

# **SUMMARY & EXTRAJUDICIAL KILLINGS IN THE PHILIPPINES**

A Submission to the United Nations Human Rights Council  
for the Universal Periodic Review of the Philippines  
(3<sup>rd</sup> Cycle, 27<sup>th</sup> Session, 2017)

Submitted by

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*The Ateneo Human Rights Center (AHRC) was established in 1986 as the first human rights institution engaged in the promotion and protection of human rights. Today, it pursues various advocacies and is engaged in uplifting the plight of marginalized groups (i.e. women, children, indigenous peoples, and migrants) in the country through programs focused on training and education, research, law and policy reform, and public interest litigation. AHRC is instrumental in the development of the various human rights courses in the Ateneo Law School, which has the most extensive international human rights law curriculum in the Philippines. AHRC is also the secretariat of the Working Group for an ASEAN Human Rights Mechanism.*

## **I. INTRODUCTION**

1. This alternate report is a submission of the Ateneo Human Rights Center (AHRC), a university-based human rights institution engaged in the promotion and protection of human rights. Its core programs include human rights education, research, law and policy reform, and public interest litigation.
2. This submission highlights extrajudicial and summary killings in the country. Among such cases are those perpetrated in relation to the Duterte Administration's "war on drugs." In particular, four key issues are tackled, namely, (1) vague legal definition of "extrajudicial killings," (2) due process of law, (3) presumption of regularity and command responsibility, and (4) accountability and impunity. Recommendations made during the 2<sup>nd</sup> Cycle of the UPR related to due process and extrajudicial killings are referred to in this report.
3. AHRC submits that the Philippine Government has failed to address extrajudicial and summary killings.

## **II. EXISTING LEGAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

4. The Philippines is a State Party to the International Covenant on Civil and Political Rights and is duty-bound to address the spate of summary killings. The prohibition against summary killings is slowly achieving the status of *jus cogens* in international law.<sup>1</sup> As such, the right of the citizens to be protected against such admits of no derogation, not even with a declaration of state of lawlessness. It must be noted that the 1987 Philippine Constitution adopts generally accepted principles of international law as part of the law of the land.<sup>2</sup>
5. The 2<sup>nd</sup> Cycle of the UPR emphasized challenges of the Philippine government in addressing extrajudicial killings. The Philippines acknowledged these, and stated that it would endeavor to enact laws, enforce those already existing, and ensure the protection of human rights. Thus, the Philippine Congress enacted the Anti-Enforced or Involuntary Disappearance Act. The law penalizes enforced disappearances.<sup>3</sup> However, the law does not make any reference to summary and extrajudicial killings. Thus, despite their unique nature, these crimes are still treated as murder or homicide under the Revised Penal Code.<sup>4</sup>
6. The Philippine Constitution values the human dignity of every person,<sup>5</sup> and recognizes procedural and substantive due process as fundamental rights of every citizen.<sup>6</sup> It protects

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<sup>1</sup> Sixth Congress of the United Nations on the Prevention of Crime and the Treatment of Offenders, (1980), Resolution No. 5 concerning Extrajudicial executions, ¶¶2, 5, A/CONF.87/14/Rev.1 (1981); Case of Barrios Altos v. Peru, Series C No. 75, IACHR Judgment (Mar. 14, 2001); Case of the Rochela Massacre v. Colombia, Series C No. 163 (May 11, 2007); Case of Almonacid Arellano et al. v. Chile, Series C No. 154 (Sept. 26, 2006); Case of The Massacres of El Mozote and nearby places v. El Salvador, Series C No. 252 (Oct. 25, 2012); International Crimes, 20 October 2000, OAS/Ser./L/V/II.111, doc. 20 revs. 16).

<sup>2</sup> PHIL. CONST. art. 2, § 2.

<sup>3</sup> An Act Defining and Penalizing Enforced or Involuntary Disappearance [Anti-Enforced Disappearances Act of 2012], Republic Act No. 10353, §§ 3 (b) & 15.

<sup>4</sup> An Act Revising the Penal Code and Other Penal Laws [REVISED PENAL CODE], Act No. 3815, arts. 148 & 249 (1932).

