

REPORT OF THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS ON THE SITUATION OF HUMAN RIGHTS IN THE PHILIPPINES

In July 2019, the Human Rights Council requested the UN High Commissioner for Human Rights to prepare a report on the situation of human rights in the Philippines.

On 4 June 2020 the High Commissioner published a report detailing a wide range of human rights violations, harassment and attacks against human rights defenders and civil society, and widespread impunity.

This briefing summarizes the key findings of the report, related to the anti-drug campaign. The full report is available [here](#).

WHAT HAPPENS NEXT?

The Government of the Philippines has “[firmly rejected](#)” the conclusions of this report.

The report will be presented by the UN High Commissioner for Human Rights at the 44th session of the Human Rights Council, on 30 June 2020, followed by an interactive dialogue. The Dialogue can be followed [here](#). Constructive engagement will be sought with the Government of the Philippines. Notably, the government has denied access to the country to – and repeatedly threatened - UN Special Procedures, OHCHR (including for the drafting of the report), and the Prosecutor of the International Criminal Court (ICC).

Several actors – including [UN Special Procedures](#), [Amnesty International](#), and [Forum Asia](#) - are calling for an international investigative mechanism. This possibility is not excluded by the report, which states: “the High Commissioner again emphasizes the need for independent, impartial and effective investigations into the killings and stands ready to assist credible efforts towards accountability at the national and international level.”

The report also recommended the Human Rights Council that “in the absence of clear and measurable outcomes from domestic mechanisms, consider options for international accountability measures”.

The ICC is conducting a preliminary examination of the situation in the Philippines, and considering allegations that crimes against humanity have been committed in the context of the anti-drug campaign.

KEY RECOMMENDATIONS OF THE HIGH COMMISSIONER

The report provides recommendations to the Government of the Philippines and to international actors, those most relevant in the context of drug control are:

To the Government of the Philippines:

- Urgently put an end to extrajudicial killings, arbitrary detention and other anti-drug campaign violence;
- Abolish the compilation and publication of drug watch lists at all administrative levels;
- Consider decriminalization of personal possession and use of drugs;
- Ensure adequate assistance to families of victims of drug-related killings, including financial aid, legal support and psycho-social services;
- Empower an independent body to conduct prompt, impartial, thorough, transparent investigations into all killings, and into alleged violations of international humanitarian law, with a view to prosecution and remedies;
- Halt - and condemn - incitement to hatred and violence and other harmful, threatening and misogynistic rhetoric against human rights defenders and other government critics.

To the Human Rights Council:

- Encourage and support technical cooperation between the government and OHCHR to implement the recommendations of this report, with the participation of the Commission on Human Rights and civil society;
- Mandate OHCHR to continue monitoring and documenting the situation of human rights in the Philippines, and to regularly report to the Human Rights Council.

SUMMARY OF KEY FINDINGS ON DRUG CONTROL

Arbitrary deprivation of life

The High Commissioner reports at least **8,663 people** have been killed by law enforcement or unidentified vigilantes since July 2016 in the context of the anti-drug campaign (although some sources estimate the actual figure to be above 20,000). The killings continued during the COVID-19 pandemic.

Most victims were men from urban communities living in poverty, and the youngest victim was five months' old.

“Permission to kill”: Ill-defined and ominous language used in policy documents and encouragement by high-ranking officials – including President Duterte - may have emboldened the police to kill people suspected of using or dealing drugs.

These **extrajudicial killings have a widespread and systematic** character, and significant evidence exists of a coordinated pattern of cover-ups, planting of evidence, and falsification of documents.

This conclusion could have significant implications towards acknowledging that, in the context of the anti-drug campaign, the Government of the Philippines committed crimes against humanity in the form of murder “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.” (Rome Statute, Art. 7)

Violations of the right to liberty and security

OHCHR found the anti-drug strategy adopted in 2016 allows officials to conduct house visitations of persons included on drug watch lists without a warrant. This has “forced suspects to make self-incriminating statements or risk facing lethal force.” Between July 2016 and November 2017 police conducted 42,286 anti-drugs operations, **99.8% without an arrest warrant**.

Arbitrary detention and prison overcrowding

The High Commissioner reports 223,780 drug-related arrests were conducted between 2016 and 2019 – many amounting to arbitrary detention.

The prison and judicial systems have been unable to cope with the situation, leaving thousands in **protracted pre-trial detention** (85-90% of prison population in 2016.)

Prisons in the Philippines are among the most overcrowded prisons in the world: the congestion rate as of February 2020 was **534%** – and was driven by an “increase in drug-related cases, a lack of judicial capacity to process criminal cases in a timely fashion, and poverty.”

Right to health of people who use drugs

Compulsory drug rehabilitation is a key feature of the Philippines' drug policy: between January 2018 and December 2019, almost 500,000 persons have "undertaken a PNP recovery and wellness programme" – many of which see the involvement of law enforcement.

Compulsory drug detention and treatment are prohibited under international law as violations of the right to health, the prohibition of ill-treatment, and the prohibition of arbitrary detention. Local civil society has repeatedly denounced ill-treatment and inhuman conditions of detention in these centres.

Conversely, the High Commissioner expressed concern for the **absence of harm reduction services** both in the community and in detention facilities.

OHCHR also concluded that **criminalisation of drug use**, coupled with disproportionate sentencing, hinders people from obtaining appropriate treatment for drug use.

Harassment and violence against human rights defenders; incitement of hatred

The High Commissioner found NGOs, lawyers, human rights defenders and critics of the government face "**pervasive**" **online and offline attacks**, including military raids, smear campaigns, reprisals, arbitrary detention, and criminal charges. Ample proof was provided of coordination of online harassment campaigns.

Between 2015 and 2018, at least **40 legal professionals** and **208 human rights defenders, journalists, and trade unionist have been killed**. Most cases were not effectively investigated.

OHCHR concluded that "harmful rhetoric from the highest levels of the government has been pervasive and deeply damaging", and that "the widespread killings, detentions, red-tagging and score-settling by State actors, including in the campaign against illegal drugs, suggest that his public comments may have incited violence and may have had the effect of **encouraging, backing or even ordering human rights violations with impunity.**"

Such incitement was found to constitute a possible violation of the right to life, and further demonstrates the direct responsibility of the state for abuses committed in the context of the drug war.

Widespread, state-sanctioned impunity

Recurring throughout the report is evidence of **a climate of impunity and repression** of dissenting voices, and the complete unwillingness of the authorities to protect individuals at risk and ensure accountability. On the contrary, "the vilification of dissent is being increasingly institutionalized and normalized in ways that will be very difficult to reverse."

Documentation and pursuit of justice by families of the victims, lawyers and journalists is actively hampered, including through surveillance, harassment, reticence by the authorities to pursue cases.

Accordingly, the report concluded that "persistent impunity for human rights violations is stark and **the practical obstacles to accessing justice within the country are almost insurmountable**"; and that domestic mechanisms have failed to ensure accountability.

Notably, lack of capacity and/or willingness by domestic mechanisms to investigate violations and provide accountability is a key justification for establishing international investigative mechanisms.