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Extrajudicial Punishments to Combat the Philippine Drug War: Problem or Solution?

Mikaela Y. Medina

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EXTRAJUDICIAL PUNISHMENTS TO COMBAT THE PHILIPPINE DRUG WAR: PROBLEM OR SOLUTION?

Mikaela Y. Medina*

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I. Introduction

Extrajudicial punishments arose as a prevalent issue worldwide during the early 20th century.¹ Consisting of executions, forced disappearances, and arbitrary arrests and detentions, extrajudicial punishments are viewed as highly unethical by many human rights organizations because they divert from the sanction of any legal or judicial proceeding, thereby bypassing the due process of law.² Its use is becoming increasingly commonplace as a government solution for eradicating unwanted citizens acting against the governmental agenda, with more apparent use in Third-World countries that often suffer from dictator-like

* 2017 Juris Doctor Candidate, Loyola University Chicago School of Law.

¹ Beverly Rose Lobo, *Question of Human Rights Violations Under Extrajudicial Punishments*, DHIRUBHAI AMBANI INTERNATIONAL MODEL UNITED NATIONS (Oct. 17, 2014).

² Frederico Andreu-Guzmán, *Enforced Disappearance and Extrajudicial Execution: Investigation and Sanction: Practitioners Guide No. 9*, INT'L COMM'N OF JURISTS, 1, 87 (2015), <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2015/12/Universal-Enforced-Disappearance-and-Extrajudicial-Execution-PGNo9-Publications-Practitioners-guide-series-2015-ENG.pdf>.

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governments or political turmoil.³ With the rise of new technology, extrajudicial killings have further transformed.⁴ Issues have come to light regarding the use of extrajudicial killings through unmanned aerial vehicles that target specific individuals, such as the drone strike in Yemen that killed Anwar al-Awlaki, a U.S. citizen turned Al-Qaeda operative, in 2011.⁵ Other countries have also turned to the use of extrajudicial punishments for a quick fix to their problems, guising them as “acts of war,” with a flagrant disregard for the consequences that are guaranteed to ensue.⁶

Recently, the Philippines has come under scrutiny for the widely-known authorization of extrajudicial punishments by its current president, Rodrigo Duterte, and the prevalence of such tactics being used to kill alleged criminals and innocent bystanders.⁷ Between July 1, 2016 and December 12, 2016, more than 5,900 suspected drug dealers and users were killed at President Rodrigo Duterte’s command.⁸ Duterte is well-known for condoning, and oftentimes outright encouraging, the use of extrajudicial executions to ending the country’s current “Drug War,” an alleged war which confronts the nation’s drug trade through extreme and violent measures.⁹ His no-nonsense approach to eradicating the drug trade and drug use has not only led to the over-population of already overcrowded prisons, but also the deaths of many innocent bystanders.¹⁰ Due to Duterte’s lawless tactics, various governments and global human rights organizations have condemned the heavy use of extrajudicial punishments in the Philippines.¹¹

This article will specifically focus on President Duterte’s regulation of the Drug War in which he explicitly promotes extrajudicial punishments to combat the prevalent illicit drug trade. This article will then discuss the factors that con-

³ See generally, Amanda Taub, *How Countries Like the Philippines Fall Into Vigilante Violence*, N.Y. TIMES (Sept. 11, 2016), <http://www.nytimes.com/2016/09/12/world/asia/the-philippines-rodrigo-duterte-vigilante-violence.html>.

⁴ Rebecca Gordon, *How the US Military Came to Embrace Extrajudicial Killings*, THE NATION (July 18, 2015), <https://www.thenation.com/article/how-the-us-military-came-to-embrace-extrajudicial-killings/>.

⁵ Mark Mazzetti, Charlie Savage & Scott Shane, *How a U.S. Citizen Came to Be in America’s Cross Hairs*, N.Y. TIMES (Mar. 9, 2013), <http://www.nytimes.com/2013/03/10/world/middleeast/anwar-al-awlaki-a-us-citizen-in-americas-cross-hairs.html>.

⁶ GABRIELLA BLUM & PHILIP HEYMANN, *LAW AND POLICY OF TARGETED KILLING, LAWS OUTLAWS, AND TERRORISTS: LESSONS FROM THE WAR ON TERRORISM* 167 (MIT Press, Vol. 1 2010).

⁷ Nick Robins-Early, *Duterte’s Brutal Drug War Skyrockets Killings in the Philippines*, THE HUFFINGTON POST (Aug. 15, 2016), http://www.huffingtonpost.com/entry/rodrigo-duterte-philippines-drugs-vigilante-killings_us_57aa0e8ae4b0ba7ed23d9fef.

⁸ Sherwin Alfaro & Elizabeth Roberts, *Philippines: More Than 5,900 Deaths in ‘War on Drugs’ Since July*, CNN WORLD (Dec. 13, 2016), <http://www.cnn.com/2016/12/12/asia/philippines-death-toll-drug-war/index.html>.

⁹ See Robins-Early, *supra* note 7.

¹⁰ Oliver Holmes, *Duterte says children killed in Philippines drug war are ‘collateral damage’*, THE GUARDIAN (Oct. 17, 2016), <https://www.theguardian.com/world/2016/oct/17/duterte-says-children-killed-in-philippines-drug-war-are-collateral-damage>; See also Andrew R.C. Marshall, *Philippines drug war turns a teeming jail into a haven*, REUTERS (Nov. 8, 2016), <http://www.reuters.com/article/us-philippines-drugs-prison-idUSKBN13320W>.

¹¹ See Robins-Early, *supra* note 7.

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tribute to the Drug War, followed by an analysis of the impact of extrajudicial punishments in different countries. Finally, the article will offer a proposal to President Duterte, addressing the ongoing Drug War in the nation today and providing his administration with alternatives on how to repair the harm that has been caused by the onslaught of killings that have occurred outside of the Philippine judicial system.

II. Background

Traditionally, extrajudicial killings have been difficult to control because they are not criminalized under international law as broadly as other acts of harm or death, such as torture.¹² Further, the term “extrajudicial punishment” is far from clear cut with an ambiguous definition, therefore increasing the level of difficulty with which authorities can prosecute and hold participants in extrajudicial punishments accountable.¹³ Furthermore, third-world countries struggle with the prevalence of extrajudicial punishments due to their severe lack of resources available to allocate to its prevention and regulation.¹⁴

A. Philippine Demographics

An island located off the coast of east Asia, the Philippines is a poverty-ridden country with a history of political turmoil.¹⁵ United States influences remain in the country today, with several U.S. army and naval stations in operation throughout the many Philippine islands.¹⁶ In a study conducted by the Philippine Statistics Authority, one in five Filipinos was classified as “poor,” or living below the poverty threshold.¹⁷ In 2014, the Asian Development Bank estimated 25.2% of the Filipino population to be living below the national poverty line; countries such as Indonesia, Thailand, Vietnam, and Malaysia only had less than 12% of their populations living below their respective national poverty lines.¹⁸

¹² Erin Creegan, *Criminalizing Extrajudicial Killings*, 41 *DENV. J. INT’L L. & POL’Y*, 185, 189 (2012).

¹³ PJ Ruben T. Reyes and J. Mariano C. Del Castillo, *Thoughts on Extrajudicial Killings and Unexplained Disappearances*, COURT OF APPEALS MANILA STATION, PHILIPPINES (2016), http://ca.judiciary.gov.ph/index.php?action=mnuactual_contents&ap=j5050; See generally, Christian D. Pangilinan, *The Dispute over Extrajudicial Killings: The Need to Define Extrajudicial Killings as State-Sponsored Acts*, 86 *PHIL. L. J.* 811, 812 (2012).

