



First anniversary of the death of Kian delos Santos, a 17-year-old killed by three policemen. His killing was captured on camera and was the only one leading to a conviction for murder @RaflyLerma

“ HOW COULD THEY DO THIS TO MY CHILD ? ”

Extrajudicial
killings of children
during the "war on
drugs" in the
Philippines

OMCT
SOS-Torture Network



Children's Legal Rights and
Development Center, Inc.

ABOUT THE AUTHORS

The OMCT is an international, independent, apolitical and non-confessional non-governmental organisation, founded in Geneva in 1985. Its international secretariat is based in Geneva, with offices in Brussels and Tunis. The OMCT is a member of the European Human Rights Defenders Protection mechanism and has consultative status before the United Nations Economic and Social Council (ECOSOC).

The OMCT works with around 200 member organisations which constitute its SOS-Torture Network, to end torture, fight impunity and protect human rights defenders worldwide.

Together, they make up the largest global group actively standing up to torture in more than 90 countries.

Children's Legal Rights and Development Center, Inc. is a non-stock, non-profit legal resource human rights organisation for children committed to advancing children's rights and welfare through the provision of its services based on human rights developmental framework approach and methodologies. It is the leading child rights organisation in the Philippines and a partner of the OMCT since 2013.

EXECUTIVE SUMMARY

The extrajudicial killings that are the hallmark of the Philippines' "war on drugs" have not spared children, a fact that remains underreported. This report documents 122 killings of children, aged from 1 to 17 years old, between July 2016 and December 2019, throughout the country. This number is a minimum: with parents and relatives often too afraid of reprisals to report or testify, it is likely that the actual figures are higher.

Far from being only "collateral damage", as callously stated by President Rodrigo Duterte, these have often been deliberate killings. Our investigations show that 38.5% were carried out by policemen as part of police operations, while 61.5% were executed by unknown individuals, often masked or hooded assailants, some of them with direct links to the police.

Child victims were killed in different circumstances and manners. Our research identifies four clear patterns, with children being:

- **direct targets** (most of the time with the alleged justification of "self-defense", or the deliberate elimination of a child witness of another killing)
- killed as **proxies** when the real targets could not be found
- killed as a result of **mistaken identities**
- so-called "**collateral damage**", losing their lives to stray bullets during police operations.

An analysis of the 122 cases further shows similar narratives, with planting of evidence on the scene of the killings, uncorroborated allegations by security forces that they acted in self-defense and killing operations that were based on false and unverified information. This report provides detailed accounts of six such killings.

Only one of these crimes was genuinely investigated, prosecuted and led to a conviction, because it had been recorded on video. No other perpetrator has been genuinely investigated and prosecuted, and the killings continue, with at least another seven children losing their lives since the beginning of 2020.

The total impunity enjoyed by the perpetrators is further reinforced by the climate of terror created by the “war on drugs”, a campaign that has targeted the poorest sectors of the population. Families of the victims, as well as other witnesses, are silenced by direct threats and fear of retaliation if they were to file a case for the killing of their child. As a result, the authorities have a free hand to close cases.

The killings are only the most shocking manifestation of what appears as a much wider war on children in the country, with an array of measures and revised legislation that try to criminalize children in relation to drug-related issues. Examples are attempts to lower the minimum age of criminal responsibility to 12 or even 9 years old, and the introduction of mandatory drug testing in high school. The murders described in this report take place against a background of progressive erosion of a once protective children’s rights legal framework.

The “war on drugs” has also prompted a sharp increase in the arrest and detention of children based on drug-related charges, leading to the overcrowding of detention centres where abuse, ill-treatment and even torture are rife. This increasingly brutal policy has spilled over during the recent Covid-19 related lockdown, with numerous children arrested for curfew violations, sometimes threatened with being shot and detained in dog cages or inside a coffin.

While 122 killings represent only a small fraction of the total number of estimated violent deaths during the “war on drugs”, which may run as high as 27,000, they are particularly serious due to the heightened vulnerability of children and their specific status under international law. States have a particular responsibility to guarantee and promote children’s rights, and a specific duty to investigate and ensure accountability for the violations of such rights. This includes the Philippines, who is a party to the Convention on the Rights of the Child.

The OMCT calls on the government of the Philippines to urgently put an end to extrajudicial killings and other gross violations of the rights of children, carry out prompt investigations into these crimes, and sanction the perpetrators. The United Nations Human Rights Council should establish an independent Commission of Inquiry into allegations of gross human rights violations, especially those of children,

in the context of the “war on drugs”. The International Criminal Court should expedite its examination and conduct investigations on possible crimes committed by the Philippines. Finally, the OMCT calls on the European Union, its member States and other States to take the situation of children into account when negotiating trade agreements and other conventions with the Philippines.

METHODOLOGY

This report is mainly based on the work of a documentation team who collected information directly from the locations where killings took place. The team worked from July 2016 to December 2019, throughout the Philippines, in Luzon, Mindanao, and the Visayas. The visits included meetings with local authorities (heads of *barangays*) and one-on-one interviews with the families, relatives and neighbours of the victims, the gathering and examination of legal documents (police reports and autopsy reports, affidavits, blotters, birth certificates) to verify the facts of each case, as well as follow-up interviews when necessary.

The team collected statements of relevant people, including from the families and other witnesses.

The number of killings of children presented in this report corresponds to the cases that have been documented and verified by the authors of the report on the ground. It therefore represents only a fraction of the real number of killings, which is believed to be higher, perhaps significantly so. In order to ensure the safety of the families of the victims and of the witnesses, as well as to respect their privacy, their real names are not disclosed in this report.

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ACRONYMS

CHR: Commission on Human Rights

EU: European Union

NGO: Non-Governmental Organisation

OMCT: World Organisation Against Torture

CLRDC: Children's Legal Rights and Development Center

PNP: Philippine National Police

UN: United Nations

CICL: Children in Conflict with the Law

CAR: Children at Risk

PDEA: Philippine Drug Enforcement Agency

CMC: Command Memorandum Circular

UN CRC: United Nations Convention on the Rights of the Child

WoD: War on drugs

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1. INTRODUCTION

In the Philippines, from July 2016 to December 2019, at least **122**¹ children were killed in the context of the so-called “war on drugs”² launched³ by freshly elected President Rodrigo Duterte upon the beginning of his term on 30 June 2016. This figure corresponds to a minimum number, only representing the number that the authors of the present report were able to research and document. The real estimates may go far beyond those cases that the authors documented, and killings continue to the present day.

This report seeks to go beyond mere statistics to focus on concrete stories of children, as every child victim of President Duterte’s “war on drugs” deserves to be more than just a number--their stories matter, as do these children.

Although reports by national and international organisations and civil society have analysed extrajudicial killings during President Duterte’s “war on drugs” the plight of children executed remains under-reported, and this report therefore uniquely focuses on, documents and analyses the cases of children killed in this context.

Despite regular condemnation by international human rights bodies, experts and the international community⁴, including the call by three independent United Nations experts to “reverse spiraling rights violations’ and ‘urgently address the growing reports of (...) summary executions of children”⁵, extrajudicial killings of children continue to the present day, and in total impunity, without any proper investigation, prosecution or reparation in sight.

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1. Source: documentation of Children’s Legal Rights and Development Center (CLRDC)
 2. The expression “war on drugs” was used by President Duterte, including during the President’s State of the Nation Address to the Congress - *Delivered at the Session Hall of the House of Representatives, Batasang Pambansa Complex, Quezon City, 23 July 2018 – FULL TEXT : President Duterte’s 2018 State of the Nation Address* <https://www.rappler.com/nation/-207989-rodrigo-duterte-sona-2018-philippines-speech>.
Throughout the report, we use the expression “war on drugs” with quotation marks, a term commonly used to describe the Duterte administration’s policies and operations against alleged drug offenders. However, these operations do not correspond to the definition of an armed conflict under international law.
 3. They Just Kill, Ongoing Extrajudicial Executions and other Violations in the Philippines War on Drugs’, Amnesty International, 2019, p.8 <https://www.amnesty.org/download/Documents/ASA3505782019ENGLISH.PDF>
 4. Among others, recommendations to the Philippines during its Universal Periodic Review in 2016; Resolution of the Human Rights Council in 2019, Concluding Observations of the UN CRC on the extrajudicial killings of children.
 5. Call by a group of UN human rights experts comprised of the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, the Special Rapporteur on Human Rights Defenders, and the Special Rapporteur on the Sale and Exploitation of Children: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21926&LangID=E>

During his election campaign, President Rodrigo Duterte promised to rid the country of illegal drugs and criminality. In August 2016, the President vowed there would be no justice for more than 20,000 deaths⁶ and claimed that “drug addicts are not humans”⁷. This “war on drugs”, as this anti-drug policy has been called, has already seen thousands of deaths and countless violations of human rights. However, in a context with no other target than a poor, marginalised and civilian population, the concept of ‘drug war’ itself is an invalid one, which cannot be used to justify any killings or “collateral damage”⁸.