<sup>5</sup> PHIL. CONST. art. II, § 10.

the right of the accused to a fair trial, including the opportunity to be heard.<sup>7</sup> It grants the people the right to be secure in their persons and homes against unreasonable searches and seizures.<sup>8</sup> The protection of the right to life and liberty of all persons is also given primacy.<sup>9</sup>

### III. AREAS OF CONCERN

#### A. Vague Domestic Definition of Extrajudicial Killings

7. The OHCHR defines extrajudicial, summary or arbitrary executions as the “deprivation of life without full judicial and legal process, and with the involvement, complicity, tolerance or acquiescence of the Government or its agents.”<sup>10</sup> The terms also include “death through the excessive use of force by police or security forces.”<sup>11</sup>
8. Specifically, extrajudicial executions or killings are those “executions or deaths caused intentionally by the attacks or killings by State security forces or paramilitary groups, death squads or other private forces cooperating with the State *or tolerated by it.*”<sup>12</sup>
9. In the Philippines, the term “extrajudicial killings” does not have a clear definition. In *Secretary v. Manalo*, the Supreme Court, citing the Rule on the Writ of Amparo, opined that extralegal killings are “killings committed without due process of law, i.e., without legal safeguards or judicial proceedings.”<sup>13</sup> However, the latter case of *Razon Jr. v. Tagitis* revealed that the drafters of Amparo rule decided to “do away with [the] clear textual definition of [extrajudicial killings].”<sup>14</sup> Despite this, the Court recognized in *Razon, Jr.* that “extrajudicial killings and enforced disappearances, by their nature and purpose, constitute State or private party violation of the constitutional rights of individuals to life, liberty and security.”<sup>15</sup>
10. In 2013, Administrative Order No. 35 provided a rather restrictive definition of extrajudicial or extra-legal killings as killings “wherein the victim was a (i) a member of, or affiliated with an organization, to include political, environmental, agrarian, labor, or similar causes; or (ii) an advocate of above-named causes; or (iii) a media practitioner or (iv) person(s) apparently mistaken or identified to be so.”<sup>16</sup> It further stated that the victim was targeted by either

<sup>6</sup> PHIL. CONST. art. III, § 1.

<sup>7</sup> *Lopez v. Director of Lands*, G.R. L-22136, Dec. 17, 1924.

<sup>8</sup> PHIL. CONST. art. III, §2.

<sup>9</sup> PHIL. CONST. art. III, § 1.

<sup>10</sup> *Enforced Disappearance and Extrajudicial Execution: Investigation and Sanction: A Practitioners Guide*, International Commission of Jurists, 2015 p. 66 (*citing* Human Rights and Law Enforcement - A Manual for Human Rights Training for the Police, Professional Training Series No. 5/Add.2, 2004, Index HR/P/PT/5/Add.2, p. 15) *available at* <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2015/12/Universal-Enforced-Disappearance-and-Extrajudicial-Execution-PGN09-Publications-Practitioners-guide-series-2015-ENG.pdf> (last accessed Sept. 19 2016).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 67 (*citing* Customary International Humanitarian Law, Volume I: Rules, Op. Cit., (Prohibition of ordering no quarter will be given) p. 161 to 163 and 594.)

<sup>13</sup> *Secretary of Defense v. Manalo*, G.R. No. 180906, Oct. 7, 2008.

<sup>14</sup> *Razon, Jr. v. Tagitis*, G.R. No. 182498, Dec. 3, 2009.

<sup>15</sup> *Id.*

<sup>16</sup> Department of Justice, Operational Guidelines of Administrative Order No. 35, art. I (1) (Apr. 18, 2013).

State or non-State agents by reason of actual or perceived membership, advocacy, or profession, and that the circumstances of the killing reveal a deliberate intent to kill.<sup>17</sup>

## **B. Issues on Due Process of Law and Extrajudicial Killings in Relation to UPR (A/HRC/21/12) Conclusions and Recommendations**

### *129.4. Further mainstream human rights in all policies, programmes and activities of the Government (Viet Nam)*

11. The main criticism to the past administration regarding human rights was that it lacked “political will to end the longstanding impunity enjoyed by the police and armed forces, a dysfunctional criminal justice system, and military resistance to accountability.”<sup>18</sup> In the current administration, President Rodrigo Duterte made it clear that, “[he does not] care about human rights.”<sup>19</sup>
12. The present administration has released the so-called *Duterte list*, which contains names of government officials allegedly involved in illegal drug trade.<sup>20</sup> Some of them were announced,<sup>21</sup> causing the public to presume their guilt. Yet, no formal charges have been filed after the announcement.