¹⁴ See generally, Robins-Early, *supra* note 7.

¹⁵ Pauline Eadie, *The Philippines, Environmental Politics and the Challenges Ahead*, *BALLOTS & BULLETS, SCH. OF POL. & INT’L REL., U OF NOTTINGHAM* (Apr. 18, 2016), <http://nottspolitics.org/2016/04/18/the-philippines-environmental-politics-and-the-challenges-ahead/>.

¹⁶ Manuel Mogato, *Philippines Offers Eight Bases to U.S. Under New Military Deal*, *REUTERS* (Jan. 13, 2016), <http://www.reuters.com/article/us-philippines-usa-bases-idUSKCN0UR17K20160113>.

¹⁷ Press Release, Philippine Statistics Authority, *Poverty Incidence Among Filipinos Registered at 21.5% in 2015* (Oct. 27, 2016), <https://psa.gov.ph/poverty-press-releases> (stating that a Filipino, on average, needed at least PHP 1,813 (roughly \$40 USD) each month to meet both food and non-food needs).

¹⁸ Basic Statistics 2016, *Poverty in the Philippines*, *ASIAN DEV. BANK*, (Apr. 2016), <https://www.adb.org/countries/philippines/poverty>.

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Akin to other East Asian countries with similar demographics, the Philippines has grappled with the long-standing issue of extrajudicial punishments.¹⁹

Stemming back to the 1970s under the tumultuous Marcos administration, the Philippine government has periodically utilized extrajudicial punishments to eradicate political opposition or unfavorable citizens.²⁰ During then-President Ferdinand Marcos' twenty-year regime as a dictator, he not only declared martial law across the nation but also suspended the writ of habeas corpus, utilizing the electric chair as his primary choice of extrajudicial punishment until 1976, when it switched to death by firing squad.²¹ Under the Marcos regime, drug trafficking and other criminal acts were punishable by death, and in many cases, broadcasted on national television.²² Of note, the extrajudicial punishment figures from the Marcos regime were significantly less than the numbers gathered from Duterte's regime; additionally, the numbers from the Marcos regime represent a span of several decades, whereas Duterte's numbers are derived from the six short months he has been in office.²³ Similar to Duterte, President Marcos also had a favorable rating amongst the Filipino population despite the fact that those who opposed him were either publically killed or mysteriously vanished.²⁴ The troubled policies of the Marcos regime only came to an end after he was accused of embezzling millions of pesos from the Filipinos, subsequently resulting in a military coup and his exile to the United States.²⁵

B. President Duterte's History of Violence

Prior to President Duterte assuming office, then-president Gloria Macapagal-Arroyo also faced similar challenges with controlling the use of extrajudicial punishments.²⁶ However, under her presidency, terrorist groups in the provinces committed the extrajudicial punishments, not the Philippine police force or vigilantes living in the main cities.²⁷ To combat the use of extrajudicial executions, she established "Task Force 211," a team of government employees who investi-

¹⁹ See Pangilinan, *supra* note 13.

²⁰ See Pangilinan, *supra* note 13.

²¹ Joel Ruiz Butuyan, *Extrajudicial killings as crime against humanity*, INQUIRER.NET (Aug. 15, 2016), <http://opinion.inquirer.net/96518/extrajudicial-killings-crime-humanity>.

²² *Maggie dela Riva*, REVOLVY.COM (Mar. 10, 2017), <https://www.revolvly.com/topic/Maggie%20dela%20Riva&uid=1575>.

²³ Rishi Iyengar, *The Killing Time: Inside Philippine President Rodrigo Duterte's War on Drugs*, TIME (Aug. 25, 2016), <http://time.com/4462352/rodrigo-duterte-drug-war-drugs-philippines-killing/>.

²⁴ *Id.*

²⁵ Mark Hanrahan, *Philippine President Duterte Threatens to Impose Martial Law*, NBC NEWS (Jan. 15, 2017), <http://www.nbcnews.com/news/world/philippine-president-duterte-threatens-impose-martial-law-n707066>.

²⁶ ATTY. AL A. PARRENO, REPORT ON THE PHILIPPINE EXTRAJUDICIAL KILLINGS 13 (The Asia Foundation 2011), <http://www.asiafoundation.org/resources/pdfs/ReportonPhilippineEJK20012010.pdf>.

²⁷ *Extrajudicial Killings in the Philippines: Strategies to End the Violence: Hearing on S. Hrg. 110-290 Before the Subcommittee on East Asian and Pacific Affairs of the S. Comm. On Foreign Relations*, 110th Cong. (2007), <https://www.gpo.gov/fdsys/pkg/CHRG-110shrg40811/html/CHRG-110shrg40811.htm>.

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gated and filed charges against the participants of these lawless killings.²⁸ Her administration also established the Melo Commission, a group headed by now-retired Philippine Supreme Court Justice Jose Melo, which prosecuted those responsible for the deaths of many political figures and the forced disappearances of others.²⁹

Between 2001 and 2010, an estimated 390 individuals were killed in extrajudicial executions, with only 161 of those cases being filed with the Philippine prosecutor; most of these deaths can be attributed to Philippine terrorist groups.³⁰ Conversely, under Duterte's presidency, these terrorist groups are but one of the contributing factors to the high number of deaths stemming from extrajudicial executions.³¹ In the last six months, as many as 6,000 individuals have been killed, with a large majority of their deaths being traced to vigilantes, government officials, the Philippine armed forces, and even the Philippine National Police.³² Alarming, over 3,500 unsolved homicide cases are linked to Duterte, be it to his explicit approval of extrajudicial killings by vigilantes or government-controlled forces.³³ As such, the mere fact that these deaths are occurring has exposed the lawlessness of the Philippine government, various government entities, the unchecked powers of national and local clans, and the deep-rooted government ties to such organizations.³⁴

President Duterte's loud promotion of extrajudicial punishment is not a new concept.³⁵ Prior to winning the presidency, President Duterte was mayor of Davao City for over twenty years.³⁶ During his time as mayor, he was quite vocal about his disdain for those who contributed to the drug industry, earning him the nickname "The Punisher" for his takedown of criminals and alleged criminals.³⁷

²⁸ See Parreno, *supra* note 26, at 58.

²⁹ See *Hearing on S. Hrg. 110-290*, *supra* note 27.

³⁰ See Parreno, *supra* note 26, at 4 & 17.

³¹ See generally, Kristine Guerra, *Philippine President Duterte warns terrorists he can be '10 times' more brutal than ISIS*, WASH. POST (Aug. 16, 2016), https://www.washingtonpost.com/news/worldviews/wp/2016/08/16/philippine-president-duterte-warns-terrorists-he-can-be-10-times-more-brutal-than-isis/?utm_term=.57fb44370fcf.

³² THOMAS LUM, CONG. RESEARCH SERV., RL 33233, *THE REPUBLIC OF THE PHILIPPINES AND U.S. INTERESTS* 5 (2012).

³³ See generally Daniel Berehulak, *'They Are Slaughtering Us Like Animals'*, N.Y. TIMES (Dec. 7, 2016), <http://www.nytimes.com/interactive/2016/12/07/world/asia/rodrigo-duterte-philippines-drugs-killing.html>.

³⁴ International Business Publications, *Strategic Information and Development*, Philippines Foreign Policy and Government Guide Vol. 1 I, 98 (2013).

³⁵ Emily Rauhala, *Before Duterte was the Philippines' president, he was 'the Death Squad mayor'*, WASH. POST (Sept. 28, 2016), https://www.washingtonpost.com/world/asia_pacific/before-duterte-was-the-philippines-president-he-was-the-death-squad-mayor/2016/09/28/f1d1ccc4-800b-11e6-ad0e-ab0d12c779b1_story.html?utm_term=.11e8dfad63cb.

