford a phone and had to be contacted through neighbours. A young mother spoke about her partner’s death at the hands of police as relatives slept nearby in the small, single room they shared within a dilapidated, wooden house where people rented by the room. Without a refrigerator on a hot, muggy day, she tried to cool bottles of milk for her infant with an electric fan.

Of the 33 cases of drug-related killings documented by Amnesty International, more than 20 involved men who left behind partners and children—often young children. The loss of a key breadwinner further compounds a family’s economic situation. Funeral expenses, discussed in more detail below, add to the problem. In several cases, health expenses have as well. After Efren Morillo survived a gunshot to his chest during a police operation, his father sold the family’s house to pay for his 10 days in the hospital.<sup>239</sup> After Ricken Singson was shot by an unknown armed person in Kidapawan City, he spent 28 days in a coma in a hospital’s intensive care unit (ICU) before ultimately dying. “We incurred hospital bills of around 400,000 pesos (US \$8,055),” a family member recalled. “We used our land title as a collateral at the hospital so that we could bring home the body.”<sup>240</sup>

Family members of drug-related killings often linked their loved one’s involvement in the drug trade to poverty and a lack of job opportunities. Ethnographic research and media reports present a similar picture of small-scale sellers scraping by a living, and of people who use shabu often employing it as a means to stave off hunger or to stay awake and work longer hours.<sup>241</sup> Nillie, the wife of Crisostomo Diaz, said that he would at times get paid as a “runner,” acting as an intermediary between drug buyers and sellers. “That’s because we don’t have anything else,” she said. “We need money to” afford a living.<sup>242</sup> After hearing that those who

<sup>238</sup> Jhoanna Ballaranabs, “War on Drugs, The Unheard Stories: ‘Cops gun down suspects begging for their lives,’” ABS-CBN News, October 2016. ABS-CBN further reported that, in many of its cases, “victims were even sleeping before they were killed, contrary to the police version that they were the subject of buy-bust operations.” *Ibid.*

<sup>239</sup> Amnesty International interview, Metro Manila, 2 December 2016.

<sup>240</sup> Amnesty International interview, Kidapawan City, 10 December 2016.

<sup>241</sup> See, for example, Associated Press, “In Philippine drug war, a family struggles to stay safe,” 20 October 2016; Gideon Lasco, “Pampagilas: Methamphetamine in the everyday economic lives of underclass male youths in a Philippine port,” *International Journal of Drug Policy*, Vol. 25(4) [2014], pp. 783 – 788; Gideon Lasco, “Just how big is the drug problem in the Philippines anyway?” *The Conversation*, 13 October 2016.

<sup>242</sup> Amnesty International interview, Metro Manila, 1 December 2016.



surrendered would receive jobs, Diaz turned himself in and tried to quit his own use of drugs. No job ever came; unknown armed persons killed him at home on 19 October 2016.



*Children play, 8 December 2016, in a floating slum (exact location withheld) where one of the cases of killings by police documented by Amnesty International in Cebu Province took place. Many of the people who have been targeted in the anti-drugs campaign are poor. © Amnesty International*

The son of a 49-year-old woman who was the apparent target of a police raid in Cebu Province that left another person killed likewise admitted that his mother sold shabu. He explained, “She would buy shabu and resell it and make a profit. She was selling drugs to make a living because our father was already in prison, she was doing it so that we can have something to eat.”<sup>243</sup> He said she had only finished first grade and could not find other work. “Before the police operation [that led to her being jailed], we would tell our mother to stop,” he recalled. “She would say, ‘Where would I get the money to feed you? I’m only engaged in small-time anyway.’”<sup>244</sup>

In interviews, civil society activists and family members of the deceased repeatedly described the “war on drugs” as a “war on the poor” or “anti-poor.” Rita, the wife of Florjohn Cruz, told Amnesty International that police had labelled her husband a “pusher,” but he had no money to his name. “Why is [President Duterte] targeting small people?” she asked. “Why won’t he give them another chance? How about the families left by those killed?”<sup>245</sup> A family member of Paulo Tuboro, who was killed by unknown armed persons on 31 October 2016, said similarly: “It is really unfair. The big-time [sellers] are not having any problems. The small-time users get involved to be able to survive ... to have money to feed [their] kids. If you are a big-time user, you are spared. If you are poor, you are killed.”<sup>246</sup>

Two paid killers involved in drug-related killings told Amnesty International that their jobs predominantly target the poor. “The high-profile cases, they haven’t really happened yet,” said a 47-year-old man who has been a hired killer for ten years. “We’re not killing those sorts of people. No one is.”<sup>247</sup> A woman who is part

<sup>243</sup> Amnesty International interview, location withheld, 8 December 2016.

<sup>244</sup> Amnesty International interview, location withheld, 8 December 2016.

<sup>245</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>246</sup> Amnesty International interview, Metro Manila, 3 December 2016.

<sup>247</sup> Amnesty International interview, Metro Manila, 14 December 2016.

of the same group said likewise: “Usually our jobs are in the poor neighbourhoods, since that’s where those who surrender are from. The bigger pushers and drug lords don’t [surrender].”<sup>248</sup> The police officer with an anti-illegal drugs unit expressed frustration with this disparity. “What’s wrong with the war on drugs is that no politician is [targeted], no rich people,” he said. “Even the police being killed [for protecting the drug trade], they are small-time police, not the generals.”<sup>249</sup>

At the end of December, Philippines authorities announced the confiscation of 2,000 pounds of methamphetamine, worth an estimated US \$120 million, claiming the largest drug bust in the country’s history.<sup>250</sup> It was the result of a four-month operation by the National Bureau of Investigation, and was hailed as a major victory against large-scale drug trafficking and distribution. Yet, the details of the case continued to reflect a distinction in how operations are conducted, as well as the ability of the Philippine National Police to conduct operations, including drug-related arrests, efficiently without resort to lethal force: In contrast to the daily killings in urban slums of people who use drugs or sell drugs on a small scale, the police carrying out the major drug busts in late December arrested all 10 people present, including three Chinese nationals.<sup>251</sup> Those arrested are now defending themselves in a court of law,<sup>252</sup> a right denied the primarily poor victims of extrajudicial executions documented by Amnesty International.

Several weeks earlier, a woman whose 38-year-old husband was killed during a police operation in a Metro Manila slum told Amnesty International that many people had been killed in her neighbourhood. She continued, “Those who are rich are jailed and turned into witnesses. How come the poor are being killed? In our neighbourhood ... they usually kill those of us who have families—people who sell to have a little money. If people had other opportunities, they wouldn’t [sell drugs].”<sup>253</sup>

## POLICE THEFT AND RACKETS LINKED TO EXTRAJUDICIAL EXECUTIONS

Drug-related killings, which as noted have overwhelmingly targeted the urban poor, have taken key breadwinners from families already in an economically precarious position. In many cases documented by Amnesty International, the police inflicted further economic harm by stealing valuables from victims’ homes during operations. In at least some areas of Metro Manila, police investigators appear to be running a racket with funeral homes, forcing families to spend money they can ill afford to in order to claim the body.

A largely bedridden grandmother in Metro Manila watched as police officers stormed into the family’s house and killed her grandson, who was on the “drug watch list.” They proceeded to search the house. “There was a lot of money placed here,” she said several months later, pointing to a particular bench. “The police pocketed the money.”<sup>254</sup>

A 30-year-old woman whose husband was killed by police in August 2016 during a home raid similarly told Amnesty International that, “not only did they kill [my husband], they also robbed us.”<sup>255</sup> She works as a saleswoman on commission, and said the police stole 8,000 pesos (US \$161) worth of goods, 3,600 pesos (US \$72) she was to remit to her employer, 3,600 pesos she had set aside to pay the electric company, and “a pair of shoes we had given my child for her birthday.”<sup>256</sup> When she saw her husband’s body at the morgue, she said she realized his wedding ring and necklace were also missing. At the Criminal Investigation and Detention Unit (CIDU), she raised the issue of the stolen items; they returned cell phones, but, according to her, said that was all they had received from the police who led the operation. With three children to care for, the youngest of whom is one year old, she normally makes about minimum wage, or 477 pesos (US \$9.61) per day. “On a good day, I make a little more,” she said.<sup>257</sup>

In a June 2015 Memorandum Circular from the Department of the Interior and Local Government, Barangay Anti-Drug Abuse Councils (BADAC) were instructed to assist the police in drug operations, including by having an “elected barangay official present during the operations to witness the inventory of seized

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<sup>248</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>249</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>250</sup> Pamela Boykoff & Joshua Berlinger, “\$120 million worth of meth seized in record-breaking Philippines’ drug raid,” CNN, 28 December 2016; Associated Press, “Nearly 1 ton of meth seized in drug raids in Philippines,” 27 December 2016.

<sup>251</sup> Pamela Boykoff & Joshua Berlinger, “\$120 million worth of meth seized in record-breaking Philippines’ drug raid,” CNN, 28 December 2016; Associated Press, “Nearly 1 ton of meth seized in drug raids in Philippines,” 27 December 2016.

<sup>252</sup> Tricia Terada, “Three Filipino suspects in San Juan drug raid deny allegations,” CNN Philippines, 3 January 2017.

<sup>253</sup> Amnesty International interview, Metro Manila, 12 December 2016.

<sup>254</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>255</sup> Amnesty International interview, Metro Manila, 12 December 2016.

<sup>256</sup> Amnesty International interview, Metro Manila, 12 December 2016.

<sup>257</sup> Amnesty International interview, Metro Manila, 12 December 2016.

drugs/paraphernalia.”<sup>258</sup> In many drug-related killings documented by Amnesty International, this appears not to have been followed, with the police controlling the crime scene without oversight—either from barangay officials or from family members who describe being barred entry from their homes for hours.