According to the official accounts of the Philippine National Police (PNP), there were a total of 6,600 killings in police anti-drug operations from July 2016 until May 2019⁹. In addition to those, at least 23,000 homicide cases, most of which are connected to illegal drugs, are currently pending investigation under the category of Homicide Cases Under Investigation (HCUIs)¹⁰. Rights groups, as well as the country’s national Commission on Human Rights, estimate the number of these killings at 27,000 people.

In addition to direct killings, the “war on drugs” impacted children in many other ways: 32,395 children lost their parents from May 2016 to September 2017¹¹, 150,000 to 450,000 have had their parents sent to prison¹² from July 2016 to July 2017¹³, and countless children were abused and traumatized by the violent enforcement of the “anti-illegal drug policy” of President Duterte’s administration.¹⁴

In order to legitimize operations, however violent and destructive they may be, the PNP put in place in June 2016 a two-pronged approach to fight what they describe as the ‘drug problem’. A Plan was communicated through Police Command Memorandum Circular No. 16-2016 (hereafter CMC 16-2016)¹⁵, which included what has been known as “*Oplan TokHang*” and “*Oplan Double Barrel*”.

The PNP’s CMC 16-2016 “*Oplan TokHang*” and “*Oplan Double Barrel*” regulates the conduct by law enforcement officers of the anti-drug campaign, from the search of potential

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6. Then, last year, the Supreme Court asked the government to explain more than 20,000 deaths during the drug war. “I just say at least 20,000 dead,” said Ellen Tordesillas of Vera Files, a non-profit fact-checking group. “All we have done is to debunk the government figures with their own figures.” *Reuters*, War on numbers: Philippines targets drug killing data, July 18th 2019. : <https://www.reuters.com/article/us-philippines-drugs/war-on-numbers-philippines-targets-drug-killing-data-idUSKCN1UD1CJ>
 7. Philippines now, Duterte to human rights activists: drug addicts not human anymore. August 29th 2016, <http://philippinesnow.org/posts/2016/08/duterte-to-hr-activists-drug-addicts-not-human-anymore/>
 8. Amnesty International indicates that: ‘The idea of “collateral damage” refers to killings of civilians or other non-combatants during armed conflict that may not be unlawful under international humanitarian law if they were not targeted and not victims of indiscriminate attacks. However, international humanitarian law does not apply to anti-drug operations in the Philippines. Police are required to comply with international human rights law and domestic legislation, including provisions governing the use of force, as discussed above. Any unlawful use of force that results in death or serious injury is a violation of the right to life and requires an investigation with a view to prosecute those responsible and provide reparations to victims’, If you are poor, you are killed, Extrajudicial Executions in the Philippines «war on drugs», Amnesty International, 2017.
 9. Inquirer.net, 66000 killed in war vs drugs from July 2016 to May 2019 – PNP, 18th June 2019, <https://newsinfo.inquirer.net/1131433/6600-killed-in-war-vs-drugs-from-july-2016-to-may-2019-pnp> (last accessed: 24 July 2019).
 10. Numbers from 1st July 2016 to 4th June 2018 ABS CBN news, PNP: 23,000 killings under investigation in 2 years, 13th June 2018. <https://news.abs-cbn.com/news/06/13/18/pnp-23000-killings-under-investigation-in-2-years> (last accessed 16 August 2019); ‘They Just Kill’, Ongoing Extrajudicial Executions and other Violations in the Philippines War on Drugs’, Amnesty International, 2019, <https://www.amnesty.org/download/Documents/ASA3505782019ENGLISH.PDF>.
 11. Source: ABS CBN news, Children and the anti-illegal drugs campaign when the cure is worse than the disease, 13th September 2018, <https://news.abs-cbn.com/focus/09/13/18/children-and-the-anti-illegal-drugs-campaign-when-the-cure-is-worse-than-the-disease>.
 12. ABS CBN news, ‘Second Chance’: an orphan’s wish amid drug war, 22nd March 2019. <https://news.abs-cbn.com/spotlight/03/22/19/second-chance-an-orphans-wish-amid-drug-war> (last accessed 21 June 2019).
 13. ABS CBN news, ‘Second Chance’: an orphan’s wish amid drug war, 22nd March 2019. <https://news.abs-cbn.com/spotlight/03/22/19/second-chance-an-orphans-wish-amid-drug-war> (last accessed 21 June 2019).
 14. <https://acleddata.com/2018/10/18/dutertes-war-drug-related-violence-in-the-philippines/>; <https://www.aljazeera.com/indepth/features/2017/02/children-duterte-drug-war-lessons-170216121942335.html>; <https://www.hrw.org/news/2019/06/27/philippines-drug-war-devastates-childrens-lives>
 15. The CMC sets forth the “general guidelines, procedures and tasks of police offices/units/stations in the conduct of the Philippine National Police (PNP) Anti-Illegal Drug Campaign Plan-PROJECT DOUBLE BARREL” in support to the Barangay Drug Clearing Strategy of the government and the neutralization of illegal drug personalities nationwide” <https://didm.pnp.gov.ph/Command%20Memorandum%20Circulars/CMC%202016-16%20PNP%20ANTI-ILLEGAL%20DRUGS%20CAMPAIGN%20PLAN%20-%20PROJECT%20DOUBLE%20BARREL.pdf> (Last accessed 24 July 2019).

targets to police operations on the ground. While pretending to be a policy to combat unlawful drug-related activities, it actually constitutes a profound erosion of the rule of law in the Philippines, in the framework of which people suspected of involvement in illegal drug activities have become victims of summary executions without due process of law.

The Oplan “TokHang” - a contraction of the Visayan words *toktok* (knock) and *hangyo* (plead) - aims at establishing a list of names of alleged drug users or drug dealers that should be targeted during the police anti-drug operations. To establish these lists, the police directly goes to the suspects’ homes to “encourage” them to surrender. The identities of the suspects are listed in a Watchlist collated by the local *barangay*¹⁶ leaders and watchmen, all over the Philippines. The second component of the plan, *Oplan ‘Double Barrel’*, plans a series of police operations aimed at targeting and eliminating known drug users and peddlers in communities. According to the PNP itself¹⁷, the objectives of the anti-drug campaign are to ‘identify, neutralize, and dismantle’ the illegal drug trade in the Philippines: police directive CMC 16-2016 explicitly indicates¹⁸ its aim to “neutralize” individuals involved in illegal drug activities.

According to a study by Manila University Ateneo Policy Center¹⁹ based on media reports between 10 May 2016 and 29 September 2017, out of 5,021 drug-related deaths, 55% were the result of killings by policemen as part of police operations, and 38% were the result of killings by unknown individuals, often masked or hooded assailants, some of them with direct links to the police²⁰. The remaining 7% were individuals found dead, often with gunshots or stab wounds, and in many cases, with handwritten cardboard signs placards left beside their bodies indicating that they were drug dealers. The same study suggests that these data only show a fraction of the killings that took place.

Right in the middle of this “war” stand some of the most vulnerable members of the society—children, and particularly poor children.

Our statistics show that the targets of this violent anti-drug campaign are in large majority people from poor urban communities and children from poor families. This is reflected in the profiles of children victims of extrajudicial killings, who are mainly neglected children, former children deprived of liberty, children who are out of school, or children living in poor urban areas.