³⁶ Michael Sullivan, *Why Philippine President Rodrigo Duterte Distrusts the US*, NPR (Oct. 11, 2015), <http://www.npr.org/sections/parallels/2016/10/11/497487363/why-philippine-president-rodrigo-duterte-distrusts-the-u-s>.

³⁷ See Rauhala, *supra* note 35; See also Ian Bremmer, *These 5 Facts Explain Rodrigo Duterte's Victory in the Philippines*, TIME (May 13, 2016), <http://time.com/4328326/rodrigo-duertes-philippines-five-facts/>.

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In fact, Duterte was known for being the ringleader of the “Davao Death Squad,” a militia group that executed his bidding through the use of extrajudicial punishments, specifically causing political opponents and alleged criminals to “disappear.”³⁸ These former Davao Death Squad militiamen later testified in trials that Duterte was involved in the deaths of more than a thousand individuals.³⁹

Often, those caught in the crosshairs are not habitual drug users; they are merely human mules being used to shuttle around paraphernalia, or occasional users in the wrong place at the wrong time.⁴⁰ President Duterte has also openly admitted his involvement in the deaths of children and innocent people, referring to them as ‘collateral damage,’ eliciting responses from various human rights organizations, the Catholic Church, and many member states of the UN.⁴¹ However, Duterte has ignored the plights of these organizations, commenting, ‘I do not care what the human rights guys say. I have a duty to preserve the generation. If it involves human rights, I don’t give a shit. I have to strike fear.’⁴² He has even gone as far as to threaten the Philippines’ departure from the UN.⁴³

III. Discussion

The day after his inauguration, President Duterte publicly vowed to protect those who killed drug lords, pushers, and users: even if they killed as many as a thousand people.⁴⁴ He also pledged to make the fish in the Manila Bay ‘fat from all the bodies’ of the drug users he was aiming to dump into its waters.⁴⁵ In his first month as president, President Duterte was responsible for the deaths of approximately 1,200 people, be it his explicit instruction to the Philippine Armed Forces, Philippine Police Force, or his express granting of protection from criminal sanctions to vigilantes.⁴⁶ Over 600,000 drug users turned themselves in to government offices and police stations the following month to register their

³⁸ See generally, Carlos H. Conde, *Philippine death squads extend their reach*, N.Y. TIMES (Mar. 23, 2015), <http://www.nytimes.com/2005/03/23/world/asia/philippine-death-squads-extend-their-reach.html>.

³⁹ Chieu Luu, Tiffany Ap & Kathy Quiano, *Philippines President ‘Ordered Death Squad Hits While Mayor,’ Alleged Hitman Claims*, CNN (Sept. 16, 2016), <http://www.cnn.com/2016/09/15/asia/philippines-duterte-senate-hearing/>.

⁴⁰ Mikas Matsuzawa & Patricia Viray, *Casualties of Rody’s War*, PHILIPPINE STAR GLOBAL (Sept. 19, 2016), <http://newslab.philstar.com/war-on-drugs/poverty>.

⁴¹ See Holmes, *supra* note 10; See also Camila Domonoske, *Under New Philippines President, Nearly 1800 Have Died in Extrajudicial Killings*, NPR (Aug. 22, 2016) <http://www.npr.org/sections/thetwo-way/2016/08/22/490944191/under-new-philippine-president-nearly-1-800-have-died-in-extrajudicial-killings>; See also Robert Muggah, *Duterte’s Drug War in the Philippines is Out of Control, He Needs to be Stopped*, THE GUARDIAN (Jan. 5, 2017), <https://www.theguardian.com/global-development-professionals-network/2017/jan/05/rodrigo-dutertes-drug-war-in-the-philippines-is-out-of-control-he-needs-to-be-stopped>.

⁴² See Holmes, *supra* note 10.

⁴³ Euan McKirdy, *Philippines President Rodrigo Duterte Insults UN, Threatens to Leave Over Criticism*, CNN (Aug. 21, 2016), <http://www.cnn.com/2016/08/21/asia/philippines-duterte-threatens-to-leave-un/>.

⁴⁴ See Iyengar, *supra* note 23.

⁴⁵ *Id.*

⁴⁶ *Id.*

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names, primarily out of fear that they would be next on Duterte's hit list.⁴⁷ Coupled with the fact that the current term for Philippine presidents lasts six years, the ratio at which individuals are dying under Duterte's administration translates to an unprecedented number of deaths in the upcoming years should both the drug war and Duterte's sanction of extrajudicial killing continue.⁴⁸

Out of those 6,000 deaths that have occurred since Duterte assumed office, 2,086 were allegedly killed in police operations, with the remaining 3,841 were killed under other circumstances, including by vigilantes.⁴⁹ Unstopped, Duterte is only moments away from suspending the writ of habeas corpus in an attempt to bolster his campaign against illicit drugs, which will ultimately lead to a higher Philippine death toll.⁵⁰ Under the Philippine Constitution, the President may suspend the writ or proclaim martial law, in cases of invasion, rebellion, or when the public safety requires it.⁵¹ Due to President Marcos' abuse of habeas corpus suspension along with his unchecked proclamation of martial law in the 70's, the Philippine Constitution now has a provision that limits any suspension of the writ or declaration of martial law to sixty days.⁵² However, if the president submits a report to the congress within 48 hours after any suspension or proclamation of either doctrine, Congress has the opportunity to vote on the matter, and can choose to revoke or extend the proclamation or suspension.⁵³ With an approval rating of 83% as of December 11, 2016 and only single-digit disapproval and distrust ratings in regard to his performance and trustworthiness, the likelihood of the Philippine Congress sanctioning Duterte's actions and extending the suspension of the writ should he ask for their support seems extremely likely, increasing the likelihood that his suspension of the writ may actually occur.⁵⁴

When comparing the rate of drug use in the Philippines to the drug use of other countries, the illicit drug trade does not appear as precarious as President Duterte suggests, particularly when compared to the rate at which alleged perpetrators of the Drug War are being punished or executed.⁵⁵ According to the United Nations Office on Drugs and Crime, the highest recorded figure of am-

⁴⁷ Aurora Almendral, *When Half a Million Drug Users Surrendered in the Philippines, Authorities Sent Some of Them to Zumba*, PRI (Oct. 12, 2016), <http://www.pri.org/stories/2016-10-12/when-half-million-drug-users-surrendered-philippines-authorities-sent-some-them>.

⁴⁸ See generally, Reuters, *Philippines' Duterte Says He May Not 'Be Around' Till End of Term*, CNBC (Dec. 13, 2016), <http://www.cnbc.com/2016/12/13/philippines-duterte-says-he-may-not-be-around-till-end-of-term.html>.

⁴⁹ *Id.*

⁵⁰ *UN expert rejects Philippines conditions for fact-finding mission on drugs war*, U.N. Office of the High Commissioner (Dec. 16, 2016), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21045&LangID=E>.

⁵¹ Const. (1987), art. III, § 15 (Phil.).

⁵² *Id.* art. VII, §18.

⁵³ *Id.*

⁵⁴ Helen Flores, *Rody approval rating at 83%*, PHILIPPINE STAR GLOBAL (Jan. 7, 2017), <http://www.philstar.com/headlines/2017/01/07/1660424/rody-approval-rating-83>.

⁵⁵ VJ Bacungan, *Duterte warns of suspension of writ of habeas corpus*, CNN PHILIPPINES (Nov. 13, 2016), <http://cnnphilippines.com/incoming/2016/11/13/rodrigo-duterte-warns-of-suspension-of-writ-of-habeas-corpus.html>.