Generoso Rondina served as a police officer for 24 years before retiring in 2009. He rushed to the scene following a 25 November 2016 police raid during which his son Gener was killed around 2 a.m. (see text box, page 18). “The barangay captain only arrived at 4 a.m.,” Generoso recalled. “I was also on [police] operations before. No one questioned my conduct, because I followed procedure. Every time I would conduct an operation, there must be a village official to witness the raid.”<sup>259</sup> After police left the scene, the Rondina family noticed that a laptop, watch, cell phone, and box of money were missing. “They stole all those items,” Generoso said.<sup>260</sup>

Even in the poorest of households, police still steal items of sentimental value. In a floating slum in Cebu Province, police broke down the door to a house and killed the 29-year-old son of a woman who, according to a family member, sold drugs to put food on the table. A witness recalled how the police stole a Virgin Mary statue from their home altar.<sup>261</sup>

Following drug-related killings, families face the daunting reality of having to pay for funeral expenses. A funeral director in Calocan City, an area of Metro Manila largely comprised of urban poor, said that many people have to borrow money to pay.<sup>262</sup> The mother and estranged wife of Florjohn Cruz, killed in a drug operation on 19 October 2016, had to give the funeral home a down payment of 10,000 pesos (US \$201) the day after his death. “Good thing his nephew had 5,000 pesos,” his wife Rita recalled. “We asked the staff if we could just pay the remaining amount later because we needed to borrow money and weren’t prepared for expenses like this.”<sup>263</sup> She said the funeral home gave them a couple hours to scrap together the rest of the money, so that they could bring his body home for the wake.<sup>264</sup>

In many funeral homes, costs are significant. Crisostomo Diaz was killed by unknown armed persons who broke into his single-room home, where he was asleep next to four of his eight children. His family paid 35,000 pesos (US \$705) for funeral services. “I asked the barangay staff for help, but they just said no,” said his wife Nillie, who makes 3,500 pesos (US \$70) a month. “They told me to go house to house to ask for help. ... It’s a lot with eight kids.”<sup>265</sup>

Reuters has reported that certain privately owned funeral homes are accredited by the police, and that “SOCO performs most of its autopsies” at these locations; the funeral home then “embalms the body before it is given to the family for the wake.”<sup>266</sup> Families typically pay for a package of embalming, a death certificate, and a casket, among other things.<sup>267</sup> A news report in 2012 found that such packages come in an enormous range of prices and cited several major funeral homes in Metro Manila as offering a cheapest package of 35,000 (US \$705) or 50,000 pesos (US \$1,007).<sup>268</sup>

Especially in Metro Manila, many families of victims interviewed by Amnesty International complained that the body was taken to a particularly expensive funeral home; they often did not understand why, as other funeral homes were closer to where the person was killed.<sup>269</sup> The police officer with a Metro Manila anti-illegal drugs unit told Amnesty International that there is a racket between the police and some funeral homes, which drives up prices. “The police get a cut from funeral homes for every body they bring,” he said. “Sometimes 10,000 pesos (US \$201). ... Sometimes if I’m the investigator, I’ll bring the body to the biggest and most expensive [funeral home], because they give the biggest cuts.”<sup>270</sup>

For many families whose loved ones have been killed in anti-drug operations, the police’s profiting off the disposal of bodies is the last in a long line of violations of their economic, social and cultural rights, as money stolen during crime scene investigations or lost needlessly to funeral expenses is likely, particularly in poor

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<sup>258</sup> Department of the Interior and Local Government, Memorandum Circular No. 2015-63, June 16, 2015.

<sup>259</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>260</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>261</sup> Amnesty International interview, location withheld, 8 December 2016.

<sup>262</sup> Amnesty International interview, Metro Manila, 10 December 2016.

<sup>263</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>264</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>265</sup> Amnesty International interview, Metro Manila, 1 December 2016.

<sup>266</sup> Reuters, “Police rack up an almost perfectly deadly record in Philippine drug war,” 5 December 2016.

<sup>267</sup> Amnesty International interviews with family members of victims, December 2016. See also, for example, “Cost of dying in the Philippines; Can we afford to die?” The Freeman (Cebu), 31 October 2016.

<sup>268</sup> Katherine Visconti, “The cost of dying in PH,” Rappler, 1 November 2012. See also, for example, “Cost of dying in the Philippines; Can we afford to die?” The Freeman (Cebu), 31 October 2016.

<sup>269</sup> Amnesty International interviews, December 2016.

<sup>270</sup> Amnesty International interview, Metro Manila, 13 December 2016.

families, to be used to provide essentials such as food, healthcare and education.<sup>271</sup> The police officer involved in anti-drug operations said he knew many families were unable to afford the costs; he had heard that, particularly following killings by unknown armed persons, some families were now quickly burying bodies before SOCO arrives in order to avoid incurring funeral costs they could not afford.<sup>272</sup>

Other bodies go unclaimed at funeral homes.<sup>273</sup> A funeral home director in Pasay City told Amnesty International they keep bodies for 90 days, after which a mass burial is scheduled.<sup>274</sup> Another funeral director told Al Jazeera that unclaimed bodies and anonymous burials are not new in the Philippines, but rather have long been associated with political violence.<sup>275</sup>

Such acts, beyond being illegal under domestic law,<sup>276</sup> violate the human rights of victims' families, including to freedom from arbitrary or unlawful interference with their privacy, family and home and from unlawful attacks on their honour and reputation, as provided, for instance, in Article 17 of the ICCPR.<sup>277</sup>

## IMPACT ON CHILDREN

The violent campaign against drugs has had a devastating impact on children, who have been killed and otherwise harmed during operations. Proposed changes to the Philippine Penal Code, including the lowering of the age of criminal responsibility, threaten to worsen the situation. On a much wider scale, many children are experiencing severe trauma as a result of losing a parent or sibling and often even witnessing the killing; they also face deeper poverty after a breadwinner's death.

Rowena Legaspi, Executive Director of the Children's Legal Rights and Development Center in the Philippines, told Amnesty International that, between 1 July and early December 2016, there were between 25 and 27 deaths of children as a result of drug-related operations. Of these, she said two were actual targets; the rest were killed "by mistake."<sup>278</sup> It is not clear how many of these killings have been credibly investigated. One such case, the killing of 8-year-old San Niño Batucan, is discussed in detail in the text box below; no credible investigation had been undertaken as of mid-December 2016. Unknown armed persons shot dead seven people, including three more children, in a Metro Manila house on 28 December 2016.<sup>279</sup>

In an October interview with Al Jazeera, President Duterte referred to children and other bystanders killed in the "war on drugs" as "collateral damage."<sup>280</sup> The idea of "collateral damage" refers to killings of civilians or other non-combatants during armed conflict that may not be unlawful under international humanitarian law if they were not targeted and not victims of indiscriminate attacks. However, international humanitarian law does not apply to anti-drug operations in the Philippines. Police are required to comply with international human rights law and domestic legislation, including provisions governing the use of force, as discussed above. Any unlawful use of force that results in death or serious injury is a violation of the right to life and requires an investigation with a view to prosecute those responsible and provide reparations to victims.

In addition to death, children are at times subjected to other forms of violations. In a July 2016 raid in Metro Manila that led to the death of two people, a witness said police forcibly searched a 3-year-old girl, even pulling down her underwear, after alleging the family could have hidden drugs on her.<sup>281</sup> Several local human rights activists said that children arrested for drug-related offenses are often held in adult detention facilities, in violation of the UN Convention on the Rights of the Child, to which the Philippines is a state party.<sup>282</sup> An attorney with the Humanitarian Legal Assistance Foundation said the problems are compounded by the lack of training and sensitivity among barangay officials, including village security officers, on children's specific needs.<sup>283</sup>

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<sup>271</sup> See, for example, ICESCR Art. 11 (right to adequate standard of living, including right to adequate food), Art. 12 (to enjoy the highest attainable standard of health), and Art. 13 (to education).

<sup>272</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>273</sup> See, for example, Aie Balagtas See, "Drug war deaths no real boon to funeral business," The Philippine Daily Inquirer, 17 July 2016.

<sup>274</sup> Amnesty International interview, Metro Manila, 30 November 2016.

<sup>275</sup> Joe Henley, "No peace for the dead in Rodrigo Duterte's drug war," Al Jazeera, 26 October 2016.

<sup>276</sup> The Revised Penal Code of the Philippines (Act No. 3815), 8 December 1930, Art. 210 (Direct Bribery).

<sup>277</sup> ICCPR, Art. 17. More specifically, the European Court of Human Rights has established the right to bury one's relatives under Article 8 of the European Convention on Human Rights and Fundamental Freedoms (right to respect for private and family life). See, for example, *Girard v. France* (Application no. 22590/04), Judgment of 11 June 2011.

<sup>278</sup> Amnesty International interview, Metro Manila, 9 December 2016.

<sup>279</sup> Reuters, "Youths among dead as Philippine gunmen kill seven in 'drugs den'," 29 December 2016.

<sup>280</sup> Al Jazeera, "Rodrigo Duterte interview: Death, drugs and diplomacy," 16 October 2016.

<sup>281</sup> Amnesty International interview with witness, Metro Manila, December 2016.

<sup>282</sup> See UN Convention on the Rights of the Child, Article 37(c).

<sup>283</sup> Amnesty International interview, Metro Manila, 10 December 2016.

Children’s rights are under further threat as Philippine lawmakers consider a bill that would lower the age of criminal responsibility from 15 to 9 years old—legislation that President Duterte has pushed, along with the reinstatement of the death penalty.<sup>284</sup> Civil society activists in the Philippines repeatedly denounced both measures, which would be in flagrant violation of the Philippines’ obligations under international human rights law, and in particular the Convention on the Rights of the Child. In its authoritative General Comment on juvenile justice, the Committee on the Rights of the Child, the expert body charged with overseeing the Convention’s implementation, stated that “a minimum age of criminal responsibility below the age of 12 years” was not “internationally acceptable.”<sup>285</sup> The Committee further recommended that states parties consider 12 years to be “the absolute minimum age” and “to continue to increase it to a higher age level.”<sup>286</sup> Amnesty International is deeply concerned that the Philippines government is trying to go in the opposite direction, and calls on it to desist from this unacceptable attempt.

Amnesty International interviewed several children who directly witnessed their relative’s unlawful drug-related killing. Hundreds of other children, if not more, have likely had the same experience, given the regularity of police and vigilante-style killings in people’s homes. A woman whose husband was killed by unknown armed persons in Caloocan City told Amnesty International that she had to send away her 13-year-old son who had witnessed the killing, because he was too traumatized to stay in that house and neighbourhood.<sup>287</sup>

The trauma is often aggravated as children confront the difficult choice of whether or not to provide witness statements—weighing the desire to pursue justice for a loved one against fears of reprisal. After a 17-year-old girl in Cebu Province witnessed parts of a police operation in which her relative was killed, she initially cooperated with an investigation by the Commission on Human Rights (CHR), even submitting an affidavit. But, her mother explained, the girl stopped taking the CHR’s calls and will no longer participate: “Every time we speak about [what happened], she would cover her ears. She didn’t want to hear anymore. She has bouts of breaking down. She cries ... She’s too afraid of the police. We’re worried about her safety because she commutes to school every day.”<sup>288</sup>

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<sup>284</sup> See, for example, ABS-CBN News, “Death penalty plus lower crime liability age, a ‘deadly combo’- Hontiveros,” 8 December 2016; Mara Cepeda, “DSWD chief: Lower age of criminal liability ‘anti-poor,’ won’t curb crime,” Rappler, 16 November 2016;

<sup>285</sup> Committee on the Rights of the Child, General Comment No. 10 (2007): Children’s rights in Juvenile Justice, UN Doc. CRC/C/GC/10 9 February 2007, para. 32.

<sup>286</sup> *Ibid.*

<sup>287</sup> Amnesty International interview, Metro Manila, December 2016.

<sup>288</sup> Amnesty International interview, location withheld, 9 December 2016.

## KILLING OF 8-YEAR-OLD SAN NIÑO BATUCAN



*San Niño Batucan lies in a casket during his wake, 7 December 2016, Consolacion, Cebu. His father had seen first-hand as assailants on motorcycles interacted with a known police informant, pursued an alleged drug financier, missed the target and killed the 8-year-old son by a stray bullet four days prior. © Amnesty International*

At around 8 p.m. on Saturday, 3 December 2016, 8-year-old San Niño Batucan was lying down on the floor of his family's small wooden shack in Consolacion, a town northeast of Cebu City. Outside, his father Wilson, a village *tanod*, or security officer, prepared to go to the barangay hall. He saw a man, who he and other witnesses claim is a known police "asset," talking on the phone some 10 metres from the Batucan's house. The man said, "Your target is already here."