As the country bears witness to a growing number of children killed, tortured, and falsely accused of drug-related charges, the overcrowding of Bahay Pag-asa or “Houses of Hope” (detention facilities for children) has sharply increased, as children as young as 11 are being increasingly arrested and detained for alleged and often trumped-up drug-related

16. Sec. 384 of the Local Government Code of the Philippines “As the basic political unit, the *barangay* serves as the primary planning and implementing unit of government policies, plans, programs, projects, and activities in the community, and as a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled.”

17. CMC No. 16-2016

18. CMC No. 16-2016

19. The Drug archive, “The Drug killings: who what where when how? <https://drugarchive.ph/post/26-the-drug-killings-who-what-where-when-how-master> (last accessed 21 June 2019).

20. According to research from Amnesty International, there is a “direct involvement of the police in killings by unknown armed persons”, including through testimonies of police officers themselves or of people hired by police officers to kill: “The police officers usually [act as unknown armed persons] when they feel the target does not have the capacity to fight back, or if the family has the ability to file a case. If the target is a woman ... we cannot conduct a police operation, because that would be an obvious rub-out since a woman can’t fight back. So we would carry that out as vigilantes. If it’s a bigger target [who owns] guns, a known pusher, then we’d do it as a [police] operation.”, Amnesty International Interviews, in “If You Are Poor, You are Killed” -Extrajudicial Executions in The Philippines’ “War On Drugs”, Amnesty International, 2017.

charges. While specific legal safeguards on juvenile justice in the Philippines, as a result of hard-won legal reforms over the past decade, are largely in line with international standards, including the prohibition of torture and ill-treatment of children²¹, these increasing violations reflect a widening gap between law and practice, extrajudicial killings being at their forefront but accompanied by others such as arbitrary detention, torture and abuse. Moreover, certain legislations and orders are being reviewed and implemented in the guise of protecting children and the youth when, in fact, these policies undermine their best interest, including as part of the government's anti-drug campaign. This is for instance the case for the legislative proposal to lower the minimum age of criminal responsibility.

Through a selection of cases of extrajudicial killings of children and their analysis, the present report sheds light on different patterns of killings, and demonstrates that children, far from being exclusively so-called "collateral damage", as sometimes acknowledged by the government²², are actually targeted in the context of the "war on drugs". The report calls for specific investigations and an end to the prevailing impunity for these killings.

21. Republic Act No. 9344 as amended by Republic Act No. 10630

22. Aljazeera, Rodrigo Duterte Interview: death, drug and diplomacy, 16 October 2016 <https://www.aljazeera.com/programmes/talktojazeera/2016/10/exclusive-rodrigo-duterte-war-drugs-161015100325799.html>

The Guardian, Duterte says children killed in Philippines drug war are collateral damage, 17th October 2016, <https://www.theguardian.com/world/2016/oct/17/duterte-says-children-killed-in-philippines-drug-war-are-collateral-damage>

2. METHODOLOGY

From July 2016 to December 2019, the authors of this report have investigated and documented cases of extrajudicial killings of children in the context of President Duterte's anti-drug campaign in the Philippines (Luzon, Mindanao, and Visayas).

This was done through a documentation team collecting information (or facts) directly from the locations where killings took place. These visits included meetings with local authorities (*barangays*) and one-on-one interviews with the families, relatives and neighbours of the victims, the gathering and examination of legal documents (police reports and autopsy reports, affidavits, blotters, birth certificates) to verify the facts of each case, as well as follow-up interviews when necessary. Statements of relevant stakeholders (including statements of the families and/or witnesses) were collected.

The number of killings of children presented in this report corresponds to the cases that have been documented and verified by the authors of the report on the ground. It therefore represents only a fraction of the real number of killings, which is believed to be much higher.

In order to ensure the safety of the families of the victims and of the witnesses, as well as to respect their privacy, the names of the victims and of the witnesses of the killings are not disclosed in this report. Aliases are used for the narration of the cases.

3. EXTRAJUDICIAL KILLINGS OF CHILDREN IN THE CONTEXT OF THE WAR ON DRUGS

3.1. EXTRAJUDICIAL KILLINGS OF CHILDREN FROM 2016 TO 2019: THE NUMBERS

The authors of this report documented and verified a total of 122 cases of children killed between July 2016 and December 2019 in the context of the “war on drugs” of the current government. The documentation shows that children were killed in different circumstances and manners, as direct targets, or because of mistaken identities, as proxies when the real targets could not be found, or by stray bullets during a police operation. In addition to those mentioned, children also died in police custody or while in detention for drug-related charges.

Thus, the relentless anti-drug campaign carried out by the current administration under the Command Memorandum Circular (No. 16 of the Philippine National Police (PNP)²³ does not spare children, especially the most marginalized, and their killing continues unabated. The announcement by President Duterte during his State of the Nation Address in July 2017 that the “war on drugs” would be “unrelenting” has become reality.

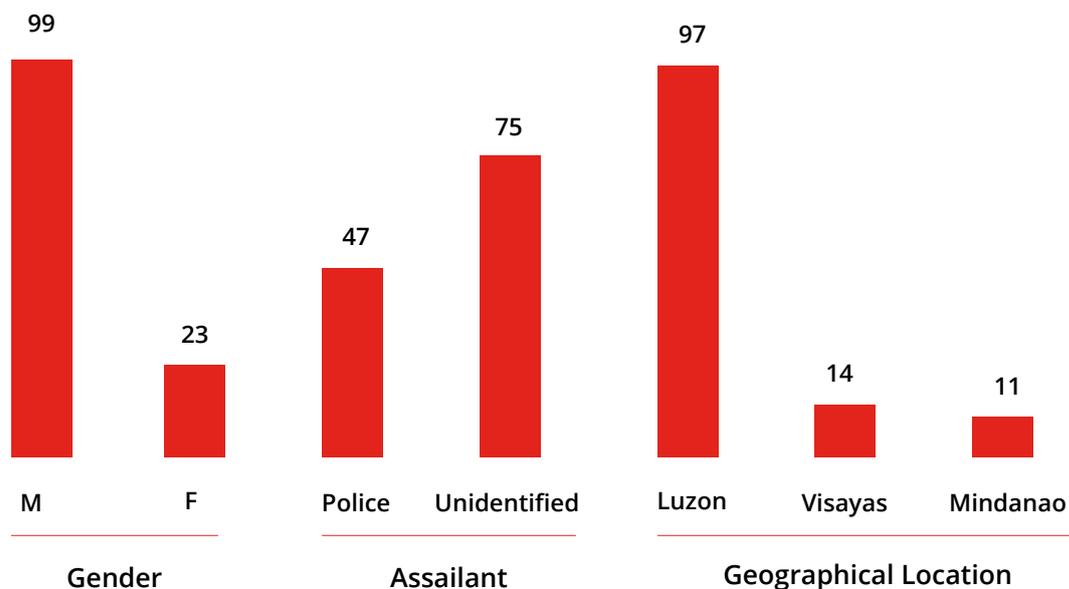
23. CMC dated July 1, 2016

To this date, out of the 122 cases documented by the authors of this report, only one was seriously investigated and prosecuted by the authorities: the killing of Kian de los Santos, a 17-year-old schoolboy that was recorded by CCTV camera, in August 2017. The death of Kian was the 54th case documented by the CLRDC of a minor killed under the “war on drugs”

The following charts show a break-down of the documented killings:

Children Victims in Anti-Drug War							
Jul 2016 to Dec 2019	Gender		Assailant		Geographical Location		
	M	F	Police	Unidentified	Luzon	Visayas	Mindanao
Jul 2016 to Dec 2019	99	23	47	75	97	14	11