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phetamine use amongst the Philippine population is 2.35%, which is worse than the US rate of 2.20%.⁵⁶ Comparatively, however, the population differences between the two countries differ by over 220 million individuals, resulting in a larger population of drug users in the US when compared to the Philippines.⁵⁷ However, cocaine use in the Philippines is limited to .03% of the population, comparable to the UK's rate of 2.40% and the US' rate of 2.10%.⁵⁸ According to statistics released by the Philippine Dangerous Drugs Board, roughly 1.8 million Filipinos are addicted to illegal drugs, with 11,321 *barangays*, the Filipino term for "district," housing residents who use illicit drugs on a daily basis.⁵⁹ The most commonly used drug is *shabu*, or meth.⁶⁰ Due to the majority of its ingredients being readily available in household products or over the counter medications, *shabu* is produced quickly and efficiently at low costs, making it the drug of choice for sellers.⁶¹ Moreover, users experience an instantaneous high despite only ingesting small quantities, making it the ideal choice for users as well; the drug retention rate for *shabu* is 28%.⁶²

Although Duterte's extrajudicial punishment policies have yielded results, these results are merely temporary.⁶³ For each individual he kills, another will take his place, since illicit drug use is a health issue that requires targeted, non-criminal, interventions that start with the individual.⁶⁴ With an estimated 1.8 million drug users out of a general population of 100 million people, more blood will be shed using this quick fix unless the root cause of the Drug War is eradicated.⁶⁵

⁵⁶ See Iyengar, *supra* note 23.

⁵⁷ See generally, Central Intelligence Agency, *East & Southeast Asia: Philippines*, The World Factbook, (Jan. 12, 2017), <https://www.cia.gov/library/publications/the-world-factbook/geos/rp.html>, (provides estimated population total in United States as of July 2016); Central Intelligence Agency, *North America: United States*, The World Factbook, (Jan. 12, 2017), <https://www.cia.gov/library/publications/the-world-factbook/geos/us.html>, (provides estimated population total in Philippines as of July 2016).

⁵⁸ See Iyengar, *supra* note 23.

⁵⁹ Babe Romualdez, *How Serious Is Our Drug Problem?*, PHILIPPINE STAR GLOBAL (Aug. 28, 2016), <http://www.mapinc.org/newscfdp/v16/n591/a03.html>.

⁶⁰ *Id.*

⁶¹ *Id.*; See also Jeffrey Hays, *Amphetamines (Speed, Ice, Methamphetamines, Shabu Shabu, Heroin) in Japan*, FACTS AND DETAILS, <http://factsanddetails.com/japan/cat19/sub125/item663.html> (last updated Jan. 2013).

⁶² Jodesz Gavilan, *DDB: Philippines Has 1.8 million Current Drug Users*, RAPPLER (Oct. 11, 2016), <http://www.rappler.com/nation/146654-drug-use-survey-results-dangerous-drugs-board-philippines-2015>.

⁶³ Camille Diola, *How Duterte's drug war can fail*, PHILIPPINE STAR GLOBAL (Sept. 19, 2016), <http://newslab.philstar.com/war-on-drugs/policy>.

⁶⁴ Aries Arugay & Janjira Sombatpoonsiri, *Duterte's War on Drugs: Bitter Lessons from Thailand's Failed Campaign*, THE CONVERSATION (Sept. 29, 2016), <http://theconversation.com/dutertes-war-on-drugs-bitter-lessons-from-thailands-failed-campaign-66096>.

⁶⁵ See Diola, *supra* note 63.

IV. Analysis

A. Contributing Factors to the Drug War

a. Poverty

One of the more pressing, contributing factors to the Drug War is the fact that the Philippines is an inherently poor country, in comparison to the other countries of the world.⁶⁶ As such, it is often cheaper to buy drugs than it is to put food on the table.⁶⁷ Thus, many individuals turn to drugs to escape the harsh realities of poverty, hopelessness, and powerlessness.⁶⁸ Unless the government or private industry generates enough jobs for those making, peddling, and using drugs, the drug problem will persist.⁶⁹ Moreover, because such a strong correlation exists between the use of drugs and unemployment, the creation of more jobs would assist in not only decreasing the percentage of drug users but also decrease the population of unemployed individuals, in addition to bolstering the economy.⁷⁰ According to a spokesperson for iDefend, an organization that assists in providing rehabilitative services to drug users, “it all boils down to a war against the poor. We can be sure that even with a high kill rate, we will still have a massive drug problem after six years.”⁷¹

b. Children

Young children often wind up on the street for a variety of reasons, whether it is to help their family make ends meet, or because they are being abused at home.⁷² These children often live and survive on the street with little or no contact with their families, or live at home but spend a significant amount of time out on the street, begging or vending.⁷³ In a study conducted on the correlation

⁶⁶ United Nations, *Country Classification*, World Economic Situation and Prospects 2014, http://www.un.org/en/development/desa/policy/wesp/wesp_current/wesp2014.pdf. (The United Nations classifies the Philippines as a “developing nation.”)

⁶⁷ See generally, *End the Drug War: Philippines President Duterte Says Kill All Drug Dealers*, DRUG POLICY ALLIANCE (July 11, 2016), <http://www.drugpolicy.org/blog/end-drug-war-philippines-president-duterte-says-kill-all-drug-dealers> (explaining how many turn to drugs in order to cope with their lives and escape reality, such as the difficulties of living in poverty and providing for one’s family).

⁶⁸ Jovic Yee, ‘Don’t make war on drugs war on human rights’, INQUIRER (Aug. 13, 2016), <http://newsinfo.inquirer.net/805816/dont-make-war-on-drugs-war-on-human-rights>.

⁶⁹ *Id.*

⁷⁰ Rogier van den Brink, *Philippines: Creating More and Better Jobs: We Can Work It Out*, THE WORLD BANK (Feb. 26, 2014), <http://www.worldbank.org/en/news/speech/2014/02/26/philippines-creating-more-and-better-jobs-we-can-work-it-out>.

⁷¹ *Id.*

⁷² UNICEF, *Under pressure: children on the streets*, https://www.unicef.org/philippines/real-lives_11786.html (last visited Feb. 18, 2017).

⁷³ Levi Njord, Ray M. Merrill, Rebecca Njord, Ryan Lindsay & Jeanette D.R. Pachano, *Drug Use Among Street Children and Non-Street Children in the Philippines*, ASIA-PACIFIC J. PUB. HEALTH 22(2), 203, 211; See also Schools Online, *Street Children*, BRITISH COUNCIL, <https://schoolsonline.britishcouncil.org/street-children> (last visited Mar. 10, 2017) (Street children are minors who live and/or work on the streets. UNICEF has classified into three categories: street living children, who have run away from their families and live alone on the streets; street working children, who spend most of their time on the

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between drug use among street children and non-street children, street children were significantly more likely to have been given or sold a drug in the past month than non-street children, and in turn, drug use is more prevalent amongst street children.⁷⁴ This can be attributed to the fact that street children have greater access to drugs than non-street children.⁷⁵

Furthermore, in a 2008 study published in the *Asia-Pacific Journal of Public Health*, it was found that drug abuse by Filipino youths began between the ages of ten and eleven years.⁷⁶ Often consisting of toluene-based solvents (such as shoe glue), the relatively low cost and ease at which children can obtain such products makes solvent-based type drugs a common choice.⁷⁷ With Filipino children lacking the option to seek treatment for any drug addiction they may develop due to poverty levels or lack of knowledge regarding resources, their drug addiction grows from tobacco, alcohol and inhalants to more severe drugs.⁷⁸ Early experimentation with these substances is known to be associated with both immediate and lasting problems, including abuse and dependence, which can result in profound, long-term health and social consequences.⁷⁹

c. Government

The Philippine government has already created organizations to help combat the drug trade, which include: the Dangerous Drugs Board and the Philippine Drug Enforcement Agency, both created in 2002 to prevent and control the prevalent use of drugs amongst the Philippine population.⁸⁰ Collectively, these agencies are placed in charge of tasks such as shutting down drug bodegas and arresting individuals found in possession of drugs.⁸¹ Specifically, the Dangerous Drugs Board has recently been placed in charge of establishing the needed drug abuse treatment and rehabilitation centers to provide drug dependents who have

streets but return home on a regular basis; and children from street families, or children who live on the streets with their families.)

