

**Is the infringement of human rights
through the extrajudicial killings in the
Philippines a legitimate measure to control
drug abuse?**

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Introduction

On June 30th 2016, Rodrigo Duterte assumed his position as the 16th President of the Republic of the Philippines. Throughout the Philippines presidential campaign, he was seen as a source of controversy within the Filipino community due to his 'strong-armed' domestic policy on narcotics, controversy which would then extend to the international scene. The focal point of Duterte's drug policy is to eliminate all illicit drug trafficking and consumption within the Philippines. Following his elections, his policies continue to be subject to many controversies. This can be attributed to his extremist views on the issue at hand and the manner in which he wages his 'war on drugs'. Duterte has stated that he will go to great lengths to abolish the illicit trade and use of drugs, including extrajudicial killings. This radical way of thinking has led the international and local community to question Duterte's ability to be a successful leader.

His plan of action to combat drugs confronts people with issues such as an increase in murder due to its normalization, large influxes of inmates entering prisons and has other negative repercussions on the Filipino society. Not only will this issue impact the local community but its repercussions will be felt throughout the world. These international consequences present themselves in various forms, be it through a decrease in worldwide investment into the Philippines or an increase in immigration to foreign countries due to an increased fear from government actions.

As a result, there has been strong condemnation from the local and international community on the ethics of Duterte's policies and the consequent extrajudicial killings. Although this should be the case from an ethical point of view, there is an issue with such condemnation:

Duterte was explicit from the onset, having a very clear goal and approach towards what he envisioned for the Philippines. This included advertising his plans for illicit drugs: "Hitler massacred three million Jews. Now, there is three million drug addicts. I'd be happy to slaughter them." (BBC News, 2017) These were Duterte's words during his campaign against drugs. This almost admiratory reference glorifying Hitler is one of the many examples that led to the storm of disagreement on Duterte's ability to be an effective ruler.

Whilst statements like this were the spark that pushed people to loathe Duterte, these were the same statements that convinced his voters and supporters, admiring of the determination in the presidential candidate. "He is the first president who cusses publicly and speaks candidly" was [redacted]'s response on why she voted for him (Personal Communication, 2017), showing praise towards his confidence. On the other hand, individuals who question and oppose Duterte argue that Duterte and his policies are illegitimate and in addition to this, unethical and cruel (Cardinoza, 2017).

This paper aims to investigate: "Is the infringement of human rights through the extrajudicial killings in the Philippines a legitimate measure to control drug abuse?" To help with this investigation, I will look at the effectiveness of Duterte's domestic policies through the evaluation of sovereignty, Human Rights and the effects on the development of the Philippines.

To help respond to this question, I analyzed not only why Duterte is not a legitimate leader and the western perspective on the issue, but also analyzed the issue from a pro-Duterte stance and why he, in fact, is legitimate. I used a variety of different primary and secondary

sources, although secondary research was the bulk of my exploration which included websites, academic analyses of Filipino politics, magazines and newspapers. Some notable secondary sources include Philippines National Police reports and Photojournalist Daniel Berehulak's documentation of 57 homicides. As for my primary research, the bulk of it included interviews, which I conducted through personal communications such as my interview with _____, a senior Filipino citizen, and articles written by Duterte himself such as "The Duterte Manifesto". It is important to recognize the drawbacks of using primary sourcing due to the strong bias that is generally present within such sources and they must be used with a critical mindset, using them to view the issue from an alternative perspective. Because of the multitude of sources used in this paper, they will not all be individually acknowledged but can be found in my bibliography.

Sovereignty, Legitimacy and Power

To understand the controversy surrounding Duterte's rule, one must begin by understanding the concepts of sovereignty, legitimacy and power.

"Sovereignty characterises a state's independence, its control over territory and its ability to govern itself" (Kirsch, 2017). There are two main types of sovereignty, external and internal. Internal sovereignty is more relevant to this issue as it encapsulates all activities that occur within the domestic sphere of the state. It is a concept that suggests the unmatched power and authority of the state within its own territory (Kirsch, 2017). This is what allows Duterte to conduct questionable acts within the boundaries of the Philippines without any foreign intervention. This internal sovereignty furthermore limits the realization of justice for the people within the state, and evidence for this is shown through the extrajudicial killings

carried out by the police force and vigilante groups as no other local actors have power over the government and state. A natural impediment for the victims of such vigilantism is the Westphalian agreement, signed in 1648, because it ascertains that a sovereign state has the monopoly on its instruments of power, therefore it is within the sovereign rights of the Philippines to conduct such killings with the use of its governmental forces. The premise of the Westphalian agreement is further developed by the Montevideo accords which proclaim the Philippines as a sovereign entity. The reason that it recognizes the Philippines as a sovereign state is because the Philippines fulfills all the criteria set forth by these accords: defined borders, stable population, stable government and foreign policy (Watts, 2017).