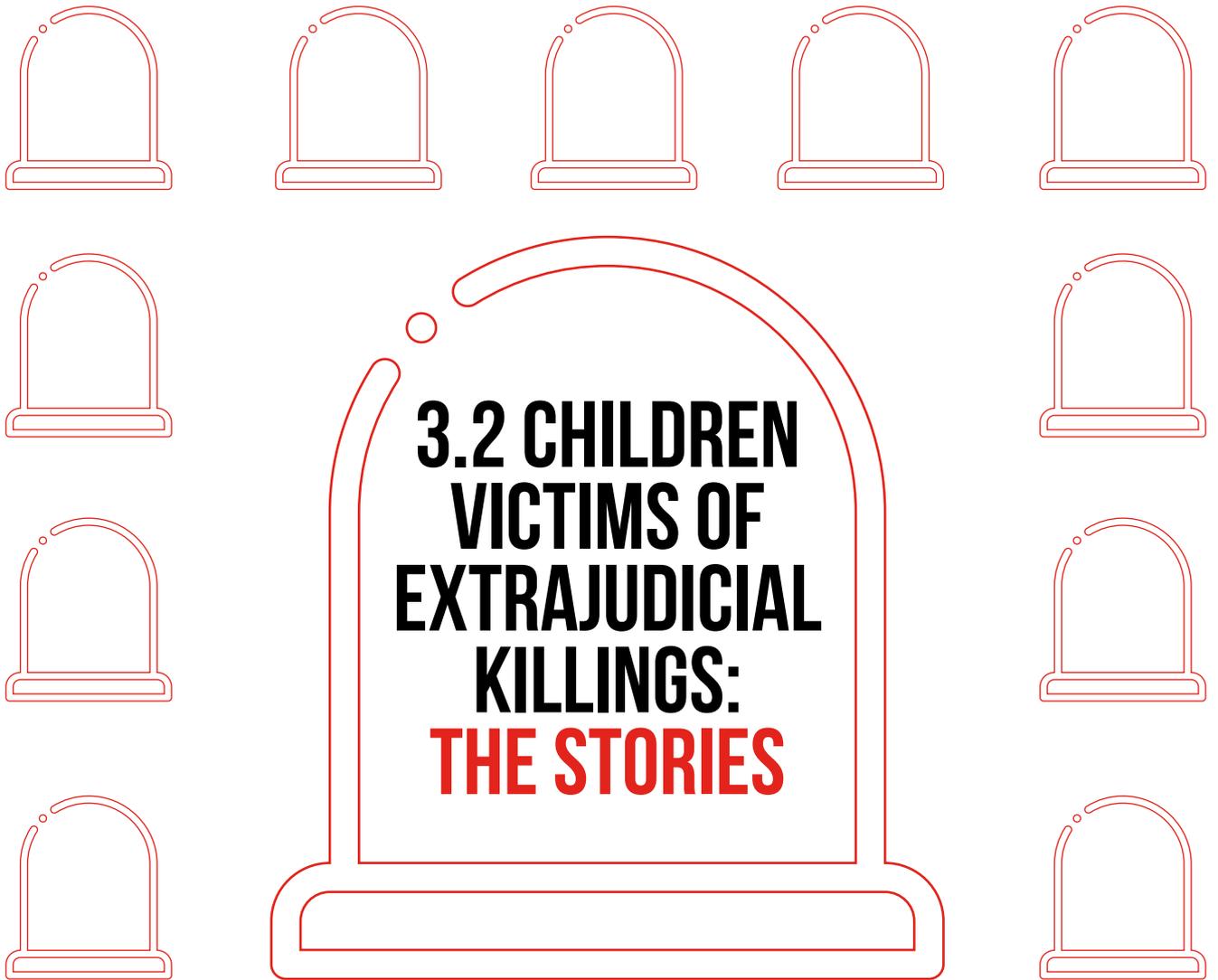
Jul 2016 to Dec 2019



Data gathered between July 2016 and August 2017 show that more than half of the children victims were killed during the months of September 2016 and December 2016, respectively, for a total of 54 during this period. In addition to these 54 cases, there were an additional recorded 20 minors killed in relation to the “anti-drug war” campaign from September 2017 until December 2017, although the real numbers are higher than what the CLRDC was able to document.²⁴

This investigation into extrajudicial killings of children therefore sets the total number of recorded deaths of children in the Philippines to 122 from July 2016 to December 2019.

24. Inquirer net, Group finds 74 minors in drug war body count, 6th April 2018. <https://newsinfo.inquirer.net/980513/group-finds-74-minors-in-drug-war-body-count>



In order to go beyond the mere statistics presented above, and to reflect the concrete realities of the children victims of the government's anti-drug campaign, this report presents a selection of six cases, which represent the different patterns of killings of children that emerged from the documentation of cases carried out by the authors of this report. The cases therefore illustrate:

- The killings of children during police operations in alleged self-defense (cases no. 1, 2 and 3)
- The torture and death of children while in the custody of authorities (case no. 4)
- The killings of children as 'collateral damage', by stray bullets from police or vigilantes (case no. 6)
- The killing of children as witnesses to other extrajudicial killings (case no. 5).

The cases presented below reflect a wider pattern of killings documented in the total 122 killings of minors during the July 2016 to December 2019 period. As mentioned in the methodology section of this report, in order to protect the privacy of the victims, their families, as well as the witnesses of the killings, the cases narrated below do not use the real names of the victims.



CASE NO. 1

KILLING DURING POLICE OPERATION IN ALLEGED SELF-DEFENSE

Paul was an out-of-school teenager at the time of his death. He was living with his mother and his live-in partner, Mina, also aged 16. Paul had been enrolled in school, reached grade III, and had then not been able to pursue his studies because of the poverty of his family.²⁵ He was saving money to support his pregnant partner, and had the project of joining his father in the fishing sector in the port area.

A month prior to his death, Paul was accused of robbery according to the *barangay* authorities.

According to the testimony of Mina²⁶, on January 25, 2017, at around 11 pm, Paul's mother instructed her two sons, Paul and Ron, to go to sleep. Ron did not follow his mother's command, as he said he could not sleep because of the hot weather. Based on Ron's testimony, at around 11:15 pm, he went out of the house, without realising that he had left the door half open. As he was walking outside, Ron noticed three policemen on two motorcycles patrolling around the street, going inside their neighbour's house, and hurriedly changing their uniformed clothes to civilian clothes as well as bonnets and masks. According to Ron, he was able to witness the changing of clothes as the window of the area of the house where they changed was widely open. He said that he never thought that these policemen would go into their house, so after witnessing the change of clothes, Ron continued to walk in their street just to feel the cold wind outside.²⁷

According to Mina's testimony, at about 11:45 pm, she was beginning to fall asleep beside Paul when the three men believed to be policemen, wearing grey jackets, face masks and bonnets, forcefully pushed open the door and entered the house. All three men were pointing their guns to the two-months pregnant Mina; one of them loudly asked Mina who Paul was. Mina pointed to Paul who was sleeping be

25. Copies of his school record showed his grade level obtained; statement and testimony of Paul's mother.

26. Copy of Mina's signed testimony, signed testimonies of Paul's parents and his younger brother.

27. Ron's signed testimony.

side her. Mina said that she noticed that the men were all wearing pants similar to the uniform of policemen and assumed that they were policemen. One of the men grabbed Paul's hair, pulled him up and commanded him to stay close to the door. Mina asked the policemen the reason of their actions, but the policemen did not respond, and instead started to hit Paul.

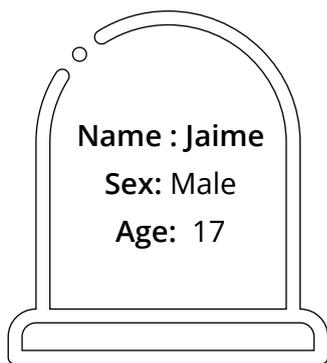
According to the signed testimony of Paul's parents²⁸, on the said date and time, they were already sleeping on the first floor of their house. Upon hearing the commotion on the ground floor of their house, Paul's mother stood up to check what was happening, but her husband did not allow her to go down. She heard her son Paul shouting for help and calling her name "*Nanay!*" (mother), and then heard a voice of a male saying loudly "*patahimikin mo na yan at masyado ng nag-iingay!*" (Keep him silent as he is already making noise). She then heard three gunshots.

According to Mina, while Paul was calling his mother for help, one of the policemen instructed his colleague to silence Paul as he was making noise. One policeman fired his gun inside the mouth of Paul, then another one to his head and to his body. Mina said that, after witnessing the killing, she seized the opportunity and ran out of the house. The policemen followed her, shot her once but missed her. Mina said she saw three other policemen in uniform outside their house waiting for their companions. She saw two of the three policemen with the same tattoo on the arm, "SAID", which stands for "Special Action on Illegal Drugs." The mother of Paul said that she looked at the window from the second floor and saw three policemen outside as well as policemen in civilian clothes coming out of their house, one of them shouting "*nanlaban*" (he fought back). After the perpetrators left, she went downstairs and found the lifeless body of her son Paul. The parents of Paul immediately brought him to the hospital.