⁷⁴ See L. Njord, Merrill, R. Njord, Lindsay & Pachano, *supra* note 73 at 207.

⁷⁵ *Id.*

⁷⁶ *Id.* at 208.

⁷⁷ *Id.* at 204.

⁷⁸ *Id.*

⁷⁹ RJ E. Gruber, M.M. Anderson & M. Lodico, *Early Drinking Onset and its Association with Alcohol Use and Problem Behavior in Late Adolescence*, 25 *PREVENTIVE MED.* 293, 300 (1996); See also *Drugs, Brains, and Behavior: The Science of Addiction*, NIDA, <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction> (last visited Mar. 9, 2017).

⁸⁰ Exec. Ord. No. 218, *Strengthening The Support Mechanism For The Philippine Drug Enforcement Agency*, Republic of the Philippines, Office of the President, Philippine Drug Enforcement Agency; see also Congress of the Philippines, Twelfth Congress, First Regular Session, Republic Act No. 9165, (June 7, 2002).

⁸¹ Bureau of International Narcotics and Law Enforcement Affairs, *2016 International Narcotics Control Strategy Report*, U.S. DEP'T OF STATE, <https://www.state.gov/j/inl/rls/nrcrpt/2016/vol1/253301.htm>; See also Philippine Drug Enforcement Agency 2015 Annual Report, 15, <http://pdea.gov.ph/images/AnnualReport/2015AR/AR2015page1to37.pdf>.

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voluntarily surrendered with the appropriate treatment and services they need.⁸² However, when over 600,000 admitted drug users turned themselves in during the first weeks of Duterte's presidency out of fear of being killed, both these entities and local entities were unprepared.⁸³ In an attempt to rehabilitate some of the drug users who willingly turned themselves in, local governments sent meth addicts to compulsory Zumba classes.⁸⁴ Meanwhile, others were sent to community rehabilitation programs where they learned trades like hairdressing or soapmaking, in addition to being subject to weekly "value formation" sessions that served as a barometer of their sincerity in changing their lifestyle.⁸⁵ These wildly ineffective rehabilitation tactics not only showcase how woefully unprepared and overwhelmed local and governments and organizations were, but also further highlight the dire need for proper resources to assist the Filipino population that is truly willing to participate in effective rehabilitation.⁸⁶

Another problem contributing to the Drug War is the fact that the Filipino government has a longstanding history of corruption.⁸⁷ In a corruption study conducted by Transparency International in 2016, the Philippines ranked 101 out of 176 countries and territories, indicating that it was plagued by untrustworthy and badly functioning public institutions.⁸⁸ As such, some of the top government officials in recent years have been found guilty of bribery, and participating in political coups, among other corrupt acts.⁸⁹ Recently, President Duterte has launched a purge of the ranks of politicians, judiciary, and the armed forces by publicly announcing names of over 150 people he accused, albeit many of these accusations being unfounded, of being involved in illegal drug-related corruption and allowing them 24 hours to turn themselves in for investigation, or risk becoming targets of a 'hunt.'⁹⁰ However, unlike the ordinary citizens being subject to extrajudicial executions, these government officials were promised to receive the due process of law if any of the accused were charged in court.⁹¹

Aside from this, corruption also exists amongst the very people designated to protect and serve the Filipinos: the Philippine National Police. Oftentimes, police participating in extrajudicial punishments fabricate their official reports, al-

⁸² *President Duterte Issues EO to Establish, Support Rehab Centers*, REPUBLIC OF THE PHIL., OFFICE OF THE PRESIDENT: DANGEROUS DRUGS ABROAD (Oct. 17, 2016), <http://www.ddb.gov.ph/newsroom/292-president-duterte-issues-eo-to-establish-support-rehab-centers>.

⁸³ See Almendral, *supra* note 47.

⁸⁴ See Iyengar, *supra* note 23.

⁸⁵ *Id.*

⁸⁶ Iyengar, *supra* note 23.

⁸⁷ See generally TRANSPARENCY INT'L, *More Than 6 Billion People Live In Countries With a Serious Corruption Problem*, <https://www.transparency.org/cpi2015/> (last visited Feb. 18, 2017).

⁸⁸ TRANSPARENCY INT'L, *Corruption Perceptions Index 2016*, (Jan. 25, 2017), http://www.transparency.org/news/feature/corruption_perceptions_index_201.

⁸⁹ See Philippines- Government & Business Contacts Handbook, International Business Publications 6 (5th ed. 2008).

⁹⁰ Himanshu Goenka, *Philippine Drug War: President Duterte Launches Corruption Purge*, IBT (Aug. 8, 2016), <http://www.ibtimes.com/philippine-drug-war-president-duterte-launches-corruption-purge-2398555>.

⁹¹ *Id.*

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leging that they acted in self-defense, and routinely plant guns, spent ammunition, or even drug packets next to victims' bodies.⁹² Some officers are even paid \$160 to \$300 extra in cash, albeit secretly at their headquarters, for each extrajudicial execution disguised as a legitimate operation.⁹³ Occasionally, officers even go as far as to set up arrangements with funeral homes where they can receive a commission for sending corpses their way.⁹⁴

B. The Use of Extrajudicial Punishments in Other Countries

a. Thailand

Earlier this century, then Thai Prime Minister Thaksin Shinawatra also 'launched a war on drugs', leading to at least 2,800 deaths through extrajudicial punishment methods.⁹⁵ During an investigation occurring five years after Prime Minister Thaksin's declaration, it was discovered that more than half of the individuals killed had no connection to drugs whatsoever.⁹⁶ Another several thousand people were coerced into anti-drug treatment and rehabilitation.⁹⁷

Similar to the Philippines, Thailand's Drug War stemmed from the prevalent use of methamphetamines amongst its citizens.⁹⁸ Ethnic Burmese rebels produced most of the methamphetamines on the Thailand-Myanmar border to finance their armed struggles against the Thai government.⁹⁹ Because of its affordable price, methamphetamines were largely consumed by the rural working class.¹⁰⁰

In an attempt to eradicate the trade of methamphetamines, the Thai government compiled "blacklists" of those involved in the trade, and collaborated with local governors and police officers to arrest, and often kill, those on the lists.¹⁰¹ The war ultimately ended with Prime Minister Thaksin being overthrown in a

⁹² 'License to Kill: Philippine Police Killings in Duterte's War on Drugs', HUMAN RIGHTS WATCH, <https://www.hrw.org/report/2017/03/01/license-kill/philippine-police-killings-dutertes-war-drugs> (last visited Mar. 10, 2017).

⁹³ Steve Mollman, *Murder by Numbers: Duterte's War on Drugs Has Created 'An Economy of Murder' in the Philippines*, says Amnesty International, QUARTZ (Feb. 01, 2017), <https://qz.com/900039/dutertes-war-on-drugs-has-created-an-economy-of-murder-in-the-philippines-says-amnesty-international/>.