As Wilson walked down the road, four masked men arrived on two motorcycles. They continued up the street, passing a house at the end where a man—their intended target—was leaning against a post. As the "asset" realized the masked men had driven past their target, "he called them and ... said, 'That's the guy, the guy in red,'" Wilson told Amnesty International four days later. "The guy realized they were looking for him and ran." The assailants pursued the target and opened fire. As the target zigzagged near the Batucan home, they missed.

"I went inside the house. My son said, 'Dad, I'm wounded,'" Wilson recalled. "I opened his shirt, and I saw the bullet hole, it had passed through to the other side of his stomach. .... I carried my son outside, and I shouted, 'Your operation is a flop! My son is shot!'" Wilson flagged down a motorbike driver and asked him to take them to the hospital. The first hospital could not provide the treatment required, so Wilson loaded his son into an ambulance that transported them to another hospital. "My son was saying it was very painful. He was still breathing when I brought him off the ambulance ... but when he was laid [down] on the operating table, his eyes weren't moving anymore. The doctors tried to resuscitate him," before telling Wilson there was nothing they could do. "I cried and cried," he said.

Wilson and his wife Marilou, who also witnessed the incident, were both adamant that the shooters were actually police officers. They cited the collaboration with a known police "asset." They also said the assailants wore bulletproof vests, which Wilson said was unheard of for hired killers there—an opinion echoed by local activists and journalists. Finally, Wilson said the police never conducted a proper investigation; he carried around the .45 calibre shell that killed his son, and wondered why police had neither found it nor returned to interview him. According to media reports, the police denied it was their operation. But, as discussed in more detail above, Amnesty International has received credible information

that the police at times carry out drug-related killings while disguised as unknown armed persons. The operation's target, who Wilson said police have called a drug financier, escaped. "They should have just arrested him," he said. "There were four of them—why didn't they just arrest him?"

San Niño was the thirteenth of the family's fifteen children. He often helped his mother Marilou in the small outdoor stall where they sold goods. "He would approach customers and ask what they wanted," Wilson recalled. "Each time my wife would buy merchandise in the market, he would help [set it up]. We can't accept that he is dead." Marilou showed Amnesty International delegates a photo on her phone of San Niño, smiling and playing with a friend and younger relative. "He had so many friends," she said. "When he died, there were so many of his playmates [that came]."

The family plans to pursue a complaint, once they can pay for burial costs. Marilou blamed the government's violent anti-drug campaign for San Niño's death, saying, "The President is responsible for my son's death. ... I don't like the way he is running his government. I am one of his victims."<sup>289</sup>

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<sup>289</sup> Text box based on Amnesty International interviews, Consolacion, 7 December 2016.

# 4. BARRIERS TO JUSTICE

**“It’s a case with no case, if you know what I mean. Someone dies, there’s a killing, but there’s no suspect.”**

Paid killer involved in drug-related killings

Under Oplan Tokhang, the right to life is not only violated through arbitrary and otherwise unlawful killings, but also by subsequent practices that create barriers to justice, accountability and remedy. Amnesty International’s interviews with families, experts and activists reveal a pattern of police inaction and impunity, often insurmountable obstacles for complainants pursuing legal action and difficulties facing human rights defenders working on these issues.

These barriers often reflect the approach and public statements of President Duterte and his administration. The President has repeatedly said that policemen will not be investigated and has encouraged civilians to personally act against those involved in drugs.<sup>290</sup> As the UN Special Rapporteur on extrajudicial, summary or arbitrary killings has pointed out, such conduct is prohibited by international law and “is effectively a license to kill.”<sup>291</sup>

At the time of writing, not a single police officer had been prosecuted or dismissed from duty in relation to deaths during police anti-drug operations, and in response to 4,146 drug-related killings outside of police operations, there have been arrests in only 543 cases, the details of which are unclear.<sup>292</sup> As discussed above, international human rights treaties to which the Philippines is a state party require it to ensure access to justice, both to achieve accountability for past killings and to help ensure such violations do not keep happening.

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<sup>290</sup> See, for example, “Duterte to PNP: Kill 1,000, I’ll protect you,” *The Philippine Star*, 2 July 2016; “Philippines’ Rodrigo Duterte: Public ‘can kill’ criminals,” *CNN*, 6 June 2016.

<sup>291</sup> OHCHR, “UN experts urge the Philippines to stop unlawful killings of people suspected of drug-related offences,” 18 August 2016.

<sup>292</sup> Michael Bueza, “IN NUMBERS: The Philippines’ ‘war on drugs,’” *Rappler*, 21 January 2017. The figures update regularly on *Rappler*. Amnesty International last accessed the webpage on 21 January 2017.





*The mother of Arjun Dimko Sampan sits (centre back, in black) in his wake surrounded by mourners who came to pay their respect, 9 December 2016, Danao City, Cebu. The 21-year-old was killed in what the police said was a drugs sting operation a little over a week before. © Amnesty International*

## 4.1 NON-EXISTENT OR WEAK INVESTIGATIONS

Whether killings occur as part of a common crime, with some police involvement, or during a police operation, including in genuine “armed confrontations,” the Revised Philippine National Police Operational Procedures require an investigation into the loss of life and delineate specific steps to be completed.<sup>293</sup> Yet many of these appear to be routinely omitted in drug-related cases, including basic measures like interviewing witnesses.<sup>294</sup> In at least ten cases documented by Amnesty International, key witnesses—even when they were the sole witness at the time of killing—said they were never approached by the police. Local human rights investigators examining drug-related killings described a similar pattern.

In a case in Metro Manila that the police claim was a “buy-bust” operation but the family maintains was an unlawful raid, the wife of one of five people killed in her house said no one followed up with her after the incident. “Since it happened, not a single policeman has come to our house, asked anything,” she said.<sup>295</sup>

There are several state institutions that have an obligation to investigate killings by police or unknown armed persons, including the National Bureau of Investigation, the National Prosecution Service, the Ombudsman, and the Internal Affairs Service.<sup>296</sup> However, as explained in a detailed Amnesty International investigation on torture in the Philippines, “these bodies suffer from serious limitations that restrict or even prevent them

<sup>293</sup> Philippine National Police Handbook, Revised Philippine National Police Operational Procedures, December 2013. Rule 15 details investigations following “armed confrontations.” Other Rules cover various aspects of police investigations.

<sup>294</sup> *Ibid.*, p. 65 (on documenting witness statements at the scene), p. 70 (on following up with witnesses and guarding their confidentiality).

<sup>295</sup> Amnesty International interview, Metro Manila, 12 December 2016.

<sup>296</sup> See, for example, President of the Philippines, Administrative Order No. 35: Creating the Inter-agency Committee on Extra-legal killings, Enforced Disappearances, Torture and other Grave Violations of the Right to Life, Liberty and Security of Persons, 2012.

from undertaking effective investigations.”<sup>297</sup> Moreover, there is no clear-cut allocation of roles among these agencies, nor is there public awareness of their roles in the first place.<sup>298</sup>

In the current political climate, there are concerns about the independence of many state institutions. A family member of a man killed in an alleged “buy-bust” operation in July said the family filed a complaint with the National Bureau of Investigation (NBI). The relative told Amnesty International that, when the family first met with an NBI officer, the officer said they were under a “directive” not to probe drug-related killings.<sup>299</sup> After the family persisted, the NBI did visit the crime scene at least twice and processed a complaint, but a different NBI officer told the family it was a “futile” effort under the current administration.<sup>300</sup>

The Internal Affairs Service (IAS) is meant to be an “institutional watchdog agency” for the police,<sup>301</sup> and is mandated to automatically investigate anytime a police officer fires a weapon; anytime “death, serious physical injury, or any violation of human rights” occurs during a police operation; and anytime “evidence was compromised [or] tampered with” by police officers.<sup>302</sup> The head of the IAS, called the Inspector General, is a presidential appointee. The current Inspector General was appointed in early December; as with several other heads of government bodies, he worked under President Duterte when Duterte was mayor of Davao City.<sup>303</sup>

In early December, Reuters reported that the IAS had investigated 1,548 anti-drug operations between 1 July and 24 November 2016.<sup>304</sup> Some cases were dropped for lack of evidence, while others are pending investigation. An IAS official told Reuters that no police officer had been dismissed for misconduct.<sup>305</sup> The IAS appears to have also not referred any officer for criminal prosecution. Although the IAS has a mandate to “file appropriate criminal cases against PNP members before the court as evidence warrants and assist in the prosecution of the case,”<sup>306</sup> it does not fulfill this role in practice, instead focusing on administrative measures.<sup>307</sup>

The police officer with an anti-illegal drugs unit in Metro Manila told Amnesty International there was strong pressure on the police to deliver results in the “war on drugs.” But he said officers did not routinely hide their actions, whether summary executions or other human rights violations, because “we don’t really need to, there aren’t investigations.”<sup>308</sup>

In cases of killings by unknown armed persons, the police have, as of 9 January 2017, concluded investigations in 875 cases out of 4,146, according to figures by a news website citing the Philippine National Police.<sup>309</sup> Leo Villarino, a chief investigator with the Commission on Human Rights in Cebu Province, told Amnesty International the police had not provided his office with figures of how many such killings had been investigated. “We are asking the police: Do you have a meaningful investigation?” he said. “If the police is just sitting on these cases ... who are we to blame? It’s them, because [they are the] law enforcement. What we can conclude is that they are just letting these pass.”<sup>310</sup>

Wilson Batucan, a barangay *tanod*, or security officer, told Amnesty International he saw first-hand as assailants on motorcycles interacted with a known police informant, pursued an alleged drug financier, and opened fire—missing their targets but hitting and ultimately killing his 8-year-old son San Niño in Consolacion. When the police arrived on the scene to investigate, Wilson was rushing the boy to the hospital. “The police have never come back for an investigation,” Batucan told Amnesty International. “They never talked to us about what happened. This is what has made me really mad.”<sup>311</sup>

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<sup>297</sup> Amnesty International, *Above the law: Police torture in the Philippines*, December 2014, p. 63.

<sup>298</sup> *Ibid.*, pp. 71-72.

<sup>299</sup> Amnesty International phone interview, 7 January 2017; and email correspondence, 19 January 2017.

<sup>300</sup> Amnesty International phone interview, 7 January 2017; and email correspondence, 19 January 2017.

<sup>301</sup> Executive Order No. 101: Providing the Immediate Organization and Operationalization of the Interim Internal Affairs Service (IAS) of the Philippine National Police, 7 May 1999.

<sup>302</sup> Republic Act No. 8551: Philippine National Police Reform and Reorganization Act of 1998, 25 February 1998, Title V, Sec. 39.

<sup>303</sup> Bea Cupin, “Davao Lawyer is PNP’s new IAS chief,” *Rappler*, 1 December 2016.

<sup>304</sup> Clare Baldwin, Andrew R.C. Marshall and Damir Sagolj, “Police rack up an almost perfectly deadly record in Philippine drug war,” *Reuters*, 5 December 2016.

<sup>305</sup> *Ibid.*

<sup>306</sup> Republic Act No. 8551: Philippine National Police Reform and Reorganization Act of 1998, 25 February 1998, Title V, Sec. 39(e).

<sup>307</sup> See, for example, Amnesty International, “Above the law: Police torture in the Philippines,” December 2014, p. 89.