The mother of Paul said the reason why her son was killed was probably because he was on the drug watch list of the *barangay*. She was informed that her son was on this list by the *barangay* authorities after the killing. The parents of Paul obtained a police report a month after the events. However, the police report states that the incident was "perpetrated by unidentified men",²⁹ which allowed the authorities to consider the case closed. To this date, the mother of Paul did not pursue the case as the family continue to live in fear knowing that the perpetrators are capable of retaliation.

28. Signed testimonies of Paul's parents and his younger brother.

29. Police report..



CASE NO. 2

KILLING DURING POLICE OPERATION IN ALLEGED SELF-DEFENSE

Jaime was 17 at the time of his death and was known in his community as a caring and helpful child.³⁰ He had never had problems with the law and was not listed on any drug watch list.³¹

On the night of July 29, 2018, a woman rented the tricycle that one of Jaime's friend drives at the tricycle station in Manila. The woman asked Jaime's friend if he could bring her to a mall, a few blocks away from the place of the incident.³² Jaime and another friend joined as back riders.³³ The woman asked to be stopped at an Avenue (one block away from the mall where the woman was supposed to go) instead, as she wanted to get money to pay the tricycle driver. Jaime and his two friends decided to eat at a fast food near the place of the incident while waiting for the woman to return. According to a staff member of the fast food station, Jaime and his friends were happily eating sandwiches at the food station and were laughing with each other.³⁴ According to the statement given by the crew of the food station, the woman came back with a group of policemen after a while, and suddenly screamed to the policemen that Jaime and his friends had tried to rob her.³⁵ The food station crew likewise stated that the policemen started beating Jaime and his friends and dragged them towards the dark Garcia street, out of his sight.³⁶ The fast food crew said that he heard gunshots shortly after that.³⁷

According to Jaime's relatives, the woman who had called the police could not be found anywhere when the family tried to locate her, despite their best efforts. The bodies were taken to the funeral house by the policemen who carried out the killings. Based on the medical report, Jaime sustained six gunshot wounds to his body.³⁸ There were also torture marks and bruises that indicated possible beatings.

30. Testimonies of five neighbors interviewed who knew Jaime very well (Mrs. MPD, BBS, JB, Mr. M and D).

31. Testimonies from a Barangay office secretary.

32. Statement from the tricycle drivers in queue who heard the woman taking to Jaime's tricycle driver friend.

33. Ibid.

34. Statement given to aunt of Jaime by fast food crew who chatted with Jaime and his friends while they were waiting at the fast food for the woman to return.

35. Statement of the fast food crew who witnessed the incident.

36. Ibid.

37. Ibid.

38. Copies of medico-legal report, autopsy report.

Police reports and documents claimed Jaime and his friends (who were not minors and were killed as well) were robbers and nanlaban or “fought back.” The police report also indicated that Jaime was 25 to 35 years old, while autopsy reports, death certificate and forensic reports show that Jaime was only 17.³⁹ According to the police report, drugs were allegedly found in their possession.⁴⁰ As authorities claimed that the incident was a legitimate police operation, they closed the investigations on the case. The family of Jaime did not file a case because of their fear of reprisals from the twelve police officers who killed Jaime.

39. Copies of forensic report, autopsy report, death certificate and medico-legal reports.

40. Copies of police reports.



CASE NO. 3

KILLED DURING A POLICE OPERATION

Angel was 16 years old when she was killed⁴¹, alongside her male friend who was nine years older than her.⁴² Angel's grandmother indicated that on June 19, 2016, between 6 and 7 in the evening, Angel's male friend came to their house and suggested that the two young people go for a stroll.⁴³ The grandmother waited for Angel until midnight, but did not see her come back. Early in the morning, a neighbour came to their house and told the grandmother that Angel had been shot. She went to the crime scene and found the body of her granddaughter lying in a pool of blood.⁴⁴

Police reports indicated that Angel and her friend had been killed around 2 to 2:30 in the morning by men wearing bonnets and that policemen had found three sachets of methamphetamine on the victims.⁴⁵ However, Angel's grandmother denied that the teenager had been taking any drugs. The police report further claimed that an improvised firearm and nine bullets had been allegedly recovered from the crime scene. The victims had sustained multiple gunshot wounds.⁴⁶

Angel's mother, who was an overseas Filipino worker, returned to the country during her daughter's wake. She said in an interview⁴⁷ that a witness to the incident who requested anonymity informed her that her daughter and male friend were shot by policemen patrolling at night. Angel's male friend was known as a drug pusher in their community and had been on the watch list⁴⁸ of the authorities.

Angel's mother said she did not file a case as she was scared of retaliation, especially when she learned that the authorities were allegedly involved. She added that she also needed to protect her other children.

41. Copy of Angel's birth certificate and death certificate.

42. Statement of Angel's grandmother, her guardian during an interview with her by the researcher-writer.

43. Statement of Angel's grandmother.

44. Statement of Angel's grandmother during an interview.

45. Police report.

46. Copy of medico-legal report.

47. Interview notes from Angel's mother.

48. Statement of Angel's mother based on the information she gathered from witnesses and their *barangay*.



CASE NO. 4

DEATH IN CUSTODY OF BARANGAY AUTHORITIES

Alberto was 17 years old when he was killed⁴⁹. Alberto's father indicated that, on 10 February 2017, at around 9:00 in the morning, two members of the *barangay* authorities came to the house of the family and took Alberto with them, claiming that he was being investigated for alleged involvement in theft and drug use⁵⁰. Alberto's father told the *barangay* representatives that he wanted to accompany them to the *barangay* hall to be with his son. The two *barangay* representatives allegedly answered that the father did not need to go with them, indicating that they were just bringing Alberto to the *barangay* hall for questioning, and that the boy would then be allowed to go back home⁵¹.

Alberto's father explained that, 25 minutes after the two *barangay* officials had left with Alberto, he decided to go to the *barangay* hall to fetch his son. On the way, he heard a gunshot from a distance. As soon as he arrived at the *barangay* hall, he looked for his son. However, the *barangay* officials told him that Alberto had already left⁵².

The father said that, while he was on his way back home, he was approached by two kids who told him that they had seen Alberto lying in the grass, a few meters away from the *barangay* hall. The father immediately ran to area indicated by the two kids, where he found his son's lifeless body with a gunshot wound to his head⁵³. The father said that he immediately asked for help and that a *barangay* patrol approached to assist him. Alberto's father indicated that his son had torture marks on his arms and feet and that his body was covered with marks, as if someone had mauled him before he was shot⁵⁴. The father said that he asked the kids if they had witnessed who shot Alberto, but the kids had not seen the author of the killing.

49. Alberto's birth certificate.

50. Statement provided by Alberto's father.

51. Statement provided by Alberto's father.

52. Statement provided by Alberto's father.

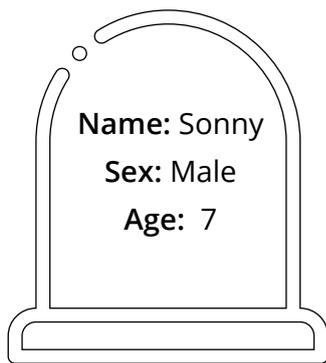
53. Statement of Alberto's father; police report.

54. Statement provided by Alberto's father.

Alberto's father added that, while he wanted to file a complaint or a case to obtain justice for the death of his son, he was too scared to do so. He believes that the *barangay* officials who came to the family house and took his son to the *barangay* hall were responsible for the killing. He also disclosed that, a month before Alberto's death, the boy had already been taken to the *barangay* to be investigated for involvement in a theft, and had been told by a *barangay* official: "Next time you are arrested, I will shoot you." This threat had been made in front of Alberto's father, who had picked up his son from the *barangay* hall.

Alberto's father further indicated that the family were scared to file a court case, as they live in an area where many killings were perpetrated⁵⁵.

55. Interview notes during a follow-up and update interview with the father on June 2020, 20.



CASE NO. 5

KILLED AS WITNESS TO AN EXTRAJUDICIAL KILLING

Sonny was 7 years old when he was killed⁵⁶. On April 7, 2019 at around 3:30 in the morning, witness “A” heard gunshots outside their house, in a poor urban area in Caloocan City, a part of Metropolitan Manila. He immediately looked out of the window and saw a man lying down. A few steps away from the man was a boy, holding his stomach oozing with blood. “A” went out to ask for help from the neighbors.⁵⁷ The *barangay* authorities arrived at the scene⁵⁸. The boy was Sonny.