⁹⁴ *Id.*

⁹⁵ *Thailand's 'war on drugs': International Harm Reduction Association and Human Rights Watch briefing paper*, HUMAN RIGHTS WATCH, <https://www.hrw.org/news/2008/03/12/thailands-war-drugs> (last visited Mar. 12, 2008).

⁹⁶ *Id.*

⁹⁷ HUMAN RIGHTS WATCH, NOT ENOUGH GRAVES: THE WAR ON DRUGS, HIV/AIDS, AND VIOLATIONS OF HUMAN RIGHTS 3 (Vol. 16, No. 8, 2004), <https://www.hrw.org/reports/2004/thailand0704/thailand0704.pdf>.

⁹⁸ See Arugay & Sombatpoonsiri, *supra* note 64.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

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coup in 2006.¹⁰² He now lives in Dubai, under a self-imposed exile, and the Thai government to this day continues its battle against the use of illicit drugs in the country.¹⁰³

b. Brazil

Although Brazil's history of extrajudicial killings is not as severe as some of its neighboring South American countries like Colombia or Guatemala, Brazil faces its own significant extrajudicial punishment problems.¹⁰⁴ The Brazilian police force has killed more than 8,000 people unlawfully in the past decade, with many killings resulting from extrajudicial executions.¹⁰⁵ Many officers involved in these executions said they did not report the crimes of their colleagues for fear that they would also be killed.¹⁰⁶ Furthermore, officers involved in unlawful killings routinely seek to cover up their criminal behavior by threatening witnesses, planting guns or drugs on their victims, and tampering with crime scenes, such as removing corpses from the scene and delivering them to hospitals.¹⁰⁷ Such a chain of unlawful events ultimately 'turns communities against the police and undermine[s] security for all,' poisoning relationships with local communities and endangering the lives of all.¹⁰⁸

With inadequate resources to dedicate to the investigation of police officers involved in extrajudicial executions, 'officers will continue to commit extrajudicial executions, in turn making the job of policing Rio more difficult and dangerous for all the rest.'¹⁰⁹ To rectify this, Brazilian authorities have recently attempted to improve how police extrajudicial punishments are handled by creating a special prosecutorial unit that focuses on police abuse, called the GAESP.¹¹⁰

¹⁰² See generally, Amy Sawitta Lefevre, *Thai Army Gets Down to Work on Economy, Stifles Dissent*, REUTERS (May 26, 2014), <http://www.reuters.com/article/us-thailand-politics-idUSBREA4P00M20140527>; (Prime Minister Thaksin's overthrowing largely resulted from a schism between poor, rural populists and the largely urban middle class. The deadlock between pro-Thaksin and anti-Thaksin groups ultimately led to the Thai armed forces seizing government control while Thaksin was out of the country.); Catherine E. Shoichet, *Thailand coup: A Cheat Sheet to Get You Up to Speed*, CNN, (May 23, 2014), <http://www.cnn.com/2014/05/21/world/asia/thailand-crisis-up-to-speed/>.

¹⁰³ *Police: Thaksin Still in UAE*, BANGKOK POST, (May 21, 2009), <http://www.bangkokpost.com/archive/police-thaksin-still-in-uae/143938>.

¹⁰⁴ HUMAN RIGHTS WATCH, *Brazil: Extrajudicial Executions Undercut Rio Security*, (July 7, 2016), <https://www.hrw.org/news/2016/07/07/brazil-extrajudicial-executions-undercut-rio-security>.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ "Good Cops Are Afraid," *The Toll of Unchecked Police Violence in Rio de Janeiro*, HUMAN RIGHTS WATCH (July 7, 2016), <https://www.hrw.org/report/2016/07/07/good-cops-are-afraid/toll-unchecked-police-violence-rio-de-janeiro>.

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c. Kenya

Kenya is just one of the many countries in Africa that has a police force that utilizes extrajudicial punishment as a solution to its problems.¹¹¹ With the recent election of a new president, the extrajudicial executions carried out by police death squads were primarily related to the election.¹¹² The transformation of the police force from a security institution into a bastion of insecurity is the outcome of several factors, including the fact that policemen are underpaid and ill-equipped to do their job.¹¹³ The Kenyan executive branch has also proven to be problematic when it comes to extrajudicial punishments. When confronted by a new security situation, the executive's default response has been to set up a "special police unit" to address the situation.¹¹⁴ These types of units often operated under minimum oversight and maximum impunity, further distorting the power that these units had due to the systemic lack of accountability and an entrenched culture of pervasive impunity.¹¹⁵

V. Proposal

A. Public Health Approach

Without a public health approach, drugs, addiction, and crime will continue to be prevalent forces in the Philippines.¹¹⁶ Rather than turning to extrajudicial punishments, President Duterte should focus on correcting behavior and rehabilitating these citizens. Increased funding should be channeled into programs that assist drug users in quitting these habits and rehabilitating them to become functional members of society. As it stands, there are only fourteen small, public rehab centers, and a handful of private centers scattered throughout the entire country, together totaling over sixty rehabilitation centers, bearing only a total of 3,216 available beds to drug dependents willing to undergo rehabilitation.¹¹⁷ With the existing ratio of government treatment slots to drug addicts, there are 778 would-be patients competing for each bed.¹¹⁸ Many of the existing rehabilitation centers are overcapacity; the DOH-TRC Bicutan Rehabilitation Center, the largest of rehabilitation facility in the country, has an approved capacity of 550

¹¹¹ Abdullahi Boru Halakhe, *The Trap of Insecurity: Extrajudicial Killings in Kenya*, ALJAZEERA (Dec. 8, 2014), <http://www.aljazeera.com/indepth/opinion/2014/12/trap-insecurity-extrajudicial-ki-20141288552608186.html>.

¹¹² Esmaguél Paterno II, *Duterte to Suspend Writ of Habeas Corpus if 'Forced'*, RAPPLER (Nov. 13, 2016), <http://www.rappler.com/nation/152167-duterte-suspend-writ-habeas-corpus-warning>.

¹¹³ Paterno II, *supra* note 112.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ See Diola, *supra* note 63.

¹¹⁷ *Costs and Fees of Alcohol and Drug Rehab Centers in the Philippines*, ALCOHOL AND DRUG REHAB CENTER IN THE PHILIPPINES, <http://alcoholdrugrehabphilippines.blogspot.com/2014/01/costs-and-fees-of-alcohol-and-drug.html> (last visited Mar. 26, 2014) [hereinafter *Costs and Fees of Rehab Centers*]; See also Jefferson Antiporda, *200 Years for Rehab of 1.3M Addicts*, THE MANILA TIMES (Aug. 9, 2016), <http://www.manilatimes.net/200-years-for-rehab-of-1-3m-addicts/278883/>.

¹¹⁸ See Antiporda, *supra* note 117.