<sup>308</sup> Amnesty International interview, Metro Manila, Manila, 13 December 2016.

<sup>309</sup> Michael Bueza, “IN NUMBERS: The Philippines’ ‘war on drugs,’” *Rappler*, 21 January 2017. The figures update regularly on *Rappler*. Amnesty International last accessed the webpage on 21 January 2017.

<sup>310</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>311</sup> Amnesty International interview, Consolacion, 7 December 2016.



*In this photo taken 7 December 2016, the father of San Niño Batucan holds up the casing of the .45 calibre bullet he says killed his son, Consolacion, Cebu. The 8-year-old was hit by a stray bullet as unknown armed persons chased after an alleged drug financier four days prior. © Amnesty International*

Two paid killers, who said they were hired by a police officer to carry out unlawful killings under Oplan Tokhang, told Amnesty International that the police, in essence, enable them to do their work. “I think the whole police force is complicit because there haven’t been any arrests [of paid killers like us],” one of them said. “It’s a case with no case, if you know what I mean. Someone dies, there’s a killing, but there’s no suspect.”<sup>312</sup> He chuckled and repeated, “A case with no case.”<sup>313</sup>

There are growing concerns that the lack of investigations in suspected drug-related killings by unknown armed persons has led to copycat murders not related to drugs. Families and others interviewed by Amnesty International said it was an easy way for people with grudges to exact revenge and avoid repercussions.

In Kidapawan City, an unknown armed person left a cardboard near the body of a car mechanic he just killed, according to several witnesses interviewed.<sup>314</sup> It read, “Don’t be like me, I am a plague on society.” But the killing was not drug-related—it came after he got entangled in a fight over a friend’s love triangle.<sup>315</sup>

Amnesty International has concerns about the police’s ability to investigate killings that occur during police operations or in which the police are otherwise involved, including in certain murders by paid killers. The international standard whenever unlawful use of force is suspected is for there to be a “thorough, prompt and impartial investigation,” as stated above in the Applicable Law section. Investigations independent of the police or, at minimum, direct oversight of police investigations by an independent body, are therefore critical. While there are concerns about the independence of the Department of Justice (DOJ) as well, a special, independent task force affiliated with the DOJ could play such a role, overseeing and, in specific cases, directly carrying out investigations in drug-related killings.

## 4.2 INTIMIDATION AND FEAR OF REPRISAL

Drug-related killings have created a pervasive climate of fear. Several witnesses declined to talk to Amnesty International, citing concerns for their safety or that of their family. Some witnesses and relatives of victims initially agreed to be interviewed before pulling out, fearing reprisal by the police or other suspects involved in the killings. In Davao City, even lawyers and human rights defenders did not want to be interviewed, lest they be perceived as speaking against President Duterte’s violent anti-drug campaign.

Several witnesses and families who did speak to Amnesty International asked that their identities be concealed. Many relatives said they did not plan to file a complaint over the killing of their loved ones. As they struggle to make ends meet, the process of pursuing justice is both a scary notion and a costly

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<sup>312</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>313</sup> Amnesty International interview, Metro Manila, 14 December 2016.

<sup>314</sup> Amnesty International interviews, Kidapawan City, 10 December 2016.

<sup>315</sup> Amnesty International interviews, Kidapawan City, 10 December 2016.

endeavour. Local human rights defenders repeatedly cited the same issues—fear and cost—as the biggest obstacles for people who would otherwise seek justice for drug-related killings.

“We have no capability to pursue justice,” said Nillie Diaz, the wife of Crisostomo Diaz, who was shot dead in October by unknown armed persons in his tiny one-room apartment in Caloocan City. “In the first place, we don’t have anything to eat. In the first place, we don’t know who the assailants were.”<sup>316</sup>

Many relatives expressed a lack of faith in authorities, especially given the dearth of suspects identified to date, and said it would be a waste of money and energy to pursue a case. “Nothing will happen if we file a complaint, it’s an expense we could use to buy diapers and food for our children instead,” said Michelle Ampo-an, the sister of Sandrex Ampo-an, who was killed in September by unknown armed persons in Santa Ana, Manila. “No one will help us.”<sup>317</sup>

In another case in Metro Manila, the family said the extent of fear was such that no one even came to the wake. “I don’t want to [file a case] anymore,” an ailing witness, who says she saw the police shoot her unarmed grandson at point-blank range, told Amnesty International. “It will cause us harm.”<sup>318</sup>

A witness who left behind his children and went into hiding after surviving a raid that killed four people told Amnesty International the police had gone around asking for his whereabouts. He said he felt “not just fear, but anger.”<sup>319</sup>

## 4.3 IMPUNITY

From their conduct during drug-related operations to the processing of crime scenes, police officers routinely act as if they are above the law. President Duterte’s promises to protect security forces from prosecution have undoubtedly helped create this climate of impunity.<sup>320</sup> Unknown armed persons, who have collectively been able to get away with at least several thousand killings, appear similarly unconcerned with prosecution.

In a particularly egregious case, President Duterte publicly defended police officers who the NBI accused of killing Albura Mayor Ronaldo Espinosa in his jail cell in November 2016. “I will not allow these guys to go to prison, even if the NBI says it was murder,” Duterte said in a televised speech in December.<sup>321</sup> Indeed, Duterte ordered the reinstatement of the head of the local Criminal Investigation and Detection Group team that raided the jail and opened fire.<sup>322</sup>

The police officer interviewed by Amnesty International indicated that, at least when carrying out drug operations, the police often pay little regard for the rules. “Sometimes we plan whether we want to kill this person or [arrest him],” he said.<sup>323</sup> As detailed above on page 30 he admitted that police at times misstate the facts in police incident reports and routinely plant “evidence” to link the targets of killings or arrests to drugs. “If you really follow by the book, you can’t achieve anything,” he said.<sup>324</sup>

In many cases documented by Amnesty International, witnesses spoke of wilful disregard of procedure by the police. Examples included the failure to wear police uniforms during operations and the absence of barangay officials during and after operations, including as inventory was examined. After killing a young man during a raid on his home in Metro Cebu, police officers asked his live-in partner if she could make them coffee as they dealt with the crime scene. She declined. They returned, as she grieved her partner’s death, to ask if they could take drinks from the refrigerator.<sup>325</sup>

The two paid killers who said they are overseen by a police officer in killing drug targets also conveyed a sense of feeling untouchable. They told Amnesty International, “Once we’re finished with a target, the story comes out in the news and it’s different, so we’re not really worried about an investigation.”<sup>326</sup>

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<sup>316</sup> Amnesty international interview, Metro Manila, 1 December 2016.

<sup>317</sup> Amnesty International interview, Metro Manila, 2 December 2016.

<sup>318</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>319</sup> Amnesty International interview, Metro Manila, 2 December 2016.

<sup>320</sup> See, for example, Christina Mendez, “Duterte to PNP: Kill 1,000, I’ll protect you,” *The Philippine Star*, 2 July 2016; Euan McKirdy, “Philippines’ Rodrigo Duterte: Public ‘can kill’ criminals,” *CNN*, 6 June 2016.

<sup>321</sup> See, for example, Anjo Alimario, “Duterte on cops in Espinosa killing: I won’t allow them to go to prison,” *CNN Philippines*, 8 December 2016.

<sup>322</sup> See, for example, Leila B. Salaverria, “It was I who called De la Rosa, Duterte admits,” *Philippine Daily Inquirer*, 2 December 2016.

<sup>323</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>324</sup> Amnesty International interview, Metro Manila, 13 December 2016.

<sup>325</sup> Amnesty International interviews, Cebu City, 7 December 2016.

<sup>326</sup> Amnesty International interview, Metro Manila, 14 December 2016.

## 4.4 RISKS, CHALLENGES FOR HUMAN RIGHTS INVESTIGATIONS

Given the magnitude and severity of abuses associated with the “war on drugs,” human rights defenders have a critical role to play in helping provide information and guidance on relevant human rights obligations and their violations. Interviews across the country with lawyers, local civil society activists, and investigators with the Commission on Human Rights (CHR)—an independent constitutional body that receives complaints from victims and undertakes investigations of human rights violations—reveal a number of risks and challenges in documenting cases.

In late November, President Duterte openly threatened to kill human rights defenders, after his violent anti-drug campaign came under repeated criticism. “I will include you [human rights workers] because you are the reason why their [people who use drugs] numbers swell,” he said during a speech.<sup>327</sup> Even before that, human rights defenders critical of Oplan Tokhang faced regular harassment, intimidation and cyberbullying. Several activists expressed concern to Amnesty International about digital monitoring and surveillance, with one group referring to it as an “Online Tokhang.”<sup>328</sup>

Several veteran human rights defenders said that, even compared to the eras of martial law and Marcos, the current climate is alarming. A heavy burden has fallen on the CHR which, at the time of writing, has investigated roughly 400 cases of drug-related killings nationwide. Seven cases have advanced to a complaint filed with the prosecutor, though no case has yet reached a court.<sup>329</sup>

The sheer number of killings has made it hard for the CHR to grapple with the situation. Leo Villarino, chief investigator in Cebu, said there were only 10 investigators to handle cases in all four provinces of Central Visayas<sup>330</sup>—an area made up of islands stretching over 10,500 square kilometres and with a population of more than six million. Local civil society activists have increasingly established coalitions to carry out joint documentation and advocacy.

A fear of reprisals leads many people to refuse to speak with human rights activists; concerns are often greater when there is a potential judicial action, such as the cases being built by the CHR. An investigator with the CHR told Amnesty International that witnesses at times give statements but then never return to sign them; in other cases, witnesses refuse to ever engage with the CHR. “We’re really having a hard time,” he said. “The families are frightened. [Sometimes] they themselves are involved in the drug trade. They are hesitant, fearing they will be next. [They] feel the community is against you, not believing you.”<sup>331</sup>

Concerns about retaliation demonstrate the importance of a strong witness protection programme in pursuing cases of unlawful killings, particularly against the police. International human rights law provides that states must protect victims and witnesses from violence and intimidation.<sup>332</sup> While the DOJ has primary responsibility under the law to provide witness protection services, even before the current anti-drugs campaign its programme was marred by bureaucratic delays and, especially in high profile cases, saw witnesses seek sanctuary instead with religious groups and other non-governmental organisations.<sup>333</sup>

Moreover, government authorities staunchly maintain that the police are not involved in unlawful killings,<sup>334</sup> which undermines by association the DOJ and its witness protection programme.<sup>335</sup> Human rights defenders and other experts told Amnesty International that neither they nor most witnesses have confidence in the DOJ witness protection programme.<sup>336</sup> As a result, the CHR has been flooded with requests for witness protection beyond its current capacity.

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<sup>327</sup> Marlon Ramos, “Duterte threatens to kill rights activists if drug problem worsens,” *Philippine Daily Inquirer*, 29 November 2016.

<sup>328</sup> Amnesty International interviews, Metro Manila, December 2016.

<sup>329</sup> Amnesty International interview with Chito Gascon, Chairman of the Commission on Human Rights, Metro Manila, 29 November 2016.

<sup>330</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>331</sup> Amnesty International interview, location withheld, December 2016. The investigator also said that while some police stations comply promptly with CHR subpoenas for police files, other stations routinely ignore them, compounding the Commission’s challenges in gathering information.