Thus if we are to look at whether Duterte is acting within the legal boundaries as the ruler of a sovereign nation with the killings that he is conducting, one would come to the conclusion that he is. Reason being that the Philippines is considered a sovereign nation and is within its legal jurisdiction and boundaries as there is no external force which has the right to intervene and prevent the events taking place in the Philippines.

Legitimacy is an equally important concept to comprehend if one aims to grasp the issues at hand and determine whether these policies are a legitimate way of controlling drug abuse in the Philippines; "It is a judgment by an individual about the rightfulness of a hierarchy between rule or ruler and its subject and about the subordinate's obligations toward the rule or ruler"(Hurd, 2017). This manner of judging the legitimacy of a person is often decided upon through a majority vote in a democratic system, which is enforced in the Philippines as it adheres to the principles of universal suffrage.

Duterte's legitimacy as a ruler goes on to be reinforced by the concepts of input legitimacy and output legitimacy, which were put forth by German political scientist Fritz Scharpf. The concept of input legitimacy looks at the government's ability to act effectively on the concerns of the people. If one was to evaluate this situation from such a stance, he or she would come to the conclusion that Duterte has a vested mandate of legitimacy, and this can be seen through his arguably effective anti-drug policies. According to the United Nations Office on Drugs and Crime report (2011), the use of illicit drugs such as methamphetamine hydrochloride is the highest abuse within Southeast Asia. This statistic goes on to reinforce Duterte's claim to being input legitimate, as he is responding to a legitimate public concern.

Furthermore, the concept of output legitimacy is important to understand if one is to assess Duterte's legitimacy. Output legitimacy looks at the results achieved by governments in response to public concerns. If one were to assess whether Duterte was in fact legitimate in this aspect, they would come to the conclusion that he is output legitimate, which is demonstrated through his ability to achieve the desired results for the Filipino Government and its people. This can be seen through the 26.45% reduction of the illicit drug market and the 1.3 of the estimated 4 million drug users who have surrendered themselves to the Filipino Government. Furthermore this decrease in the total drug market has had beneficial side effects with a reduction of 28.57 % (Philippines National Police, 2017) in all index crimes: robbery, rape, assault etc., once again helping to reinforce Duterte's case as a legitimate leader, as all the output from his policies and campaigns looked at have been positive. Although there is the possibility of biased information, looking at these forms of legitimacy, all signs indicate that Duterte's policies are in fact output legitimate.

Although Duterte's questionable rule may be viewed as legitimate when assessed versus the two aforementioned forms of legitimacy, there is still a large grey area which concerns his legitimacy as president. The reason for this is that the people of the state must make the judgement about the obligations of the ruler and the governing force for it to be a legitimate government, in this case a legitimate democracy. This means that the Filipino population must agree to these extrajudicial killings throughout the nation. This causes an issue as, within the Filipino population, it is generally understood that "Filipinos are rarely neutral about Duterte. They either love him or hate him."(Brainard, 2017). To be able to further understand this division of opinion and its impact on Duterte and his policies, one must look at another form of legitimacy, throughput legitimacy. Throughput legitimacy was put forth by the American academic and Professor Vivien A. Schmidt. It looks at the process that occurs between output and input legitimacy, or simply put, at means by which the government aims to achieve its goals. If an individual was to assess Duterte's throughput legitimacy, he or she would come to the conclusion that Duterte is in fact not throughput legitimate. The reason why Duterte's illegitimacy presents itself in the form of throughput legitimacy is that the way he aims to achieve his goals is not beneficial to the society that he leads. Reason being that it is an unethical approach and, furthermore, the society has most likely not accepted and is not willing to have these extrajudicial killings take place due to the split opinion on his policies.

Albeit, whilst Duterte is illegitimate when one looks at the concept of throughput legitimacy, he is legitimate in the sense that he was voted as leader of the Philippines through a system which complies to universal suffrage. Furthermore, his policies are legitimate when looking at input and output legitimacy.

In addition to legitimacy and sovereignty, there is a final concept that is necessary to understand in order to recognize whether Duterte's policies on drugs are beneficial for the nation which remains under his control: Power. Power often presents itself in two mainstream forms, either hard or soft. American political scientist Joseph Nye defined these two forms of power as the following: soft power is seen as the use of non-militaristic techniques such as negotiation whereas hard power refers to the use of force and threats to achieve a certain goal. These two types of power are often used by one nation to obtain a certain result from another nation, but these theories of power can also be used by governments domestically, which applies to the Philippines. Through these extrajudicial killings and by reinforcing laws giving greater power to Philippine police force, Duterte is displaying the use of hard power against his own people. Duterte has not only used hard power on his own citizens but has also imposed soft power on his people by encouraging citizens to fight with him in this war on drugs, glorifying their participation. This push for citizens to join the fight against drugs has led to an increase in vigilantism, normalizing murder, which is beginning to have a very significant social impact on the Philippines.