Sonny’s mother said that her son had gone outside their house early in the morning to wait for his relatives and friends as they were scheduled to go swimming. She explained that, as Sonny was excited to go swimming and could not sleep, he had not noticed that it was too early and that the group would only leave at 7 am⁵⁹. During the interview with the documentation team, she kept repeating: “How could they do this to my child?”. The family didn’t see who killed Sonny. However, the scene was recorded by a CCTV camera installed in front of a private house just opposite the crime scene⁶⁰ and the footage allowed to identify the perpetrator, allegedly a member of the *barangay* task force.

The same month, a case was filed by the family of the other victim against the *barangay* member visible in the CCTV footage. However, the case was dismissed on a pure technicality, as the complainant/s did not attend the Court hearings because they had not received any notice or subpoena from the Court. It turned out that the notices and subpoenas were only received by the complainants after the dates of the trials.

Sonny’s mother also filed a case against her son’s killer.⁶¹ Based on the CCTV footage, Sonny was at the time sitting on the pavement in front of his family’s house while another man was sleeping outside the house. Suddenly, the perpetrator appeared

56. Copies of Sonny’s birth certificate and death certificate.

57. Statement of “A” in the interview conducted by the researcher-writer of this report; police report.

58. Police report.

59. Statement of Sonny’s mother.

60. Statement of Sonny’s mother.

61. Copy of complaint affidavit attested before the Prosecutor’s office.

and shot the man sleeping on the pavement. Sonny witnessed the shooting and called the attention of the killer, who turned to Sonny and shot him too.⁶²

It was alleged by the *barangay* authorities that the person killed had been a drug addict. However, the *barangay* authorities did not know why Sonny, who had witnessed the incident, was also killed.⁶³ The perpetrator was jailed briefly but was then quickly released, for reasons the family of the dead boy did not know. The case is currently pending in the Regional Trial Court. No witnesses dared to come out, not even the owner of the CCTV camera, as all witnesses were afraid that there might be retaliation, especially considering that the perpetrator was released from prison and at liberty to roam in their area.⁶⁴

62. Statement of Sonny's mother in her affidavit that she based on the CCTV footage and information from witnesses.

63. Interview notes as mentioned by Sonny's mother when she filed the complaint.

64. Copies of legal documents.



CASE NO. 6

KILLING AS “COLLATERAL DAMAGE”

The victim was hit by a stray bullet fired by two motorcycle-riding assailants on March 11, 2018 in Metro Manila.⁶⁵

According to the police incident report, the motorcycle-riding men were chasing a male target who was an alleged drug suspect in the area, and who found himself just beside the stall of the victim’s grandmother, where the victim was playing.

During the chase, a gunshot hit the victim. She was rushed to Sta. Ana Hospital in Manila, where she stayed for five days before her parents decided to transfer her to Hospital ng Makati. She died on March 17, 2018.⁶⁶ According to the witnesses, the motorcycle-riding men were allegedly policemen in civilian clothes.

The father of the victim committed suicide on April 10, 2018 due to depression. When the parents reported the events to the authorities, no one claimed responsibility and the parents were told that their daughter’s death was an accident.⁶⁷ The parents were not compensated, and no help was provided by the local government.

65. Police report.

66. Death certificate and statement of grandmother who was the guardian of the victim.

67. Development update and statement from grandmother of victim, during the last visit of documentation team to the grandmother.

4. CHILDREN AS SPECIFIC VICTIMS OF EXTRAJUDICIAL KILLINGS DURING THE “WAR ON DRUGS”

The cases selected in the present report are representative of the different patterns of killings that can be found in all 122 cases documented by the authors. As such, this research sheds light on key aspects of the killings and shows not only that they follow similar narratives and methodologies, equally present in adult killings, but also that children have been directly and deliberately targeted under the so-called “anti-drug campaign”, and were not only so-called “collateral damage”.

4.1. EVIDENCE PLANTING, UNCORROBORATED ALLEGED SELF-DEFENSE, KILLING OF WITNESSES: THE SIMILAR NARRATIVES AND PATTERNS AROUND THE KILLINGS OF CHILDREN

The cases detailed above bring to light a similar pattern of killings, employed by both police forces and groups of unidentified men that have been alleged to be linked to the police forces. The methods and killing narratives described reflect those of 122 cases documented by the authors of this report, illustrating the most flagrant practices of killings outside of any legal or judicial framework.

In most documented cases of children's deaths, the justification that the alleged suspect "fought back" was invoked by the police to explain the use of force in self-defense, such as in case 1 and 2. In most similar cases, the assertions that the children victims had "fought back" were refuted by witnesses, who clearly heard the children surrender and/or beg for their lives while the police were fatally shooting them at point-blank range⁶⁸. In the only case seriously investigated, prosecuted and that led to a conviction since the start of the "war on drugs", that of Kian de Los Santos, where the arrest and killing was recorded on video, the CCTV footage presented to support witnesses' testimonies and that served as evidence of Kian's arrest, torture and death, confirmed that Kian did not "fight back" during his arrest, thus directly contradicting the defence of the policemen involved in the killing.⁶⁹

This pattern has been described by other rights-based organisations as being used in the same way to justify the killings of adults under the anti-drug campaign.⁷⁰

To reinforce and support these alleged "self-defense" claims, the police's practice of planting evidence on children's bodies after the killing as a justification, as illustrated in Case n°2, has become an alleged practice in police operations. In the cases documented⁷¹, the families of the victims have consistently stated that the

68. <https://www.theguardian.com/global-development/2017/dec/04/police-have-killed-dozens-of-children-in-philippines-war-on-drugs-amnesty-says>

69. Reuters, Death of a schoolboy, 25 August 2017, <http://ingfx.thomsonreuters.com/gfx/rngs/PHILIPPINES-DRUGS/010050X18M/index.html>.

70. They Just Kill, Ongoing Extrajudicial Executions and other Violations in the Philippines War on Drugs, Amnesty International, 2019, <https://www.amnesty.org/download/Documents/ASA3505782019ENGLISH.PDF> p.12.

71. As stated in the testimonies of the relatives of the minors killed, and as indicated in the fact sheets of the recorded cases.

children did not own guns or drugs and that they had never been involved in drug use or trafficking, such as in Case n°3. Commonly used to justify the killings of adults suspected of drug traffic or use⁷², this method of evidence-planting and/or indicating in reports that the victim was in possession of drugs or guns has also become a common pattern in the reports to justify the killing of children allegedly involved in drugs.⁷³ This corroborates the finding in several reliable reports that the police routinely plants evidence, including guns and drugs, on the bodies of victims to justify the killings of these alleged suspect.⁷⁴

As illustrated by Case n°5, children have also been directly targeted when they witnessed the extrajudicial killings of alleged drug suspects. This case clearly demonstrates that the perpetrator of the killing of an alleged drug suspect deliberately aimed at the child when he realised that he had witnessed the killing.

Another common pattern of the killings that were documented is the fact that, in many cases, the authorities rely on false and unverified evidence, as well as unproven accusations to conduct their operations against suspects⁷⁵. Some operations and killings are initiated by the police, based on false pretexts and unverified information. In addition to initiating an operation based on unverified assumptions, the police do not check the identity of the person that they will target and kill without any further ado, such as in Case n°3 where the adolescent walking together with a man that appeared on a “watch list” was also targeted and killed.

These patterns reflect the position of the State that pursuing the “war on drugs” should bypass compliance with countless human rights standards and principles, including one of the most fundamental, a child’s right to life. No later than June 2019, a senator and former chief of police justified⁷⁶ and supported the killing of a three-year old girl, allegedly used as a human shield by her father, who was suspected of being involved in drug trafficking. This case goes even beyond the definition of collateral damage, which is incidental to another targeted killing; rather, the toddler seemed to have been targeted by the police in place of her father, with the justification that he was using her as a human shield.⁷⁷

These last developments clearly illustrate that the killing of children in the pursuit of the “anti-drug campaign” is now openly accepted by the authorities carrying out this crusade. The death toll continues to rise, with at least 122 children killed since July 2016.⁷⁸

72. They Just Kill', Ongoing Extrajudicial Executions and other Violations in the Philippines War on Drugs', Amnesty International, 2019, <https://www.amnesty.org/download/Documents/ASA3505782019ENGLISH.PDF>, p.35.