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individuals and currently houses 1,557 individuals.¹¹⁹ With over 7,000 Philippine Islands comprising the entire nation, it is clear why only fourteen public rehabilitation centers in a country marred by drug addiction is exceedingly problematic.¹²⁰ The establishment of more government-funded rehabilitation centers would not only significantly reduce the cost for treatment seekers from 10,000–100,000 Philippine pesos per month to 5,000–10,000 Philippine pesos per month, but most government-run rehabilitation centers would also offer free programs for those who truly cannot afford to finance it on their own.¹²¹ By allocating more resources to rehabilitation facilities, individuals controlled by their drug addictions can seek help, resume their place in society, and contribute to the Philippine economy.¹²²

However, President Duterte has recently stated that the government currently lacks the funds to rehabilitate drug addicts, thus he would rather have them killed ‘in the meantime.’¹²³ In his national budget proposal for 2017, President Duterte pledged to allocate 110.4 billion pesos to the Philippine National Police: an amount 24.6% higher than the allocated budget in 2016.¹²⁴ As an additional matter, he stated his intention to increase the Armed Forces’ budget by 15%, and the Judiciary’s budget by 21.5%: all organizations of the government which have not demonstrated the need for larger budgets.¹²⁵ Collectively, President Duterte aimed to give these organizations a combined total of 53.74 billion pesos, translating to 10 billion US dollars.¹²⁶ Rather than promising this monstrous amount to branches of government that have not demonstrated an active need for it, Duterte should allocate these resources to the rehabilitation of the thousands of drug abusers who turned themselves in to the government. As the Philippine Department of Health budget of 635 million PHP for 2016 was based on the projected normal volume of patients in prior years, that figure should change to accommodate the influx of thousands of drug dependents who turned themselves in out of fear of Duterte’s heavy-handed use of extrajudicial punishments as an enforcement mechanism.¹²⁷

If the Philippines truly lacks the resources to increase funding to rehabilitation facilities, perhaps the best route for the administration to take would be to follow the lead of the likes of the Netherlands, Portugal, and Ecuador and decriminalize

¹¹⁹ See McKirdy, *supra* note 43.

¹²⁰ CNN Philippines Staff, *More islands, more fun in PH*, CNN PHILIPPINES, (Feb. 20, 2016), <http://cnnphilippines.com/videos/2016/02/20/More-islands-more-fun-in-PH.html>.

¹²¹ *Costs and Fees of Rehab Centers*, *supra* note 117.

¹²² *Id.*

¹²³ See Almendral, *supra* note 47.

¹²⁴ Rodrigo Roa Duterte, *Message of President Rodrigo Roa Duterte to the Seventeenth Congress of the Philippines on the National Budget for Fiscal Year 2017*, Republic of the Philippines, Dep’t of Budget and Mgmt. (Aug. 15, 2016), http://www.dbm.gov.ph/?page_id=16375.

¹²⁵ *Id.*

¹²⁶ *Historical Rates for the USD/PHP currency conversion on 19 November 2016*, POUNDSTERLING LIVE, <https://www.poundsterlinglive.com/best-exchange-rates/us-dollar-to-philippine-peso-exchange-rate-on-2016-11-19> (last visited Mar. 23, 2017).

¹²⁷ See Antiporda, *supra* note 117.

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the use of drugs.¹²⁸ Although most of the countries that have opted to take this route still have fines that are imposed on those who sell drugs, the possession of small amounts is permissible.¹²⁹ Conversely, harsher financial penalties and criminal sanctions on the makers of these drugs, or even the opportunity to expunge their criminal records if they find a more honest way of living would assist in deterring more units from entering the market. The resources that were then previously allocated to pursuing drug users were, in turn, freed up to deal with major drug trafficking, rehabilitation, harm reduction, and treatment of drug abuse.¹³⁰

B. Preventing Drug Use and Abuse in Philippine Youth

Because “prevention” is an easier solution than the problem of “curing” addicts and users, the Philippine government has continued its campaign to introduce Drug Abuse and Resistance Education (DARE), a program initially utilized amongst American youth.¹³¹ Introduced in the Philippines in 1993, this program aims to provide children and youth with knowledge to help them make informed, health decisions.¹³² As the use of methamphetamines and other drugs are prevalent among Filipino youth, such intervention programs are needed.¹³³ Although this is a step in the right direction, more funding should be channeled towards drug prevention for the Filipino youth. By promoting programs that prevent this specific population from engaging in drug consumption and abuse, the government will help youths avoid such a costly, major health problem, thereby helping them make safe and healthy choices early on in their lives.¹³⁴

C. Establishing an Independent Investigation

Rather than encourage the use of extrajudicial punishments as a solution, President Duterte should shift away from outright executions and instead utilize the due process system that has been put into place by the Philippine Constitution.¹³⁵ This would not only create more jobs as additional prisons and employees will be necessary, but also silence the cries of human rights organizations and activists who condemn the use of extrajudicial punishments. By utilizing and relying on

¹²⁸ *10 Countries That Ended Their War on Drugs*, INSPIRE MALIBU, <http://www.inspiremalibu.com/blog/drug-addiction/10-countries-that-ended-their-war-on-drugs/> (last visited Feb. 18, 2017).

¹²⁹ *Id.*

¹³⁰ *10 Countries That Ended Their War on Drugs*, *supra* note 128.

¹³¹ Jose Rodel Clapano, *School-based Anti-Drug Education Program Proposed*, PHILIPPINE STAR GLOBAL (Aug. 18, 2016), <http://www.philstar.com/campus/education/2016/08/18/1614588/school-based-anti-drug-education-program-proposed>.

¹³² Clapano, *supra* note 131.

¹³³ Leonardo Estacio Jr, *Assessing Methamphetamine Use Among Drug-Using Filipino Youth*, NAT'L INST. ON DRUG ABUSE, (2010) <https://www.drugabuse.gov/international/abstracts/assessing-methamphetamine-use-among-drug-using-filipino-youth>.

¹³⁴ DEP'T OF HEALTH, *OH-NCR empowers youth against illegal drugs and substances*, OFFICIAL GAZETTE (Sept. 5, 2013) <http://www.gov.ph/2013/09/05/doh-ncr-empowers-youth-against-illegal-drugs-and-substances/>.

¹³⁵ *See* Const. (1987), art. III, §1 (Phil.).

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the prison system, President Duterte could stimulate the economy and provide additional jobs to those in need in the impoverished nation, while making the conditions in the prisons more humane.¹³⁶

However, because President Duterte has already set in motion the idea that bypassing the judicial system and therefore due process is permissible, it will be difficult to reign in the vigilantes who actively seek out these drug law offenders.¹³⁷ Thus, an independent monitoring system, along with the implementation of legislation to impose larger fines and harsher punishments on those violating the anti-extrajudicial punishment laws, should be created and enforced.¹³⁸ By hiring investigators and providing them with the resources necessary for investigation and active prevention of extrajudicial punishments, the commission's effectiveness will be extremely effective.¹³⁹ Further, a more assertive form of government should be encouraged, but assertive in the sense that it will inspire more individuals to *report* the crimes, rather than the extrajudicial strategies currently serving as the norm.

Additionally, a separate institution should be established to ensure that no additional extrajudicial punishments occur.¹⁴⁰ In 2006, the Melo Commission was established by then-President Arroyo to pinpoint the perpetrators of extrajudicial punishments and prevent additional lawless deaths from occurring.¹⁴¹ However, the Melo Commission was not successful during then-president Gloria Macapagal-Arroyo's administration, primarily due to the fact that they lacked credibility and power to conduct investigations.¹⁴² As an additional matter, between February 2007 and October 2008, the Melo Commission produced a single preliminary report to publish its findings; this solitary report was only published after much pressure by the public.¹⁴³ By utilizing a similar commission to fit Duterte's administration but altering it so that this newfound commission will be granted

¹³⁶ See generally, *Philippines to Build More Prisons*, THE STRAITS TIMES (Aug. 10, 2016), <http://www.straitstimes.com/asia/se-asia/philippines-to-build-more-prisons>. (discussing the overcrowding of prisons due to President Duterte's Drug War).

¹³⁷ See generally, Teddy Casino, *Confronting Extrajudicial Killings Under Duterte*, RAPPLER (Sept. 29, 2016), <http://www.rappler.com/thought-leaders/146642-confronting-extrajudicial-killings-duterte>. (discussing the difficulty the Philippines has had in the past reigning in the use of extrajudicial punishments).

¹³⁸ See generally, Philip Alston, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary executions*, Eleventh session, Agenda Item 3, (Apr. 29, 2009); <http://www.refworld.org/docid/5404442a0.html>.