<sup>332</sup> See, for example, Human Rights Committee, General Comment No. 35, Article 9: Liberty and security of person, UN Doc. CCPR/C/GC/35, 16 December 2014, para. 9.

<sup>333</sup> See, for example, Amnesty International, “Above the law: Police torture in the Philippines,” December 2014, p. 74.

<sup>334</sup> See, for example, Julliane Love De Jesus, “‘Bato’ defends cops: They value life,” *Philippine Daily Inquirer*, 1 August 2016.

<sup>335</sup> Amnesty International interviews, Metro Manila, December 2016. The Secretary of Justice, appointed by Duterte, is a former classmate of the President and has repeatedly defended him in public. See, for example, Jim Gomez, “UN rights chief calls for murder investigation into Duterte claims,” *Associated Press*, 20 December 2016.

<sup>336</sup> Amnesty International interviews, Metro Manila and Cebu City, December 2016.

The CHR's witness protection programme is implemented by the central office in Manila, with regional offices always having to request support. The Commission, which for 2017 was allocated roughly a third of the budget it asked for, has nowhere near enough safe houses and has been forced to appeal to international donors for assistance.<sup>337</sup> "Sometimes our personnel have to spend their own money on work," one investigator told Amnesty International.<sup>338</sup>

The scarcity of resources likewise undermines the collection of forensic evidence—particularly important when documenting cases with conflicting police and witness accounts. The CHR's entire forensic team is comprised of four people based in Manila. Its services are limited to autopsies and do not include ballistics analysis or a chemical lab; for that, the CHR has to rely on facilities of the national police or the NBI.

Police facilities, too, are inundated. The head of SOCO told Reuters the crime lab at the police headquarters in Manila did not have an X-ray machine to scan bodies and has only two dissection tables and no cold storage.<sup>339</sup> Outside Metro Manila, resource constraints are even grimmer: for the four provinces of Central Visayas, for example, the national police's crime lab has two doctors, and NBI's has one.<sup>340</sup>

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<sup>337</sup> CHR proposed a budget of more than 1.4 billion pesos (US \$28.2 million) for 2017, but only 496 million (US \$10 million) was approved. Amnesty International interview, December 2016. See also, for example, CNN Philippines, "Diokno on ₱927M CHR budget cut: 'That's natural,'" 3 October 2016.

<sup>338</sup> Amnesty International interview, location withheld, December 2016.

<sup>339</sup> Clare Baldwin, Andrew R.C. Marshall and Damir Sagolj, "Police rack up an almost perfectly deadly record in Philippine drug war," Reuters, 5 December 2016.

<sup>340</sup> Amnesty International interview with Leo Villarino, Chief CHR Investigator, Cebu City, 7 December 2016.

# 5. RIGHT TO HEALTH

**“It should be left up to the person to stop using drugs or not. It does not work to force people.”**

Person currently using drugs in Cebu City

**“HIV testing among injecting drug users dropped [by] over 60 percent over the last few months.”**

Jerson See, founder and president of Cebu Plus, an HIV care organization

President Duterte has openly said he considers people who use drugs sub-human. While addressing soldiers during a speech in August, he responded to accusations that he may be responsible for crimes against humanity, saying, “In the first place, I’d like to be frank with you: are they humans? What is your definition of a human being?”<sup>341</sup> He urged the military to make space for “drug users” in their camps, saying they should be isolated “in the mountain.”<sup>342</sup>

These remarks and others have underscored the prohibitionist approach of his “war on drugs,” resulting in practices that violate international human rights law and further stigmatize and discriminate against people who use drugs. Despite unveiling a plan to build four “mega” rehabilitation centres in different parts of the country, Duterte’s drug policy has been widely based on a punitive approach rather than promoting a model based on the protection of human rights and public health. His fiscal allocations have made his priorities clear: while significantly increasing the budget of the police (by 25 percent), the military (15 percent), and his own office (600 percent), Duterte slashed the budget of the Department of Health by 25 percent, from 125 billion pesos (US \$2.5 billion) in 2016 to 94 billion pesos (US \$1.9 billion) in 2017.<sup>343</sup>

The rush to carry out the anti-drug “programme” has not only revealed the extent of the health sector’s unpreparedness, but also the authorities’ tendency to promote a one-size-fits-all solution to drug dependence that is not based on scientific evidence. The security crackdown and resulting stigma have pushed people who use drugs and other marginalized groups away from accessing what limited health

<sup>341</sup> AFP, “Drug users aren’t human, says Philippines’ Duterte,” 28 August 2016.

<sup>342</sup> Marlon Ramos, “Junkies are not humans,” *Philippine Daily Inquirer*, 28 August 2016. The article quoted President Duterte as saying, “Give a little space, in the mountain, not here (in the city). You cannot rehabilitate these guys there if they remain (here). You have to isolate them. ... And for those that cannot be repaired ... these are the (legally insane). They become dysfunctional.” *Ibid.*

<sup>343</sup> Jess Diaz, “Duterte cuts health budget by 31B,” *The Philippine Star*, 21 August 2016. The Budget Secretary has said that the enormous increase in budget for the Office of the President is a result of the Philippines playing host to the 2017 Summit of the Association of Southeast Asian Nations (ASEAN), on its fiftieth anniversary. Of the 20.03 billion pesos that comprise the budget for the Office of the President in 2017, up from 2.86 billion pesos in 2016, the Budget Secretary said that 15 billion pesos are for the Summit. See, for example, Aika Rey, “What’s in the proposed 2017 national budget?” *Rappler*, 20 October 2016; Marc Jayson Cayabyab, “DBM submits P3.35-T ‘budget for change’ for 2017,” *Philippine Daily Inquirer*, 15 August 2016.

services are available. It has also led to riskier and more harmful practices, including needle sharing. This has compounded the peril of groups already at risk and undermined many people's right to enjoy the highest attainable standards of health.

## 5.1 LACK OF EFFECTIVE DRUG TREATMENT AND REHABILITATION SERVICES

The country's health services are ill-prepared to meet the needs of the more than one million people who have "surrendered" under Oplan Tokhang. According to the Department of Health, there are 45 accredited drug treatment and rehabilitation centres in the country.<sup>344</sup> Sixteen of the centres are public, with a total capacity of about 5,300 inpatients.<sup>345</sup>

"They operated a very fast Oplan Tokhang without properly planning for the continuum of care for the drug user," Jerson See, founder and president of Cebu Plus, an HIV care organization, told Amnesty International. "It's like you have a lot of water in a place but you only have one glass to fill it."<sup>346</sup>

On 29 November 2016, President Duterte inaugurated the first phase of one of four planned "mega" drug rehabilitation centres to be built inside military camps, this one at the country's largest military reservation, Fort Magsaysay in Nueva Ecija. Constructed with financial help from a Chinese real estate tycoon, the 11-hectare compound will reportedly be able to take in 10,000 patients when completed. At its opening in November 2016, it was ready to admit up to 500.<sup>347</sup>

The human rights implications of placing a rehabilitation facility within a military camp are alarming, particularly related to the rights to liberty and health. It suggests treatment is a form of punishment rather than therapy and reinforces a stigmatized view of people who use drugs as criminals. The practices inside the one such open facility remain unclear at the time of writing. However, in a speech in July, Duterte, in describing the facilities to be built in the military camps, reportedly said, "Let's use high-wire fences so they get scared."<sup>348</sup> He added, "The legal basis is we take him in for his own protection. That's why we are allowed to arrest insane people for compulsory confinement. It is to protect him from harm and protect the public."<sup>349</sup>

Not all drug use leads to dependence or requires treatment. According to the latest estimate by UNODC, only about 12 percent of people who use drugs worldwide developed a drug dependence.<sup>350</sup> The Philippine Department of Health estimates that more than 95 percent of those who "surrendered" under Oplan Tokhang do not need residential drug rehabilitation.<sup>351</sup> According to the Department of Health's plan, a small percentage are meant to be referred to its affiliated outpatient programmes, and the remaining majority go to community-based programmes run by barangays and city officials.

Since "surrendering" under Oplan Tokhang started, the majority of people who use drugs have indeed been processed through local programmes. But existing interventions at the community level do not appear to be evidence-based,<sup>352</sup> bringing into question the quality of the healthcare services they render. A health expert who has been assessing the Department of Health rehabilitation programmes told Amnesty International the current community-based system is punitive and chaotic.<sup>353</sup>

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<sup>344</sup> Republic of the Philippines Department of Health, "PH opens 1<sup>st</sup> mega drug abuse treatment and rehabilitation centre inside military camp," 1 December 2016. Amnesty International came to these figures by adding the capacity of the "mega" centre at time of writing to the capacity referenced in the DOH press release.

<sup>345</sup> *Ibid.*

<sup>346</sup> Amnesty International interview, Cebu City, 6 December 2016.

<sup>347</sup> Republic of the Philippines Department of Health, "PH opens 1<sup>st</sup> mega drug abuse treatment and rehabilitation centre inside military camp," 1 December 2016.

<sup>348</sup> Pia Ranada, "Duterte: Use of military camps as rehab centers temporary," Rappler, 28 July 2016.

<sup>349</sup> *Ibid.*

<sup>350</sup> UNODC, World Drug Report 2016, p. 1, [https://www.unodc.org/doc/wdr2016/WORLD\\_DRUG\\_REPORT\\_2016\\_web.pdf](https://www.unodc.org/doc/wdr2016/WORLD_DRUG_REPORT_2016_web.pdf).

<sup>351</sup> Republic of the Philippines Department of Health, "DOH to pilot mega drug rehabilitation centre inside military camp this November," 12 October 2016.

<sup>352</sup> The United Nations General Assembly adopted, by consensus, a resolution that calls for recognizing "drug dependence as a complex, multifactorial health disorder ... that can be prevented and treated through, inter alia, effective scientific evidence-based drug treatment, care and rehabilitation programs." Resolution Adopted by the General Assembly on 19 April 2016: Our joint commitment to effectively addressing and countering the world drug problem, UN Doc. A/RES/S-30/1, para 1(i), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/110/24/PDF/N1611024.pdf?OpenElement>.

<sup>353</sup> Amnesty International interview, Metro Manila, 7 December 2016.



When Amnesty International asked community leaders and members what local drug treatment and rehabilitation programmes entailed, the first answer given was almost always “Zumba.”<sup>354</sup> While physical fitness can be a component of voluntary rehabilitation programmes, effective drug treatment and rehabilitation should not solely be based on abstinence but should entail a more holistic approach.<sup>355</sup> Local officials do not currently seem to have the capacity to offer that.