Governments which have been known and are known to impose hard power on their own population are often considered unstable or even illegitimate. Examples of this include Libya where Muammar Gaddafi ruled the nation through fear, in order to uphold his idealistic domestic policy. The world is littered with similar examples of abusive governments using hard power to sustain their position as leader and impose their ideas upon their citizens.

This lack of justice is often associated with other concepts such as Human Rights and their enforcement within a state. Reason for this is due to the fact that states have the ability to

invoke the concept of sovereignty: “They agree to monitoring and judgments by human rights courts and commissions only to the extent they choose to. Sovereignty has, in that sense resisted human rights agreements.” (Kirsch, 2017) Although this statement is true, there are various agreed rules and practices that are applied when a state agrees to become a full member of the UN, which the Philippines has been since 1942. An example of these agreed rules when joining the UN is to be subject to the Right to Protect (R2P), which was unanimously agreed upon in 2005 by the member states of the UN as the World Summit Outcome Document (United Nations, 2005). The R2P aims to protect populations at risk of Human Rights abuses, as these populations are unable to have an influence on the events taking place: “exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing and serious violations of humanitarian law which sovereign governments have proved powerless or unwilling to prevent.”(United Nations, 2012) This ties in with the next issue that is to be investigated: Human Right

Human rights issues

The Universal Declaration of Human Rights was proclaimed in 1948 during the United Nations General Assembly in Paris (United Nations, 2017). Within this declaration, 30 articles have been put forth to protect the fundamental rights of every human being and to ensure no person shall be exempt from these rights. The Philippines has been a signatory of this declaration since its proclamation in 1942 and is a member of the UN, meaning that it shall abide by these fundamental rights that have been put in place. Although this should be the case, it is not. Article 3 of the Universal Declaration of Human Rights states that everyone has the right to life, liberty and security of person (United Nations, 2017). Article 5 of the

UDHR states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” (United Nations, 2017). Analysing articles 3 and 5, there is an evident breach of these rights in the Philippines through extrajudicial killings. This brings us to question why there has been no intervention by the international community in the Philippines.

Not only have Philippine nationals been persecuted and killed but citizens from other countries have been caught in the crossfire in this war on drugs. Jee Ick-joo, aged 53, was killed by asphyxiation, led by officer Santa Isabel, at the headquarters of the Philippines National Police (Villamor, 2017). Whilst this may be an isolated incident, such events prove that Duterte’s policies can have global repercussions that affect citizens of other nations.

Crimes against humanity are very relevant to the case of the Philippines as these comprise of murder, torture and other inhumane acts of a similar character. These acts intentionally cause great suffering, or serious injury to the body or to the mental or physical health; and hence, are considered a breach of Human Rights (Trial International, 2017). Various case studies of these crimes have been brought to the media’s attention where police reports were often contradictory to witness reports. An example of this would be Aie Balagtas See, a crime reporter for a local newspaper the *Inquirer*. He reported that after having visited the scene of an alleged gunfight, the wall behind the suspected drug dealer was painted with bullet holes whilst the wall behind the policemen was untouched (Hincks, 2016). If extrajudicial killings are a recurring issue throughout the Philippines, why hasn’t the R2P been invoked and why hasn’t the international community looked to intervene and act upon the events that are occurring in the Philippines? The answer to this is as simple as it is complex: the legitimacy

of Duterte's rule. "In order for sovereignty to exist, there has to be an agreement within the nation's population that the state is legitimate and the holder of the will of the people"(Kirsch, 2017) which is the case in the Philippines. This has caused a multitude of issues within the Philippines due to the fact that everything leading up to his presidency was permitted by international and local laws. This means that the R2P does not have any solid foundation for it to be invoked as he was voted in with a system that adheres to universal suffrage. This raises the question on whether intervention is justifiable as he clearly conveyed his ambitions for the Philippines and his people and there was full transparency during his elections: "If by chance that God will place me there, watch out because the 1,000 [people allegedly executed while Duterte was mayor of Davao City] will become 100,000. You will see the fish in Manila Bay getting fat. That is where I will dump you." (Human Rights Watch, 2017).