¹³⁹ *Id.* at 16.

¹⁴⁰ *Id.*

¹⁴¹ Lawyers for Lawyers, *Report of the International Verification and Fact Finding Mission on Attacks Against Lawyers and Judges in the Philippines*, 1, 14 (Nov. 4-12, 2008), http://www.advocatenvooradvocaten.nl/wp-content/uploads/Report_of_the_IVFFM_2008.pdf.

¹⁴² *Id.* at 70; See also Communication on the Views of the Human Rights Committee under Art. 5, paragraph 4, of the Optional Protocol to the Int'l. Covenant on Civil and Political Rights, Concerning Communication No. 1560/2007, Marcellana and Gumanoy v. Philippines, Rep. of the Human Rights Committee on its Ninety-Fourth Session Vol. II, U.N. Doc. A/64/40, at 394 (2009).

¹⁴³ UNITED NATIONS, International Covenant on Civil and Political Rights, Human Rights Committee, Ninety-fourth session, 1, 8, (Oct 13-31, 2008), <http://hrlibrary.umn.edu/research/Philippines/Marcellana%20and%20Gumanoy%20v%20The%20Philippines,%20%20Case%20No.%201560-2007.pdf>.

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more power to punish those it finds in violation of the law and made more transparent so the Filipino citizens can see that the government is taking steps to actively combat lawless killing, this organization will be able to furnish more pleasing results than the Arroyo administration organizations.

D. Role of International Organizations

Another significant problem is the inability or indifference of international organizations to define extrajudicial punishments concretely and impose sanctions on countries that violate such laws.¹⁴⁴ Although human rights advocates have attempted to define what constituted an extrajudicial killing or forced disappearance, they often tend to narrow the scope of the definition by failing to include specific acts, or fixate on defining characteristic such as the element of State involvement and the political motivation of the violations.¹⁴⁵ Under international law, extrajudicial punishments are not criminalized as broadly as torture, despite death of a human being more severe than torture.¹⁴⁶ Such broad definitions not only allow for the pursuit and criminalization of offenders who slip through the cracks of their particular state's law, but also assists states in making changes or improvements to these definitions in order to better tailor them to their state's needs.¹⁴⁷ Although international law paradigms exist to prevent enforced disappearances and war crimes, extrajudicial punishments, specifically extrajudicial executions, fall neither here nor there.¹⁴⁸ Additionally, international tribunals are reluctant to regulate extrajudicial punishments, particularly when these punishments occur within the borders of a specific country, as there generally is no jurisdictional tie to international concerns, other than the disturbing idea that such acts are occurring against humans in another country.¹⁴⁹ By concretely defining what constitutes extrajudicial punishments, more perpetrators can be held accountable because such acts will be easier to identify and prosecute, and perhaps the international community would be more comfortable to regulate events when extrajudicial punishment occur.¹⁵⁰

¹⁴⁴ See Creegan, *supra* note 12, at 189.

¹⁴⁵ See Pangilinan, *supra* note 13, at 829.

¹⁴⁶ *Id.*; See also UNITED NATIONS, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, General Assembly (Dec. 10, 1984) (defining torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.").

¹⁴⁷ See generally, Antonio Marchesi, *Implementing the UN Convention Definition of Torture in National Criminal Law (with Reference to the Special Case of Italy)*, 6 J. OF INT'L CRIM. JUST., 195, 214 (2008).

¹⁴⁸ Marchesi, *supra* note 147, at 192.

¹⁴⁹ *Id.* at 194.

¹⁵⁰ *Id.*

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With that being said, President Duterte must also adopt a better attitude towards such organizations willing to lend a hand.¹⁵¹ With trade and tourism being the top stimulators of the Philippine economy, childish threats to leave the United Nations or even the insulting of heads of states of other countries compromises the economy of the Philippines.¹⁵²

E. Transparency in Government

Furthermore, President Duterte must promote transparency, in general, within his government.¹⁵³ As it stands, the Philippines continues to be one of the most corrupt governments in Asia, with nepotism abounding in government appointments, a bevy of bribes accepted under the table, and an apparent lack of accountability when government officials have violated the law.¹⁵⁴ Passing a law that allows any person to request information from a government office and requiring all public offices to keep records promotes accountability within a government previously dubbed as corrupt (similar to the Freedom of Information Act (FOIA)) in the United States.¹⁵⁵ With regards to the Drug War, government officials should also be subject to drug tests to ensure that the illicit drug problem is not contributed to by high-capacity officials, yet these individuals must be protected from extrajudicial punishment at the same time.¹⁵⁶

Transparency in government should also start from the ground up.¹⁵⁷ Involving *barangay* leaders in the implementation of anti-illegal drugs facilitates the government agenda to decrease the pervasive drug issue, as *barangay* leaders know the extent of the problem within their district and can address it more readily than a government official not as familiar with the locale.¹⁵⁸

Implementing a cohesive plan that encompasses the aforementioned suggestions would significantly impact the Drug War, as these ideas working harmoniously would attack the root of the problem. The Philippine administration needs to understand that drug addiction is a mental health issue and in turn, provide both individuals and community leaders with some kind of public health solution to curb drug use; this strategy will leave the Filipinos in much better shape than they are in currently. Further, implementing stronger drug prevention programs

¹⁵¹ See generally, Stephen Collinson, *Duterte's Tongue the Least of Obama's Philippine Problem*, CNN (Sept. 7, 2016), <http://www.cnn.com/2016/09/06/politics/rodrigo-duterte-obama-laos-meeting/>.

¹⁵² *Id.*

¹⁵³ See generally, Tarra Quismundo, *Poe Calls for Transparency Amid Gov't Deal with Chinese Firms*, INQUIRER (Oct. 26, 2016), <https://globalnation.inquirer.net/148060/poe-calls-for-transparency-amid-govt-deal-with-chinese-firms>.

¹⁵⁴ See Njord, Ray M. Merrill, Njord, Lindsay & Pachano *supra* note 73.

¹⁵⁵ See generally, Ineke Deserno, *The Nexus Between Transparency and Records Management: Quality of Multinationals' Environmental, Social and Governance (ESG) Reporting*, ARMA INT'L EDUC. FOUND. (Feb. 26, 2008).

¹⁵⁶ *Mandatory Drug Testing for Government Personnel Could Regain Lost Public Trust, Says Palace Official*, O.G. (July 9, 2016), <http://www.gov.ph/2016/07/09/mandatory-drug-testing-for-government-personnel-could-regain-lost-public-trust-says-palace-official/>.

¹⁵⁷ See Gavilan, *supra* note 62.

¹⁵⁸ *Id.*

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amongst the youth, holding perpetrators of extrajudicial punishments accountable, and encouraging other entities to act for the benefit of the country will not only facilitate orderliness in the country, but also promote the spirits of the Filipino people when they see that their well-being is finally a top priority, particularly after the recent onslaught of lawless killings that have indicated otherwise.

VI. Conclusion

Shifting the focus from instantaneous punishment to a more peaceful approach with focus on rehabilitating those currently addicted to drugs will result in a much more effective outcome of the Drug War. Unless the source is stopped at the root, the use of extrajudicial killings will continue to be a temporary solution to a permanent problem, as more and more Filipinos will continue to turn to drugs without the proper knowledge and resources to mitigate their use or prevent them from dabbling in illicit drugs. An allocation of resources towards drug rehabilitation facilities, prevention programs, or even the decriminalization of illicit drugs in general will ultimately help the Filipinos by providing them the resources they need to become contributing members of society, in turn boosting the country's economy and helping the Filipino population as a whole.