### *129.13. Conduct independent and impartial inquiry in relation to all enforced disappearances and extrajudicial executions and that the perpetrators of these crimes be brought to justice (France)*

13. On 22 November 2012, then President Aquino issued Administrative Order No. 35 to address these issues.<sup>22</sup> Another issuance is Joint Department Order No. 003-2012.<sup>23</sup> However, these programs are arguably ineffective because the public officers heading the

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<sup>17</sup> *Id.*

<sup>18</sup> World Report 2015: Philippines (Events of 2014), HUMAN RIGHTS WATCH, available at <https://www.hrw.org/world-report/2015/country-chapters/philippines> (last accessed Sept. 18, 2016).

<sup>19</sup> Aljazeera and agencies, *Rodrigo Duterte: 'I don't care about human rights'*, ALJAZEERA, Aug. 8 2016, available at <http://www.aljazeera.com/news/2016/08/rodrigo-duterte-human-rights-160806211448623.html> (last accessed Sept. 17, 2016).

<sup>20</sup> Pia Ranada, *Duterte shows 'drug list' with '1000' names of gov't officials*, RAPPLER, Sept. 15, 2016, available at <http://www.rappler.com/nation/146359-duterte-shows-drug-list-1000-names> (last accessed Sept. 18, 2016).

<sup>21</sup> *Duterte reads out list of alleged narco-politicians, narco-cops*, GMA NEWS, Aug. 7, 2016, available at <http://www.gmanetwork.com/news/story/576633/news/nation/duterte-reads-out-list-of-alleged-narco-politicians-narco-cops> (last accessed Sept. 18, 2016).

<sup>22</sup> Office of the 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 (Nov. 22, 2016) available at <http://www.gov.ph/2012/11/22/administrative-order-no-35-s-2012/>

<sup>23</sup> Operational guidelines for prosecutors and law enforcement investigators in evidence-gathering; investigation and case build-up; inquest and preliminary investigation; and trial of cases of political-activist and media killings, <http://didm.pnp.gov.ph/Others/Joint%20Dept%20Order%20No%20003-2012.pdf>

task force created belong to the same institutions as the alleged perpetrators.<sup>24</sup> Also, the task force has remained largely inactive.<sup>25</sup>

***129.14. Effectively fight against extrajudicial killings, including by non-State actors, by strengthening accountability mechanisms and implementing the necessary reforms (Germany)***

14. In recent years, activists, journalists, environmentalists, and tribal leaders have been subjects of extrajudicial killings. Among those killed were tribal group leader and anti-mining activist Fausto Orasan, and veteran human rights lawyer Rodolfo Felicio.<sup>26</sup>
15. On 23 July 2016, Michael Siaron's body was found on the streets of Manila. Beside it was a cardboard sign with the words "I am a drug pusher, don't imitate"<sup>27</sup> written in all-black capital letters.<sup>28</sup>
16. As of September 15, 2016, records show a total of 986 deaths as of June 30, 2016, and a total of 1,033 deaths since May 10, 2016.<sup>29</sup> Children were also killed in police operations.<sup>30</sup> Innocent victims are treated as part of collateral damage in this administration's "war on drugs."
17. President Duterte declared that the soaring number of killings of alleged criminal suspects is proof of the "success" of his anti-drug campaign and urged police to "seize the momentum."<sup>31</sup> Philippine National Police (PNP) Chief Dela Rosa makes no indication that the deaths merit urgent investigation.<sup>32</sup>

***129.16. Continue to reassess the necessity, and, where the need exists, consider devising programmes that incorporate the prohibition of extrajudicial killings and enforced disappearances for the Philippines Army and National Police (Timor-Leste)***

18. Under Command Memorandum Circular No. 16 – 2016,<sup>33</sup> Project Double Barrel is the PNP's two-pronged anti-illegal drug campaign plan to get both big-time and small-time drug

<sup>24</sup> Mikas Matsuzawa, *Is the Philippines among the worst countries for human rights*, CNN PHIL., Dec. 9, 2015, available at <http://cnnphilippines.com/news/2015/12/09/philippines-human-rights-day-december-10-aquino-administration.html> (last accessed Sept. 17, 2016).

<sup>25</sup> Philippines: Death Squad Linked to Hundreds of Killings, HUMAN RIGHTS WATCH, available at <https://www.hrw.org/news/2014/05/20/philippines-death-squad-linked-hundreds-killings> (last accessed Sept. 18, 2016).

<sup>26</sup> HUMAN RIGHTS WATCH, *supra* note 18.