73. See Case Study n° 2 and 3.

74. License to Kill, Philippines Police Killings in Duterte's War on Drug, Human Rights Watch, 2017, “Our investigations into the Philippine ‘drug war’ found that police routinely kill drug suspects in cold blood and then cover up their crime by planting drugs and guns at the scene ».

75. “Our Only Basis | Watch: Caloocan cops turned to social media to ‘confirm’ Kian’s alleged drug ties, Interaksyon, 24 August 2017 <https://www.interaksyon.com/breaking-news/2017/08/24/92825/intelligent-report-sacked-police-chief-admits-cops-relied-on-social-media-to-verify-kians-alleged-drug-link/> , Ex- Caloocan police chief says Kian’s drug ties confirmed via social media, GMA News Online, 24 August 2017 <https://www.gmanetwork.com/news/news/nation/623154/ex-caloocan-police-chief-says-kian-s-drug-ties-confirmed-via-social-media/story/>.

76. The Guardian, Philippines senator defends police over toddler’s death in drugs raid, 5th July 2019. <https://www.theguardian.com/world/2019/jul/05/philippines-senator-dela-rosa-defends-police-over-toddlers-death-in-drugs-raid>.

77. DZRH news, Senators insist that death of 3-year-old in police operation should be taken seriously, July 5th 2019. <http://dzhnews.com.ph/senators-insist-that-death-of-3-year-old-in-police-operation-should-be-taken-seriously-reacts-to-sht-happens-statement-of-dela-rosa/>; Rappler, 3-year-old girl dies after getting shot in Rizal buy-bust, 30th June 2019. <https://www.rappler.com/nation/234294-girl-dies-after-getting-shot-rizal-buy-bust-june-2019>

78. Recorded data by CLRDC.

4.2. INCREASED DETENTION AND TORTURE IN THE CONTEXT OF THE ‘WAR ON DRUGS’

As illustrated by Case n° 4 detailed above, the extrajudicial killings of children documented and analysed in the present report take place in a context of increased violations of other fundamental rights of children under the anti-drug campaign, including arbitrary arrests and detention, torture and ill-treatment. Despite a legal framework largely in line with international standards regarding juvenile justice⁷⁹, the reality is that the anti-drug campaign makes Filipino children, especially those who live in poverty, more vulnerable to abuse and torture.

If the number of cases of torture against children, especially in detention, alarmed the UN Committee against Torture in 2016⁸⁰, this practice has been sharply increasing since, especially when targeting children charged with drug-related offenses.

According to the testimonies of children in conflict with the law interviewed by the authors⁸¹, the use of violence by apprehending officers at the time of their arrest is widespread, and of a higher degree when children are charged with a drug-related offense. Some children interviewed also declared that in some cases, physical, sexual, and psychological abuse and torture were committed by State forces against those arrested under drug-related charges.

According to the children, the violence is of a higher degree when they were apprehended alongside adults. As it is the case for extrajudicial killings, the increasingly prevailing environment of fear of retaliation prevents families of children charged with drug-related offences who survived torture from filing complaints against the perpetrators. Most children deprived of liberty who suffered torture at the hands of arresting authorities are afraid to report and file complaints against perpetrators, due to fear and resulting long-lasting trauma. So are the families.

In addition to acts of torture, a sharp surge in the number of children apprehended for drug-related charges has been observed since the start of the administration’s anti-drug campaign. According to statistics gathered on the reason for the arrest and detention of children in three holding centers of the country⁸², while in 2015,

79. Juvenile Justice and Welfare Act of 2006 and the Anti-Torture Act.

80. CAT/C/PHL/CO/3, para 29 and 30.

81. Rights-based children’s groups have interviewed children who endured torture in police custodial centers, as well as in detention centers in some *Bahay Pag-asa* or Houses of Hope in Metro Manila. Fact sheets of the tortured victims which were obtained through one-on-one interviews were also reviewed.

82. CLRDC conducts regular visits in several *Bahay Pag-asa* in Metro Manila. These statistics are based on the research work conducted in these holding centers.

49 children had been convicted for heinous crimes, which include drug-related offences, in 2018, it was nearly 150 children who were convicted for that category of crimes. On a one-year scale, the number of convictions has tripled. Over three years (2016, 2017, 2018), 241 children were deprived of their liberty for heinous crimes in inhuman conditions of detention. Further investigation and interviews with children deprived of liberty in youth detention facilities⁸³ unearthed an alarming pattern of evidence-planting and malicious prosecution for drug-related offenses. Children apprehended for curfew violations or illegal gambling have found themselves charged with possession of illegal drugs or equipment, which would warrant their continued detention in youth detention facilities. The most common drug charges filed against children are violations of RA 9165 or the comprehensive Dangerous Drugs Act of 2002, particularly:

- Sections 11 and 12 on possession of dangerous drugs or equipment,
- Sections 13 and 14, on possession of dangerous drugs or equipment during parties, social gatherings or meetings,
- Section 15 on use of dangerous drugs, and
- Section 5 on Sale, trading, administration, dispensation, delivery, distribution and transportation of dangerous drugs and/or controlled precursors and essential chemicals⁸⁴. In most cases, parents and guardians of these children vehemently deny their children's involvement with illegal drugs, which is corroborated by clean records from the community.⁸⁵

The anti-drug campaign which started in 2016 has had a monumental impact on the lives of minors as, beyond the killings, they were also victims of arbitrary arrests and detentions.

Despite concrete safeguards enshrined in the Juvenile Justice and Welfare Act that must be respected by the apprehending officers, including at the stage of the initial contact with the child and his/her arrest, such as avoiding using handcuffs or any tools of restraint unless absolutely necessary, many detained children have indicated being pressured to confess to drug charges in exchange for the promise of shorter detention sentences⁸⁶. Finally, while the existing legislation⁸⁷ protects children that would have been used by adults in any drug-related traffic by prescribing specific and aggravated sanctions against the adult perpetrators⁸⁸, children are now increasingly treated as authors instead of victims, often held accountable, put behind bars and face similar charges as the adults.

83. CLRDC conducts regular visit in several *Bahay Pag-asa* in Metro Manila, totaling at least 4 visits a month since 2016. The data presented in this report is based on interviews with children since 2016 to the present.

84. **Republic Act no. 9165** Sec. 11. *Possession of Dangerous Drugs, Sec. 12. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs, Sec.13. Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings, Sec. 14. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings, Sec. 15. Use of Dangerous Drugs, Sec. 5. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals*

85. Interviews conducted with families of the children victims

86. Based on interviews by the report's authors of children in detention in a *Bahay Pag-Asa* in Metro Manila.

87. **Republic Act No. 7610, Section 10(e)**. *Any person who shall use, coerce, force or intimidate a street child or any other child to; (2) Act as conduit or middlemen in drug trafficking or pushing; (3) Conduct any illegal activities, shall suffer the penalty of prison correctional in its medium period to reclusion perpetua."*

88. **Republic Act no. 9165, Section 5 (4). Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.**

"For drug pushers who use minors or mentally incapacitated individuals as runners, couriers and messengers, or in any other capacity directly connected to the dangerous drugs and/or controlled precursors and essential chemical trade, the maximum penalty shall be imposed in every case." Section 6 (3). Maintenance of a Den, Dive or Resort. "The maximum penalty provided for under this Section shall be imposed in every case where any dangerous drug is administered, delivered or sold to a minor who is allowed to use the same in such a place." Section 10 (3). Manufacture or Delivery of Equipment, Instrument, Apparatus, and Other Paraphernalia for Dangerous Drugs and/or Controlled Precursors and Essential Chemicals. "The maximum penalty provided for under this Section shall be imposed upon any person, who uses a minor or a mentally incapacitated individual to deliver such equipment, instrument, apparatus and other paraphernalia for dangerous drugs."