A barangay captain in Metro Manila proudly waved a guide on community-based care and treatment services, published by UNODC. He said that was the basis for his approach, but when he went into details, his plan primarily revolved around job training and placement. “I am very happy to say it’s not only ‘you have to arrest them or kill them,’ but ‘you have to convince them to take up skills-learning,’” he said.<sup>356</sup> His job training initiative had also only reached 36 out of the more than 1,300 people on his “drug watch list”; he had chosen the beneficiaries personally.<sup>357</sup>

Another Metro Manila barangay captain, who took pride in the fact that there had been zero drug-related killings in her area, told Amnesty International she had been handling drug dependence through a “values formation programme” on Sundays and Zumba fitness classes on Saturdays.<sup>358</sup> Referring to those who surrender as “volunteers,” she said, “We educate volunteers on real values. ... We enrol them in community service, we give them a chance to be part of peace and order in our community.”<sup>359</sup>

In a killing by unknown armed persons documented by Amnesty International in Kidapawan City, the mother-in-law of a slain man who used drugs said he had “surrendered” and, as part of the community programme, had been attending weekly sessions at the municipal hall. “They were given lectures that drugs are not good,” she said.<sup>360</sup>

The scarcity of needed health services is not only in viable treatment and rehabilitation facilities and programmes, but also in trained specialists. Those who surrender are meant to undergo a first screening by barangay health workers. Experts question to what extent the process is carried out efficiently and whether staff even have the relevant medical knowledge.<sup>361</sup>

The primary assessment is supposed to determine the severity of a case and whether it can be handled at the community level or needs to be sent for a second assessment, for referral to facility-based outpatient or inpatient services. Reform advocates, however, told Amnesty International that, as of January 2017, there are only roughly 262 accredited doctors nationwide qualified to carry out this assessment.<sup>362</sup> A Department of Health spokesperson told Reuters that he did not know how many of those who had surrendered were medically screened.<sup>363</sup>

The accessibility and affordability of formal treatment and rehabilitation services is another concern, particularly since the urban poor comprise the vast majority of those who have surrendered. According to the regulations of the Dangerous Drugs Board, the government agency in charge of drug policy, “any monetary consideration in relation to rehabilitation shall be borne by the surrenderer.”<sup>364</sup> The regulations further state that “indigent” individuals may request assistance from local authorities, or alternatively submit to community-based rehabilitation.<sup>365</sup>

News reports indicated that “indigent patients” will be able to stay in the Fort Magsaysay “mega” rehab centre for free, while other patients will be assessed based on economic class (A, B, and C), with payments ranging from 2,500 pesos (US \$50) to the full amount of 10,000 pesos (US \$201) a month.<sup>366</sup> A man who

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<sup>354</sup> Zumba is a fitness routine that is a mix of dancing and aerobics.

<sup>355</sup> See, for example, UNODC and WHO, International standards for the treatment of drug use disorders, March 2016, [https://www.unodc.org/documents/commissions/CND/CND\\_Sessions/CND\\_59/ECN72016\\_CRP4\\_V1601463.pdf](https://www.unodc.org/documents/commissions/CND/CND_Sessions/CND_59/ECN72016_CRP4_V1601463.pdf)

<sup>356</sup> Amnesty International interview, Metro Manila, 5 December 2016.

<sup>357</sup> Amnesty International interview, Metro Manila, 5 December 2016.

<sup>358</sup> Amnesty International interview, Metro Manila, 5 December 2016.

<sup>359</sup> Amnesty International interview, Metro Manila, 5 December 2016.

<sup>360</sup> Amnesty international interview, Kidapawan City, 10 December 2016.

<sup>361</sup> Amnesty international interview with drug policy reform advocacy group NoBox Philippines, Metro Manila, 7 December 2016; and email correspondence, 3 and 23 January 2017.

<sup>362</sup> Amnesty international interview with drug policy reform advocacy group NoBox Philippines, Metro Manila, 7 December 2016; and email correspondence, 3 and 23 January 2017.

<sup>363</sup> Clare Baldwin and Andrew R.C. Marshall, “Special Report: As death toll mounts, Duterte deploys dubious data in drugs war,” Reuters, 24 October 2016.

<sup>364</sup> Dangerous Drugs Board, Board Regulation No. 3, Series of 2016: Guidelines on handling voluntary surrender of drug personalities, 3 August 2016, [http://pcij.org/wp-content/uploads/2016/09/BD.REG3\\_16.pdf](http://pcij.org/wp-content/uploads/2016/09/BD.REG3_16.pdf).

<sup>365</sup> *Ibid.*

<sup>366</sup> Pia Ranada, “Duterte, Chinese tycoon inaugurate ‘mega’ drug rehab centre,” Rappler, 29 November 2016. See also, for example, Federico D. Pascual, “Killing drug addicts is not the solution,” The Philippine Star, 1 December 2016; Philippine News Agency, “Ecija rehab open for indigents,” 8 November 2016.

currently uses drugs in Cebu City told Amnesty International the cost of rehab was prohibitive for many who would want to consider it: “There is no free rehab here. Even the government rehab, people have to pay for it.”<sup>367</sup>

## 5.2 IS IT VOLUNTARY?

Under Oplan Tokhang, when a person “surrenders,” the affidavit they sign states that this is a “voluntary surrender as a (pusher/user) of dangerous drugs.”<sup>368</sup> It authorizes laboratory services to take urine samples and “conduct physical/medical examination for any purpose that may serve the Agency.”<sup>369</sup> It further commits a signatory to being subjected to random drug testing and states, “I am willing to voluntarily submit myself for treatment and rehabilitation.”<sup>370</sup>

Despite the affidavit’s repeated use of the words “voluntary” and “voluntarily,” none of the people who use drugs, relatives of victims, experts, and activists interviewed by Amnesty International described “surrendering” and associated health testing—or even the community Zumba programmes—as an act of free will. Given the widespread drug-related killings and climate of fear created by police actions and President Duterte’s rhetoric, many people who use drugs feel forced to submit to drug treatment, rehabilitation and testing. Such coercive measures constitute a violation to the rights to enjoy the highest attainable standard of health, to privacy and to bodily integrity, as well as to freedom from torture and other ill-treatment.<sup>371</sup>

“They might be seen as voluntarily going there and submitting themselves for rehab, but in reality ... that’s very subjective,” said Jerson See of Cebu Plus.<sup>372</sup> In Manila, a person who formerly used drugs and was interviewed by Amnesty International said he had “surrendered” voluntarily, but added, “Some feel threatened—‘change or else.’ If you don’t go, they assume you are still dirty.”<sup>373</sup>

People who use drugs indicated in interviews that they consider surrendering to rehabilitation under Oplan Tokhang as a calculated decision to reduce the risk of being killed. A 24-year-old woman who uses drugs told Amnesty International that, even though her name was not on her area’s “drug watch list,” she sometimes considers “surrendering” because “I want to stay alive. ... I am afraid of getting killed or caught, which is very common in our area now.”<sup>374</sup> She said she would not otherwise consider it because she is worried about the painful effects of withdrawal.

Three other people who use drugs told Amnesty International they did not equate “surrendering” with rehabilitation, but rather with being watched, pursued, and ultimately killed.<sup>375</sup> “It should be left up to the person to stop using drugs or not,” one person who uses drugs said. “It does not work to force people. Sometimes people who have been forced to surrender go in and stop using drugs but a few days later they go back to using and end up being killed.”<sup>376</sup>

Although there have been no indications so far that government-run inpatient rehabilitation facilities involve forced labour and related abusive practices seen in other Southeast Asian countries,<sup>377</sup> concerns remain over the facilities’ care. A health expert evaluating the Department of Health’s centres told Amnesty International they represent a criminal justice confinement or quarantine model of care, where patients are enrolled under court orders signed by doctors on the court’s behalf. In effect, the expert said, the healthcare

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<sup>367</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>368</sup> Dangerous Drugs Board, Board Regulation No. 3, Series of 2016: Guidelines on handling voluntary surrender of drug personalities, 3 August 2016 (Annex A: “Affidavit of undertaking and waiver”), [http://pcij.org/wp-content/uploads/2016/09/ATTACHMENT\\_OF\\_BD\\_REG3\\_S\\_2016\\_Voluntary\\_Surrender\\_Forms.pdf](http://pcij.org/wp-content/uploads/2016/09/ATTACHMENT_OF_BD_REG3_S_2016_Voluntary_Surrender_Forms.pdf).

<sup>369</sup> *Ibid.*

<sup>370</sup> *Ibid.*

<sup>371</sup> See, for example, Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UN Doc. A/65/255, 6 August 2010, paras. 31 and 34; Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/HRC/22/53, 1 February 2013, paras. 40-4.

<sup>372</sup> Amnesty International interview, Cebu City, 6 December 2016.

<sup>373</sup> Amnesty International interview, Manila, 4 December 2016.

<sup>374</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>375</sup> Amnesty International interviews, Cebu City, 7 December 2016.

<sup>376</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>377</sup> See, for example, WHO Western Pacific Region, Assessment of compulsory treatment of people who use drugs in Cambodia, China, Malaysia, and Viet Nam: An application of selected human rights principles, 2009, [http://www.wpro.who.int/publications/docs/FINALforWeb\\_Mar17\\_Compulsory\\_Treatment.pdf](http://www.wpro.who.int/publications/docs/FINALforWeb_Mar17_Compulsory_Treatment.pdf).

system has been given the responsibility for criminal justice confinement, albeit with enriched elements of care.<sup>378</sup>

## 5.3 IMPACT ON HARM REDUCTION AND HIV PREVALENCE

Even before President Duterte came to office, the Philippines had restrictive drug laws that curtailed harm reduction efforts and contributed to the spread of blood-borne viruses such as HIV and hepatitis C. Harm reduction, as defined by Philippine authorities themselves, is a reference to “policies, programs, and practices that aim to reduce the harms associated with the use of psychoactive drugs in people unable or unwilling to stop. Harm reduction compliments approaches that seek to prevent or reduce the overall level of drug consumption, and reduce HIV infections.”<sup>379</sup> The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has said that “[c]riminalization of drug use and possession also may lead to an increased risk of illness among people who use drugs,” noting in particular “higher HIV prevalence among people who use injecting drugs, without a decrease in prevalence of injecting drug use,” as risky forms of drug use are sought to avoid repressive practices.<sup>380</sup>

Although the Philippines has an overall low prevalence of HIV/AIDS,<sup>381</sup> it has one of the world’s fastest growing transmission rates worldwide. According to the UN, in 2000, one new case was diagnosed every three days; by the end of 2013, there was one new case every two hours.<sup>382</sup> New infections are associated mainly with specific risk behaviour, including unprotected sex among men who have sex with men and sharing contaminated needles among people who inject drugs.<sup>383</sup>

This growing epidemic is particularly alarming in the country’s second most populous metropolitan area, Cebu City, where 54 percent of people who inject drugs are HIV positive.<sup>384</sup> Nearly all of them have hepatitis C.<sup>385</sup> The city has the highest HIV prevalence rate in the country,<sup>386</sup> primarily due to needle sharing in its infamous “shooting galleries.”<sup>387</sup> So-called “shooting galleries” are places where people gather to buy and inject drugs, and where dealers sometimes pass around “service needles” for customers to share.<sup>388</sup>

The City Health Office and independent NGOs operate programmes targeting people who inject drugs and people living with HIV. Services include medical treatment, counselling and condom distribution. However, the possession and distribution of drug paraphernalia are criminalized, and since the authorities cracked down in recent years on a clean needle and syringe distribution programme,<sup>389</sup> less people are able to access these services.<sup>390</sup>

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<sup>378</sup> Amnesty International interview, Metro Manila, 7 December 2016.

<sup>379</sup> Philippines Department of Health, the Cebu City Health Department, and the WHO Western Pacific Regional Office, A time for urgent action: Responding to the HIV Epidemic among people who inject drugs in Cebu City, 2012, footnote 1, <http://iris.wpro.who.int/handle/10665.1/7846>.