<sup>27</sup> Original text in Filipino.

<sup>28</sup> J. Weston Phippen, *Can This Photo End Vigilante Killings in the Philippines?*, THE ATLANTIC, Aug. 5, 2016, available at <http://www.theatlantic.com/news/archive/2016/08/la-pieta-philippines-duterte/494330/> (last accessed Sept. 17, 2016).

<sup>29</sup> See THE KILL LIST, PHIL. DAILY INQUIRER, Sept. 18, 2016, available at <http://newsinfo.inquirer.net/794598/kill-list-drugs-duterte> (last accessed Sept. 18, 2016).

<sup>30</sup> Phelim Kine, *Philippine Government's 'War on Drugs' Claims Child Victim: Justice Secretary Defends Killing Suspected Drug Dealers, Users*, HUMAN RIGHTS WATCH, Aug. 25, 2016, available at <https://www.hrw.org/news/2016/08/25/philippine-governments-war-drugs-claims-child-victim> (last accessed Sept. 18, 2016).

<sup>31</sup> Phelim Kine, *Philippine Police Killing Spree Demands Accountability*, HUMAN RIGHTS WATCH, Aug. 22, 2016, available at <https://www.hrw.org/news/2016/08/22/philippine-police-killing-spree-demands-accountability> (last accessed Sept. 18, 2016).

<sup>32</sup> *Id.*

<sup>33</sup> Philippine National Police, PNP Anti-Illegal Drugs Campaign Plan: "Double Barrel," CMC No. 16-2016 (Jul. 1, 2016).

personalities. It consists of *Project Tokhang*, which involves visits to houses of suspected drug users, and *Project HVT*, which involves operations against suspected illegal drug syndicates and personalities.<sup>34</sup>

19. Under the circular, suspected drug personalities who “voluntarily surrender” are required to fill-out a voluntary surrender form, subscribed under oath before a notary public with the assistance of a counsel. They are then invited to the local police station to be interviewed and documented.<sup>35</sup>
20. For house visits, a drug watch list of suspected drug personalities is provided by the barangays or local police stations. The names on the list come from police “assets” or anonymous tippers. No procedure or standards are set to verify the list. Neither is there any immediate recourse to clear one’s name from the list.

**131.22. Strengthen its legal framework, institutions and instruments aimed at guaranteeing that those responsible for crimes of extrajudicial executions are subjected to fair procedure and, if convicted, punished (Switzerland)**

21. Retired Maj. Gen. Jovito Palparan Jr. and three soldiers are suspects in the disappearance of two human rights activists.<sup>36</sup> They were charged with kidnapping and illegal detention, but the cases are still pending up to this day.<sup>37</sup>
22. Although in jail, not one of the 197 accused has been convicted for the killing of 58 people in Ampatuan, Maguindanao. However, it must be noted that Supreme Court Chief Justice Maria Lourdes Sereno said that measures are being applied to expedite trials, such as issuance of partial judgments and conduct of continuous hearings.<sup>38</sup>

### **C. Presumption of Regularity & Command Responsibility**

23. The presumption of regularity in the performance of a public official’s functions is a recognized principle of law. In international law, the rebuttable presumption of regularity has attained the status of being a generally accepted principle of international law.<sup>39</sup> In the Philippines, the presumption of regularity likewise exists. Police officers generally only have the power to arrest when a court has issued a warrant of arrest<sup>40</sup> or in cases of valid

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<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Joel Locsin, *Palparan arrested by NBI in Manila*, GMA NEWS, Aug. 12, 2014, available at <http://www.gmanetwork.com/news/story/374378/news/nation/palparan-arrested-by-nbi-in-manila#sthash.a3vSAiqo.dpuf> (last accessed Sept. 17, 2016)

<sup>37</sup> Kathleen de Villa, *Whatever Happened To: The kidnap case of 2 UP students vs Palparan et. al.*, PHIL. DAILY INQUIRER, Jun. 26, 2015, available at <http://newsinfo.inquirer.net/700871/the-kidnap-case-of-2-up-students-vs-palparan-et-al> (last accessed Sept. 17, 2016).

<sup>38</sup> Camille Elemia, *Maguindanao massacre trial now in the homestretch – Chief Justice*, RAPPLER, Aug. 26, 2016, available at <http://www.rappler.com/nation/144232-maguindanao-massacre-homestretch-chief-justice-sereno> (last accessed Sept. 17, 2016).