Furthermore, the issue of human rights and the breaches which they endure in the Philippines brings to light the subject of cultural relativism. Cultural relativism can be split into extreme perspectives: radical cultural relativism, where culture is seen as the main source of moral rights and rule, and radical universalism where culture is an invalid measure for determining moral rights and rule which should be universally valid. Many critics who believe in cultural relativism argue that one cannot hold the Philippines to the same norms as those of western states, as there are large cultural gaps. This means that possible imposed 'rules' by the UDHR may in fact limit or interfere with some cultural practices, and furthermore, may interfere with the possible political system creating major changes and issues in the Philippines.

Effects on the development of the Philippines

To be able to make a reliable and informed judgment on whether Duterte's policies are in fact a justifiable measure of controlling drug abuse, one must look at the outcomes of such policies on the domestic theatre. There are three main areas in which we can analyse the effects of Duterte's policies: economic, social and political outcomes.

A primary route of analysis on the effects of Duterte's policies on the Filipino environment would be its economy. Tourism acts as one of the major contributors towards the Philippines economy as its sandy white beaches and crystal clear waters attract visitors bringing in 313.6 billion Philippine Pesos (Philippines Statistics Authority, 2016). This large influx of tourism has been regularly increasing over the years but is now at risk due to the government's war on drugs, as states are now warning their citizens to avoid travel to the Philippines as safety is no longer guaranteed. Although these are clear obstacles to Duterte's policies against drugs, these same policies also bring various benefits to Philippines development. The evident benefit of Duterte's anti-drug campaign is that it will help to remove a part of the black market economy. The war on illegal narcotics will reduce the use of substances such as "shabu" (methamphetamine hydrochloride) and instead, divert people's money towards taxable goods. Furthermore this reduction in illegal drugs will cause people to seek out legal jobs, which will in turn contribute to the Filipino economy and employment rates will begin to rise. In March of 2017, shortly after the start of the war on drugs, unemployment was at 6.6%, and in June 2017 it had already reduced to 5.7%, representing nearly a 1% decrease in unemployment (Trading Economics, 2017). This decrease can likely be attributed to the

decrease in drug consumption and can be expected to continue to decrease as more people are leaving the illicit drug business.

Another major aspect to evaluate the new anti-drug policies is to look at its effects on the social climate of the nation. Throughout his war on drugs, Duterte has been accused of various questionable acts, one being the promotion and glorification of vigilantism. Vigilantism is when citizens of the public take law enforcement into their own hands and although seemingly beneficial and ethical for the vigilantes, it has numerous faults. First, vigilantes are for the most part, untrained civilians who are oblivious to law enforcement procedures. This leads to often irrational 'on the spur of the moment' decisions and, very regrettably, unjustified killings. This vigilantism gives way to a 'new concept', the normalization of murder. This normalization of murder is already taking place as murders have increased by 68% (Hincks, 2016). Although these negative repercussions are very problematic, there are social positives to Duterte's drug policies, such as the decrease in other index crimes by 28.57 %. This means that although murder is increasing, there is a drastic decrease in all other crimes that include rape, assault, burglary not to mention drug abuse. As a result, this drastic improvement in the security situation for the majority of Filipino citizens, could lead to an improvement in their quality of life.

In addition to economic and social changes, Duterte's policies may further instigate political digression. One of the major changes under his administration was his diligence to increase the armed forces authority and their ability to act on their own will. This increase in power of the military can have various repercussions and may cause the Philippines to fall under military control. This could then manifest itself as an authoritarian government as the military

may obtain absolute power in the Philippines. This is not unknown to the international community as there are examples such as Libya, where Muammar Gaddafi used the military's power to obtain absolute power. This authoritarian government most likely will be considered an illegitimate government and Human Rights abuses would see exponential growth.

Conclusion

My research question states: Is infringement of human rights through the extrajudicial killings in the Philippines a legitimate measure to control drug abuse? Through my research, I have been able to gain a clearer understanding of the issue at hand. Firstly there was the issue of legitimacy and whether or not Duterte is a legitimate leader. I was able to conclude that he is in fact a legitimate leader and so are his policies as he is within his legal rights to do so, no matter how unethical. Furthermore I was able to conclude that the results of his policies were in fact mostly beneficial as the positive outcomes of his war on drugs outweigh the negative impacts of these same policies. Finally looking at the effects on the development of the Philippines, his policies had strong economic and social benefits. Although it may negatively affect the Philippines economy in the short run through a decrease in tourism and investment, in the long run it will most likely prove beneficial as it decreases the chance of the Philippines transforming into a narco-state. Also, once the 'war on drugs' comes to an end, one can assume that tourism will rise again and possibly be greater than in the past. In conclusion, one can state that the infringement of human rights through the extrajudicial killings in the Philippines, although morally unethical, is a justifiable measure to control drug abuse.

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