<sup>380</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UN Doc. A/65/255, 6 August 2010, para 26.

<sup>381</sup> According to the Philippines Department of Health, the first AIDS case in the country was reported in 1984. The DOH Epidemiology Bureau figures reported in June 2016 show that from January 1984 to June 2016, there has been 34,999 cases. That’s a prevalence rate of under 0.1 percent of the adult population. Department of Health, “HIV/AIDS & ART registry of the Philippines (HARP),” June 2016.

<sup>382</sup> UNAIDS, 2014 Global AIDS Response Program Reporting, Country Progress Report: Philippines, p. 6.

<sup>383</sup> *Ibid.*

<sup>384</sup> Philippines Department of Health, the Cebu City Health Department, and the WHO Western Pacific Regional Office, A time for urgent action: Responding to the HIV Epidemic among people who inject drugs in Cebu City.

<sup>385</sup> *Ibid.* (reporting that 94 percent of injecting drug users in Cebu City have hepatitis C).

<sup>386</sup> According to Department of Health figures, in 2014 Cebu City had an HIV prevalence rate of 7.7 percent, ahead of Manila and Quezon City, whose rates were 6.7 and 6.6 percent, respectively. DOH, AIDS Epidemic Model (AEM): Impact Modelling and Analysis, 2014, p. 9, [http://www.doh.gov.ph/sites/default/files/publications/2014%20AIDS%20Epidemic%20Model\\_Impact%20Modeling%20and%20Analysis.pdf](http://www.doh.gov.ph/sites/default/files/publications/2014%20AIDS%20Epidemic%20Model_Impact%20Modeling%20and%20Analysis.pdf).

<sup>387</sup> Pascal Tanguay, Evaluation of harm reduction service delivery in Cebu City, Philippines 2013-2015, Washington, DC: World Bank Group, April 2016, p. 7.

<sup>388</sup> See, for example, Ana P. Santos, “The city at the heart of the Philippines’s HIV epidemic,” *The Atlantic*, 5 January 2016.

<sup>389</sup> The Dangerous Drugs Act criminalizes the possession and distribution of drug paraphernalia, including syringes. In 2009, public health groups had to stop clean needle and syringe distribution programmes after the city made syringes without prescription illegal. HIV prevalence among injecting drug users shot up from 0.59 percent in 2009 to 53.82 percent in 2010. Philippines Department of Health, the Cebu City Health Department, and the WHO Western Pacific Regional Office, A time for urgent action: Responding to the HIV Epidemic among people who inject drugs in Cebu City. In 2014, there was an approval to reinstate distribution under the scope of a limited research project, but it was repeatedly interrupted due to opposition from local officials. It has now come to a complete halt. Amnesty International interviews, Cebu City, 6-7 December 2016.

<sup>390</sup> Amnesty International interviews, Cebu City, 6-7 December 2016.

Interviews conducted by Amnesty International with people who inject drugs and with activists in Cebu City revealed the extent to which Oplan Tokhang has driven people who use drugs and people living with HIV further underground, creating more barriers to crucial prevention, harm reduction and treatment services. “HIV testing among people who inject drugs dropped [by] over 60 percent over the last few months,” said Jerson See, whose HIV care organization Cebu Plus used to distribute clean needles but no longer does. “More community members are afraid of getting themselves tested. Educators and health workers are already cautious because they might be incarcerated or identified as drug users.”<sup>391</sup>

A community worker who quietly continued distributing clean syringes and needles despite the local government ban in 2009 said he had to stop completely after Duterte came to office. He had received a phone call from officials in Manila instructing him to stop. “We also experienced the ‘knock knock,’” he said, metaphorically referencing the meaning of Tokhang. “They knocked and asked us to stop, and we stopped.”<sup>392</sup>

A 26-year-old man who uses drugs and is HIV-positive told Amnesty International that he used to get free clean syringes; after the programme was stopped, he resumed the practice of sharing needles, despite his HIV status. “Sometimes we have to resort to it, though maybe just once a week only,” he said.<sup>393</sup> He also said he used to go to the city health office to get check-ups and free condoms but now is concerned that being associated with the facility would out him to the police as a “drug user”: “We are afraid we would get arrested when we step out [of the building], or that they follow us home and we get arrested later.”<sup>394</sup>

Several persons who use drugs also said that the government crackdown has caused the prices of syringes and the popular drugs shabu and nubain (nalbuphine hydrochloride) to go up. One of them, a 47-year-old man who is not HIV positive, said he has returned to using shared needles as a result. He said he cleans the used syringes with bleach and water, but that “what matters most is what’s in the syringe.”<sup>395</sup> He described how people who use drugs at times play with used needles, throwing them at the wall like darts. “Now, [some people] are pulling these needles out of the wall and reusing them, no matter how old they are.”<sup>396</sup>

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<sup>391</sup> Amnesty International interview, Cebu City, 6 December 2016.

<sup>392</sup> Amnesty International interview, Cebu City, 6 December 2016.

<sup>393</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>394</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>395</sup> Amnesty International interview, Cebu City, 7 December 2016.

<sup>396</sup> Amnesty International interview, Cebu City, 7 December 2016.

# 6. CONCLUSION AND RECOMMENDATIONS

**“We no longer even trust our neighbours. We worry who might report on us. It's fundamentally changed society.”**

Philippine journalist in Metro Manila

President Duterte has repeatedly promised to kill all of the country's “drug users” and sellers. Seven months into his presidency, police officers and unknown armed persons are together turning those statements into a terrifying reality, with more than 7,025 people killed as of 21 January. Every night, the bodies of at least a handful of alleged drug offenders end up in morgues across the country, riddled with bullet holes. Every night, thousands more lie in terror because they or their loved ones use drugs, or used drugs in the past, or may have a neighbour who, out of personal or political rivalry, told local officials they use drugs.

The vast majority of drug-related police killings documented by Amnesty International appear to have been extrajudicial executions. Such internationally unlawful killings fit a consistent pattern. Police allege that, during raids or “buy-bust” operations, alleged drug offenders resist arrest and open fire on them. Witnesses, on the other hand, consistently describe police barging into houses late at night and unloading multiple rounds into unarmed victims; in some cases, police officers force other family members to leave the house before killing their intended target. Statistics further undermine the police narrative of a shootout: 35 police officers have been killed during anti-drug operations compared to almost 2,500 alleged drug offenders.

Thousands more people have been killed by unknown armed persons, who often arrive in groups of two on motorcycle to perform a hit and run. In at least some cases, there appear to be direct links between paid killers and state authorities—as police officers both run groups of hired killers and carry out killings themselves while disguised as vigilantes.

After unlawful killings, police officers commonly plant “evidence” that links the victim both to drugs and to fighting back. Such tampering with crime scenes is typically the first in a long line of actions by police officers and other officials that make a mockery of justice. Key witnesses are seldom interviewed, leads are not pursued, steep financial costs are imposed, and personnel critical for investigations like forensic experts are lacking—all of which has left many victims' families disillusioned with pursuing justice. Those who do seek justice are in persistent fear of reprisal.

The extrajudicial executions, perpetrated both by police during anti-drug operations and by paid killers with police involvement, appear to have been organised and planned by high-level officials. President Duterte has consistently used inflammatory, inciting rhetoric, encouraging the police and the general population to kill alleged drug offenders on a massive scale. While making reference to human rights and due process, Command Memorandum Circular (CMC) No. 16-2016, issued on 1 July by the Chief of Police, calls for the

“neutralization” of alleged drug offenders,<sup>397</sup> using a common euphemism in the Philippines for killing.<sup>398</sup> Particularly in the context of the President’s incitement—and public admission of his personal involvement in killings while mayor of Davao—the Circular’s language raises concerns that the authorities have issued a “license to kill” as part of a policy to target those in the population who are alleged drugs offenders. These concerns are further supported by the financial rewards that at least some anti-illegal drugs units are provided for fatal shootings as well as the pressure put on senior- and lower-level police officials to deliver results—with death considered a positive result. Finally, the total lack of accountability to date has sent a clear message of official support for extrajudicial executions.

In addition to the killings, many of the more than one million people who have “surrendered” to authorities have been forced into a “voluntary” set of programmes that have taken the form of punishment rather than treatment. Community services are ill-equipped to assess and meet the needs of people who use drugs, relying mostly on programmes based on abstinence that normally include fitness classes, constant surveillance, and the threat of police action. The opening of mega rehabilitation centres in military bases raises further concerns. And the climate of repression and fear has had a disturbing impact on access to health services, including HIV testing and harm reduction programmes. HIV rates continue to soar among people who inject drugs in places like Cebu City.

All of these abuses have disproportionately affected the poor, further marginalizing them socially and harming them economically. While neither drug use nor sale is an issue confined to poor neighbourhoods, police operations overwhelmingly target them. Almost everyone Amnesty International interviewed in these areas described the “war on drugs” as a war against the poor.

Many people in the Philippines are concerned about drugs and criminality, which helped lead to President Duterte’s election. But the heavy-handed tactics the administration and police have adopted—and the demonization of alleged drug offenders more generally—have proven ineffective again and again around the world, including in neighbouring countries. They also run afoul of the Philippines’ human rights obligations.

Amnesty International is deeply concerned that these deliberate and widespread killings, which appear to be systematic, planned and organised by the authorities, may constitute crimes against humanity. In any case, there is sufficient evidence to demonstrate that crimes under international and domestic law have been committed, including murder and extrajudicial executions, and thus that the state has an obligation to investigate, prosecute and punish those responsible for these crimes under international law and for other gross violations of human rights.

## RECOMMENDATIONS

### TO PRESIDENT DUTERTE

- Immediately order an end to all police operations involving unnecessary or excessive use of force, in particular the use of lethal force during the arrest of suspected drug offenders.
- Immediately order an end to all police involvement in killings by paid killers and a crackdown on such killings, restricted to measures which are in accordance with international human rights law.
- Order police to suspend from active duty, pending an investigation, any police officer suspected of involvement in an unlawful killing during a police operation, in murders by paid killers, in planting “evidence”, in stealing from raided homes or in receiving bribes from funeral homes.
- End the use of any language that calls for or excuses violence against alleged drug offenders, as well as their lawyers or Philippine human rights defenders, and recant previous use of such language.
- Publicly call on the police to respect the rights to life and due process provided in international human rights treaties binding on the Philippines and in Philippine law.
- Appoint an independent head to lead the police’s Internal Affairs Service, with a view to this body recommending criminal investigations into suspected extrajudicial executions.

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<sup>397</sup> CMC No. 16-2016, pp. 15-16.

<sup>398</sup> See, for example, Kate Lamb, “Philippines secret death squads: officer claims police teams behind wave of killings,” *The Guardian*, 3 October 2016; Reuters, “Philippines: Rodrigo Duterte’s drugs crackdown to focus on arrests, not ‘neutralization’,” 25 October 2016; AFP, “Philippines’ President Rodrigo Duterte ‘not afraid of human rights’ concerns over drugs crackdown,” 18 July 2016.

- Invite for a joint visit, without condition, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right to health.