<sup>39</sup> *Valentiner Case (German-Venezuelan Commission)*, 10 R.I.A.A. 403, 405 (1903).

<sup>40</sup> 2000 REVISED RULES OF CRIMINAL PROCEDURE, rule 110, § 4.

warrantless arrests.<sup>41</sup> In the process of making an arrest, a police officer is allowed to employ reasonable force in case of resistance.<sup>42</sup>

24. When the resistance poses “imminent danger” to the life of a police officer or any other person, it is considered a justifying circumstance and the officer is allowed to use excessive force.<sup>43</sup> This justifying circumstance, however, is not to be presumed. The burden is on the police officer to prove the existence of such a circumstance.<sup>44</sup> An abuse in the application of this presumption is used to justify killings, trumping the presumption of innocence.
25. The principle of command responsibility is also recognized in the Philippines. Philippine jurisprudence defines it as the “responsibility of commanders for crimes committed by subordinate members of the armed forces or other persons subject to their control in international wars or domestic conflict.”<sup>45</sup> Further, Executive Order No. 226, Section 1 provides, “any officer of the Philippine National Police or any other law enforcement agency shall be accountable for ‘neglect of duty’ under the doctrine of ‘command responsibility’ if he is knowledgeable of any crime that shall be, is being, or has been committed by his subordinates, and despite such knowledge, he did not take preventive action regarding its commission.”<sup>46</sup>
26. President Duterte has been firm on his stand to fight drugs and crime. He vows to pardon any police or military personnel, including himself, involved in the extrajudicial killings.<sup>47</sup> He also stated that he would stand trial on behalf of police officers if they were accused of unlawful killing.<sup>48</sup>
27. With the rising number of suspected drug pushers and users reportedly killed during police operations, PNP Chief Dela Rosa denies the claims that the PNP engages or incites the use of extrajudicial executions.<sup>49</sup> The defense of PNP is that the killings happen as a result of shootouts between the police officers and suspects or violent resistance on the part of the suspects. PNP further argues that since there is imminent danger on the part of the police, their actions must be construed as merely following operational procedures.<sup>50</sup>

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<sup>41</sup>*Id.* at § 5.

<sup>42</sup>*Id.* at § 2.

<sup>43</sup> *United States v. Mojica*, G.R. No-L17650, Feb. 15, 1922.

<sup>44</sup> *Ortega v. Sandiganbayan*, G.R. No. L-57664, Feb. 8, 1989.

<sup>45</sup> *Rubrico vs. Macapagal-Arroyo*, G.R. No. 183871 Feb. 18, 2010.

<sup>46</sup> Office of the President of the Philippines, Institutionalization of the Doctrine of ‘Command Responsibility’ in all Government Offices, Particularly at all Levels of Command in the Philippine National Police and Other Enforcement Agencies, E.O. No. 226-1995 (Feb. 17, 1995).

<sup>47</sup> Miguel Syjuco, *This Is Why Philippine President Rodrigo Duterte Will Get Away With Murder*, TIME, Aug. 16, 2016, available at <http://time.com/4453587/philippines-rodrigo-duterte-dictator-impunity-marcos/> (last accessed Sept. 17, 2016).

<sup>48</sup> Yasmin Jeffrey, *Ruthless Reign: Police kill hundreds as the Philippines’ new President Rodrigo Duterte orders war on drugs*, THE SUN, Aug. 20, 2016, available at <https://www.thesun.co.uk/news/1645912/police-kill-hundreds-as-the-philippines-new-president-rodrigo-duterte-orders-war-on-drugs/> (last accessed Sept. 17, 2016).

<sup>49</sup> Gerg Cahiles, *PNP Chief defends police in drug-related killings*, CNN PHIL., Jul. 14, 2016, available at <http://cnnphilippines.com/news/2016/07/14/bato-defends-police-in-drug-related-killings.html> (last accessed Sept. 17, 2016).

<sup>50</sup> Cecille Suerte Felipe, *‘Bato’ to cops: I will kill you too, if...*, PHIL. STAR, Jun. 20, 2016, available at <http://www.philstar.com/headlines/2016/06/20/1594766/bato-cops-i-will-kill-you-too-if...> (last accessed Sept. 17, 2016).

28. Should the presumption of regularity in the killings resulting from police operations be overturned, and if the police officer involved fails to prove the existence of any justifying circumstance, which resulted in the killing, then he must be held accountable for such death. In the same light, his superior, under the doctrine of command responsibility, must also be held accountable for the same.

#### D. Impunity & Accountability

29. Impunity and the lack of accountability of authorities responsible for the killings remain key issues in the past and current administrations. Progress of resolving extrajudicial killings cases since the last UPR is slow.

30. Since the assumption of President Duterte to office, there has been a spike in number of killings, especially those related to the anti-illegal drugs operation.<sup>51</sup> There is inaction on the part of the government to investigate these killings. Moreover, majority of the public appear to be desensitized to possible violations of human rights in these killings.

31. The President is vocal about his shoot-to-kill orders to police officers, as justified in cases where arrested suspects violently resist. He also claims that civilians can arrest and kill criminals under the principles of citizen arrest and self-defense.<sup>52</sup> This promotes vigilantism and empowers people to take the law into their own hands.

32. There is also a seeming trend among local chief executives to implement schemes that reward police and even citizens for arresting or killing suspects and/or criminals,<sup>53</sup> such as the Cebu mayor offering rewards of about Php 50,000 for police officers who kill drug lords in the line of duty or with legal justification.<sup>54</sup> This trend may have started when President Duterte raised bounty offers for killing top drug lords.<sup>55</sup>

33. Remedies are available to victims of human rights violations. The writ of *amparo* is issued when a person's right to life, liberty and security is violated or threatened by an unlawful act or omission of another.<sup>56</sup> The same writ is availed of in cases of extralegal killings and enforced disappearances.<sup>57</sup> The writ of habeas data is available to a person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of

<sup>51</sup>PNP killed 1,140 drug suspects since July, GMA NEWS, Sept. 18, 2016, available at <http://www.gmanetwork.com/news/story/581817/news/nation/pnp-killed-1-140-drug-suspects-since-july> (last accessed Sept. 19, 2016).

<sup>52</sup>Euan McKirdy, *Philippines' Rodrigo Duterte: Public 'can kill' criminals*, CNN, Jun. 6, 2016, available at <http://edition.cnn.com/2016/06/06/asia/duterte-drug-dealers-lethal-force-vigilantism/> (last accessed Sept. 18, 2016).

<sup>53</sup>Kevin Lagunda, *Osmeña: No stipend for new police in Cebu City*, SUNSTAR CEBU, Jul. 16, 2016, available at <http://www.sunstar.com.ph/cebu/local-news/2016/07/16/osmena-no-stipend-new-police-cebu-city-485615> (last accessed Sept. 18, 2016).

<sup>54</sup>Ryan Macasero, *Cebu City: Mayor Osmeña, who 'inspired' vigilante killings, is back*, RAPPLER, Aug. 26, 2016, available at <http://www.rappler.com/nation/133534-cebu-tomas-osmena-vigilante-killings-back> (last accessed Sept. 18, 2016).

<sup>55</sup>Nestor Corrales, *Duterte: I'll top drug lords' bounty offer*, PHIL. DAILY INQUIRER, Jun. 25, 2016, available at <http://newsinfo.inquirer.net/792402/duterte-ill-top-drug-lords-bounty-offer> (last accessed Sept. 18, 2016).

<sup>56</sup>THE RULE ON THE WRIT OF AMPARO, A.M. No. 07-9-12-SC, §1.

<sup>57</sup>*Id.*

an individual or entity engaged in gathering, collecting, or storing of data or information regarding the person's personal circumstances.<sup>58</sup>

34. However, challenges in accessing these remedies remain. There is a lack of public knowledge on the existence of these remedies. For instance, materials given out by authorities as part of *Project Tokhang* show guidelines in protecting constitutional rights to privacy and presumption of innocence, but do not include legal remedies available in case of violation of rights.
35. Fear pervades affected parties as to repercussions for commencing legal action. Victims and their loved ones feel intimidated to file cases against the perpetrators of these killings. Even cooperating with the Commission on Human Rights for an investigation is difficult. Families of victims refuse to speak up because of fear.<sup>59</sup> Fighting for justice means the possibility of encountering the killer who might end up coming back to harm them.<sup>60</sup>
36. The justice system in the Philippines is costly, protracted, and inefficient. Prior to the Duterte administration, prosecutions of incidents of extrajudicial killings are stagnant in its progress to resolution.<sup>61</sup> Now, not a single case under the Duterte administration has been resolved because of challenges in the investigation.<sup>62</sup> This is compounded by the seeming policy to focus on winning the war on drugs, rather than investigating and preventing these killings.