### **TO THE SENATE AND HOUSE OF REPRESENTATIVES**

- Urgently resume the Senate inquiry into human rights violations associated with the government's anti-drug campaign, including related to extrajudicial executions; the links between the police and unknown armed persons; police payments for fatal shootings; and the impact on the right to health and other human rights.
- Establish an independent police complaints commission that will streamline and unify accountability efforts related to human rights violations, including extrajudicial executions carried out by the police or by paid killers with police involvement. Ensure the commission has the following functions, powers and resources to empower and enable it to carry out prompt, impartial and effective investigations:
  - Functional independence from the Philippine National Police;
  - The mandate to file a complaint to the criminal prosecutor, whenever its investigations have found sufficient and admissible evidence that a police officer has committed offences involving human rights violations;
  - Competent staff and necessary resources;
  - Central powers to ensure effective oversight;
  - Accessibility to members of the public, including the presence of officers in the different regions of the country;
  - A requirement to report publicly on its activities;
  - Subpoena, contempt and other powers sufficient to facilitate the gathering of evidence;
  - The mandate to order suspension of police officers under investigation;
  - The authority to procure and receive evidence and examine witnesses as necessary to conduct an effective investigation;
  - The authority to refer matters to the police internal disciplinary body as appropriate;
  - The authority to recommend appropriate action in respect of the police system overall; and
  - The authority to recommend or award reparations to victims of human rights violations, as appropriate.
- Review all existing accountability bodies for police abuse and human rights violations, including the PNP Command, PNP Internal Affairs Service, National Police Commission, People's Law Enforcement Board, Office of the Ombudsman, and Civil Service Commission. Clarify and streamline overlapping jurisdictions, giving primary jurisdiction on all police abuse cases to a consolidated body such as an independent police complaints commission. Dissolve, where appropriate and to avoid confusion and overlapping mandates, bodies whose mandate partially covers investigating, adjudicating and ordering disciplinary sanctions for police officers.
- Ensure in law, and allocate sufficient budgets for, the provision of reparations to families of those killed unlawfully during police anti-drug operations and by paid killers with police involvement, in accordance with international standards.
- Reject any proposed bill that would lower the minimum age of criminal responsibility, including the proposed bill that would lower the age from 15 to 9 years old.
- Review and revise the Dangerous Drugs Act so as to ensure it does not place any barrier to the implementation of harm reduction programmes, including by decriminalizing the possession or distribution of certain paraphernalia, including needles and syringes, and by forbidding the use of harm reduction materials as evidence against people who use drugs.

### **TO THE PHILIPPINE NATIONAL POLICE AND OTHER LAW ENFORCEMENT AGENCIES**

- Revoke or radically revise Command Memorandum Circular No. 16 – 2016 and any other circulars or official documents that, at minimum, encourage or allow human rights violations in the context of

anti-drug operations. Remove, in particular, all references to the “neutralization” of alleged drug offenders, and any other euphemisms that might be taken as a “license to kill.”

- Comply strictly with international law principles for law enforcement officials, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; the UN Code of Conduct for Law Enforcement Officials; and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Ensure all police officers are trained on these standards.
- Insist that police officers have a valid search or arrest warrant when entering premises pursuant to an operation and identify themselves as members of the force.
- Insist that police officers follow procedure in having barangay officials present during operations and during crime scene inventories.
- Clearly inform persons being arrested of the reason for their arrest and of their rights under international and Philippine law, including the right to remain silent, the right to independent counsel, the right to speak with immediate family, and the right to a medical examination. Take any person arrested to the appropriate police station without delay, and record the arrest promptly in the police blotter.
- Investigate promptly, impartially and efficiently all killings by unknown armed persons.
- Investigate thoroughly all complaints and reports of unlawful killing or other abuses by police officers, including related to anti-drug operations.
- Suspend from active duty any officer against whom there are credible suspicions of involvement in an unlawful killing, pending the conclusion of the investigation.
- Ensure that all cases of suspected unlawful killings by police or by paid killers with police involvement are investigated and prosecuted as criminal offences rather than dealt with through administrative and disciplinary processes, which must never substitute for criminal procedures in such cases.
- Conduct thorough investigations of officers and units involved in multiple fatal shootings, as such a pattern may reflect a resort to unlawful force. Remove such officers and units from drug operations pending investigation and, even if there is insufficient evidence to pursue criminal or administrative measures, consider re-training the officers and units on international standards for use of force.
- Ensure that there are clear guidelines, accessible to all officers at all levels of the chain of command, requiring officers to report abuses, and an adequate policy for whistle-blowers. Hold police supervisors responsible for enforcing such guidelines, including by imposing penalties for failing to report, or covering up, police misconduct.

## **TO THE DEPARTMENT OF JUSTICE, INCLUDING THE NATIONAL BUREAU OF INVESTIGATION AND THE OFFICE OF THE PROSECUTOR**

- Urgently form a special taskforce within the National Bureau of Investigation to specifically investigate killings of alleged drug offenders during police operations.
- Prioritise, with close oversight of relevant police bodies, prompt, impartial and effective investigations into all drug-related killings that implicate law enforcement officials, including murders by paid killers in which the police are involved, and provide investigators with sufficient resources to carry out actions such as interviews of all potential witnesses, crime scene investigations and forensic examinations.
- Press criminal charges in any case where investigations uncover sufficient, admissible evidence of responsibility for offences involving human rights violations, including unlawful police killings, involvement in murders by paid killers, planting of “evidence” or stealing from raided homes or victims. Ensure that such investigations and prosecutions include persons with command or superior responsibility, irrespective of rank or status, including the highest echelons of the police and politicians with superior responsibility over the police.
- In investigating and prosecuting extrajudicial executions carried out by the police or by paid killers with police involvement, explore the possibility that these may amount to crimes under international law, including crimes against humanity. Such investigations and prosecutions must include whoever



orders, solicits or induces the commission of such a crime that in fact occurs or is attempted, and occur in proceedings which meet international standards of fairness.

- Dedicate appropriate resources to identify and dismantle groups of paid killers. Investigate and prosecute them in proceedings which meet international standards of fairness.
- Ensure that all forensic examinations undertaken in any case of violent or otherwise unexpected death meet the standards set out in the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- Maintain reliable statistics related to investigations and prosecutions of unlawful killings committed by or with the involvement of police officers, and publish these statistics on a regular basis.
- Investigate immediately any allegation of police intimidation or threat of reprisal against witnesses or against family members pursuing a complaint.
- Ensure that victims of human rights abuses or, in the case of unlawful killings, their families, have access to effective remedies, including to compensation and rehabilitation. Inform victims or victims' families of their right to recover civil liability in a criminal case as well as their right to independently file a civil case for reparations.
- Publicly call on legislators and the government to end any plans of lowering the age of criminal responsibility for children.
- Ensure that barangay officials and police officers are properly trained on issues related to children in conflict with the law.
- Ensure children suspected or convicted of drug-related offences are held in juvenile detention facilities, and not adult jails or prisons.
- Ensure that any deprivation of a child's liberty is a last resort and for the shortest appropriate period of time in a facility especially suited to their needs. No child should be imprisoned solely for their use of drugs.
- Provide unhindered access to detention facilities to representatives from the Commission on Human Rights and from human rights or religious organisations, including through the opportunity to interview in confidence those in detention for drug-related or other crimes.

## **TO THE DEPARTMENT OF HEALTH**

- Promote a clear understanding of the complexity of drug dependence and advocate for a drug policy based on the protection of health and human rights. Work with the Dangerous Drugs Board to formulate a public health approach in lieu of the current emphasis on prohibition and punishment.
- Ensure that individuals involved in carrying out initial screenings of people who use drugs that "surrender" at the barangay level have the relevant medical training, as such training is critical in identifying the needs of each person and offering the appropriate treatment and rehabilitation programme, if needed. Recruit additional doctors to handle the secondary, or advanced, screening of those labelled "high-risk" users.
- Closely monitor community-based programmes, particularly at the barangay level, to ensure that all drug treatment and rehabilitation programmes are voluntary, based on evidence and best practices, and safeguarded by a free and informed consent. Promote a holistic approach to drug dependence, as current reliance on programmes based on abstinence, like fitness programmes or skills training, tend to ignore its complexity.
- Encourage and promote outreach programmes to ensure that people who use drugs are not driven away from health services and that people living with HIV and hepatitis C feel comfortable accessing testing and treatment. Maintain confidentiality of all records. Laws and policies that inhibit the access of people who use drugs to essential health services, including law enforcement initiatives, should be repealed or amended.
- Develop and implement a public campaign to confront and reduce stigma and discrimination against people who use drugs.
- Ensure that drug-related treatment is not compulsory nor undertaken without free and informed consent. Develop specific guidelines and training for health care professionals and administrators on

the use of drugs, highlighting their obligation to treat all patients with respect and without discrimination.

#### **TO THE DANGEROUS DRUGS BOARD**

- Re-evaluate the approach to the mega rehabilitation centres, as compulsory rehabilitation and confinement models run afoul of human rights standards and have proven ineffective, including in other Asian countries.
- Examine best practices and lessons learned from other countries, including those that have tried similar punitive approaches but, after seeing them fail at great human cost, are reorienting their drug policies towards a model based on the protection of health and human rights.

#### **TO THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT**

- Unless key steps recommended here are promptly taken, initiate a preliminary examination into unlawful killings in the Philippines's violent anti-drug campaign and related crimes under the Rome Statute, including the involvement of government officials, irrespective of rank and status. Key steps include ordering the end of extrajudicial executions, ending incitement to such killings and opening prompt, impartial and efficient investigations into all suspected unlawful killings associated with anti-drug operations since at least July 2016.

#### **TO INTERNATIONAL DONORS**

- Ensure that no financial or other support for the Philippine government is being used to fund human rights violations in the “war on drugs,” whether related to police operations, killings by unknown armed persons with police involvement or drug rehabilitation centres. For example, the United States should examine the \$32 million annual aid to Philippine law enforcement, and Japan, in considering the provision of assistance for building or maintaining rehabilitation facilities, should ensure these facilities are not confinement centres.
- Increase material and technical assistance to the Commission on Human Rights and to civil society organisations and coalitions involved in documenting human rights violations and promoting access to justice for cases of unlawful killings.
- Provide material and technical assistance to help strengthen the Commission on Human Rights' witness protection programme.

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# “IF YOU ARE POOR, YOU ARE KILLED”

## EXTRAJUDICIAL EXECUTIONS IN THE PHILIPPINES’ “WAR ON DRUGS”

Since President Rodrigo Duterte took office in June 2016, there has been a relentless campaign of violence against alleged drug offenders, incited by the President and his administration. More than 7,000 people have been killed, roughly one-third during formal police operations and the rest by unknown shooters who often arrive masked and on motorbike to kill specific people.

Based on 110 interviews and the documentation of 33 specific cases, this report shows that many drug-related killings are extrajudicial executions that directly implicate the police. The report also describes how the “war on drugs” has targeted the poor disproportionately, and how the police further marginalise families by stealing during crime scene investigations. It reveals how at least some unknown shooters are assassins paid by police officers.

No police officer has been prosecuted to date, despite the flagrant violation of international human rights and domestic law. The police regularly plant “evidence” after fatal shootings, and witnesses and family members fear reprisals if they pursue a complaint. In addition to the killings, the anti-drug operations have undermined people’s right to health, pushing people who use drugs into involuntary and inadequate drug rehabilitation programmes and rendering inaccessible essential testing and treatment services.