#### IV. RECOMMENDATIONS

It is respectfully submitted that the following recommendations to be made to the Philippine Government for its consideration, support, and implementation:

37. To enact a law clearly defining "extrajudicial killings" in line with internationally recognized standards.
38. To conduct an impartial investigation and prosecute all cases of extrajudicial or summary killings. This entails proper documentation of each alleged violation, including the preservation of the evidence gathered.
39. To ensure protection of witnesses to alleged enforced disappearances and extrajudicial killings and their immediate families.

<sup>58</sup> THE RULE ON THE WRIT OF HABEAS DATA, A.M. No. 08-1-16-SC, §1.

<sup>59</sup> Amita Legaspi, *CHR chair Gascon: Families of Extrajudicial killing victims afraid to talk*, GMA NEWS, Aug. 2, 2016, available at <http://www.gmanetwork.com/news/story/576057/news/nation/chr-chair-gascon-families-of-extrajudicial-killing-victims-afraid-to-talk> (last accessed Sept. 18, 2016).

<sup>60</sup> Gabriel Cardinoza, *5 yr. old girl latest fatality in drug war*, PHIL. DAILY INQUIRER, Aug. 25, 2016, available at <http://newsinfo.inquirer.net/809411/5-yr-old-girl-latest-fatality-in-drug-war> (last accessed Sept. 18, 2016).

<sup>61</sup> Erika Sauler et.al., *Extrajudicial killing: Culture of impunity remains*, PHIL. DAILY INQUIRER, Jul. 27, 2016, available at <http://newsinfo.inquirer.net/707946/extrajudicial-killings-culture-of-impunity-remains> (last accessed Sept. 18, 2016).

<sup>62</sup> Julianne Love De Jesus, *PNP exec admits: Not one case of extrajudicial killing solved*, PHIL. DAILY INQUIRER, Aug. 12, 2016, available at <http://newsinfo.inquirer.net/805693/pnp-exec-admits-not-one-case-of-extrajudicial-killing-solved> (last accessed Sept. 18, 2016).

40. To ensure that police officers engaged in anti-drug operations are aware that killings perpetrated by them where suspects resist arrest do not enjoy the presumption of regularity, and as such, they must prove the legality of such killings.
41. In relation to the implementation of the Double Barrel Project:
  - a. To ensure that it is not contrary to the Philippine Constitution and other relevant domestic and international laws. The State should provide a detailed framework to protect the people's right to privacy and right against unreasonable searches in the implementation of this project.<sup>63</sup>
  - b. To guarantee the right of every Filipino to access information, official records, public records, and other documents and papers pertaining to official acts.
  - c. To ensure transparency in processes involved in the Collection and Validation of Information Stage where the identity and criminal activities of suspected illegal drug personalities are documented and verified by police officers.<sup>64</sup>
  - d. To ensure the credibility of intelligence information used as basis for the confrontation of subjects in the House-to-House Visitation Stage.
42. To ensure access to effective remedies, such as the writs of amparo, habeas corpus, or habeas data, which protect the rights to life, liberty, and property of the people. This includes according priority to cases that seek the issuance of these writs.
43. To revitalize its efforts in increasing knowledge and awareness of human rights among the Armed Forces of the Philippines and the Philippine National Police.
44. To extend an invitation to the Special Rapporteur on extrajudicial, summary or arbitrary executions to conduct a fact-finding mission on the alleged extrajudicial and summary killings.

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<sup>63</sup> The Command Memorandum Circular No. 16-2016, also known as the PNO Anti-Illegal Drugs Campaign Plan - Project: "Double Barrel" provides —

"3) House to House Visitation Stage:

The actual house to house visitations of suspected drug personalities shall be the highlight of PROJECT TOKHANG. It shall be conducted simultaneously nationwide on the first day of the Office of the [Chief of the Philippine National Police]. The following shall be undertaken in the conduct of house to house visitations:

....

c) The conduct of house to house visitation must be done in a manner that shall not violate the rights of the subject;"

<sup>64</sup> The Command Memorandum Circular No. 16-2016, also known as the PNO Anti-Illegal Drugs Campaign Plan - Project: "Double Barrel" provides —

Sec. 5 (a) (1). The identity and criminal activities of each target must be properly documented and verified with all possible sources to equip the team with accurate and solid proofs when confronting suspects during house to house visitations.