As a result of this pattern, more and more children from poor urban communities are arrested for the mere suspicion of using drugs, arbitrarily detained, and charged, for most of them, with drug charges. The “anti-drug war” thus contributes to the overcrowding of ill-equipped children detention centers (others can be called *Bahay Pag-asa*), as most of them are dramatically overcrowded, breaching by far their maximum capacity. In 2018, children’s rights organisations that visited some *Bahay Pag-asa* in the greater Manila area⁸⁹ found out that the cells reached such a level of overcrowding that detained children have to take turns to sleep on the floor, as a result of the lack of space. A cell with capacity for 25 children, for example, was used to accommodate more than three times that number⁹⁰. The lack of access to medical care, even in cases of torture⁹¹, as well as for children suffering of communicable diseases, very frequent in these overcrowded and unventilated cells, has been identified as an alarming issue. One of the recorded cases reveals for instance that staff of a detention center (*Bahay Pag-asa*) in Metro Manila failed to provide a detained child with prompt medical assistance after he had been hit and suffered a deep wound to his head. The food intake of these children has also been found to be insufficient, both in quantity and in terms of nutritional value for a growing child.

Furthermore, cases of abuses, torture, ill-treatment and neglect of the children detained committed by some staff members were recorded, with children reporting being regularly beaten. In addition, children interviewed in detention reported being subjected to other kinds of punishment and intimidation tactics, such as being threatened to be sent to adult prisons, to stay longer in detention, to be sent to isolation rooms, or to be deprived of family visits⁹². Former children deprived of liberty from different facilities say that there is a practice among staff to place children in isolation rooms when they consider that they can no longer control the child. Some isolation rooms are hidden from the public view, while others are so small that movement is restrained. Cursing and labelling were also said to be common.

In addition, in many cases, the parents, guardians or relatives of these children are not informed of their child’s arrest and detention⁹³; basic procedural safeguards are not guaranteed, and delayed hearings lead to children staying months or years in detention⁹⁴, enduring months of abuse and hardship, before their case can be processed, most of the time for minor offences. Children living in the streets are also among those arrested and detained by the authorities, as well as children who witnessed the killings of their parents. The separation of children in conflict with the law from other children such as rescued children or street children is limited or non-existent; and separation between boys and girls is also not always guaranteed⁹⁵.

89. Documentation of Children’s Legal Rights and Development Center (CLRDC) and KnK Children Without Borders Philippines.

90. Wendy O’Brien and Cédric Foussard, *The missing piece of the puzzle in safeguarding children from violence in the Philippines*, in *Violence against Children in Criminal Justice Systems*, 2019, p. 111.

91. *Ibid.*, p.113.

92. *Ibid.*, p. 112.

93. *Ibid.*, p. 113.

94. Follow-up report to the UN Committee Against Torture submitted by the CLRDC, OMCT and PAHRA, 30 October 2018, p. 4.

95. Wendy O’Brien and Cédric Foussard, *The missing piece of the puzzle in safeguarding children from violence in the Philippines*, in *Violence against Children in Criminal Justice Systems*, 2019, p. 112.

4.3. CHILDREN AS DIRECT TARGETS OF EXTRAJUDICIAL KILLINGS

While some key studies have focused on the impact of the “war on drugs” on children whose parents were victims of summary killings or imprisoned under drug charge⁹⁶, the cases described in the present report clearly show that children are also direct targets and victims of the anti-drug campaign, and this despite a specific protection of children against extrajudicial killings under international law (1).

This is further reflected by attempts to weaken the protective legislation on children, aiming at charging children with drug-related offences (2).

(1) CHILDREN ENTITLED TO SPECIFIC PROTECTION AGAINST EXTRAJUDICIAL KILLINGS

Extrajudicial executions, which have been defined as an “arbitrary deprivation of life”⁹⁷, are prohibited under international human rights law, a prohibition which derives from the protection of the right to life, prescribed in the International Covenant on Civil and Political Rights, ratified by the Philippines in 1986. In addition, the prohibition of extrajudicial killings has been considered and interpreted as *Jus cogens* and is thus peremptorily forbidden.⁹⁸

Because of their specific vulnerability, under international human rights law, and in particular the UN Convention on the Rights of the Child (CRC), as well as international customary law, children hold a special status and specific human rights, which confer them a specific protection against grave violations of their rights.

As a State party to the UN CRC⁹⁹, which enshrines children’s right to life, and to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁰⁰, and after long efforts of human rights organisations in the country, the Philippines had set out standards and safeguards to promote and uphold the rights and well-being of the children, including the Constitutional protection of the right to life¹⁰¹, and defines a child as a person under the age of 18 years old, in conformity with the UN CRC. In addition, the Philippines had enacted laws and orders which, if implemented fully, would guarantee the protection of children against abuses committed both by the State and by private individuals. Among these are the Juvenile Justice and Welfare Act of 2006¹⁰² amended in

96. See for instance “Collateral Damage, the Children of Duterte’s War on Drugs”, Web-feature by Human Rights Watch, June 2019 and “Our happy family is Gone, Impact of the “War on Drugs” on children in the Philippines, Human Rights Watch, May 2020.

97. Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, 2016, A/HRC/35/23 <http://blog.omct.org/the-committee-against-tortures-approach-to-extrajudicial-killing/>

98. “When death becomes murder: a primer on extrajudicial killings, Columbia Human Rights Law Review, 50.1, William J Aceves.

99. Ratification/ Accession 21 August 1990.

100. Ratification/ Accession 18 June 1986.

101. “No Person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the law.”

102. Republic Act No. 9344 as amended by Republic Act No. 10630.

2013¹⁰³, the Special Protection of Children Against Abuse, Exploitation and Discrimination Act¹⁰⁴, and the Anti-Torture Act of 2009.

These instruments contain clear prohibitions of torture, or other cruel, inhuman or degrading treatment or punishment, arbitrary or unlawful deprivation of liberty, and the right to be treated with humanity and respect for the inherent dignity of the person and in a manner which takes into account the needs of a person appropriate to their age as well as the prohibition of death penalty and life imprisonment without parole.

According to the Philippines' Commission on Human Rights¹⁰⁵, "summary or extrajudicial executions of criminals or suspects are prohibited under the Philippine Constitution as these violate several sections such as Article III Section 1", which states that "no person shall be deprived of life, liberty or property without due process of law nor shall any person be denied the equal protection of the laws."¹⁰⁶

However, and despite a supposedly protective legal framework, the cases documented in the present report demonstrate that the government of the Philippines ostensibly violates its international obligations with regard to children, who are the subjects of a specific protection against extrajudicial killings because of their specific status under international law.

Under article 6 of the UN Convention on the Rights of the Child, it is clear that the Government of the Philippines has the obligation to protect the right to life, survival and development of children, including by taking measures to prevent extrajudicial killings of children, but also by investigating all cases of summary killings, and bringing perpetrators to justice.

The UN Human Rights Committee recognizes, in particular, that States' duty to protect the right to life "requires States to take special measures of protection" towards children.¹⁰⁷ Extensive jurisprudence by the Inter-American Court of Human Rights, in a region where extrajudicial killings are widespread, finds for instance that "crimes against the life of a child are particularly grave and call for greater State protection given a child's vulnerability and defenselessness¹⁰⁸, and that extrajudicial killings is a practice that is completely incompatible with the duty to protect the right to life".¹⁰⁹

It has also been recognised, further, by regional jurisdictions, and in particular by the Inter-American Court of Human Rights, that States have a specific duty with regard to children:

103. Republic Act No. 10630.

104. Republic Act No. 7610.

105. <http://chr.gov.ph/wp-content/uploads/2018/01/HRA-CHR-III-2004-02-On-Summary-Execution-and-Disappearance-of-Criminals.pdf>

106. Jodesz Gavilan, «Things to know: Human rights in the Philippines,» Rappler, last modified September 19, 2017, rappler.com/newsbreak/iq/114698-human-rights-philippines.

107. Human Rights Committee, General Comment 36, The right to life (art 6), 30 October 2018, para. 23.

108. *Serrano-Cruz Sisters v. El Salvador*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 120, 35 (March 1, 2005) (dissenting opinion by Cañado Trindade, J.). 508. Villagrán-Morales, Inter-Am. Ct. H.R. (ser. C) No. 63, 146, in *Judicial Interpretation of Children's Human Rights under the Jurisprudence of the Inter-American Court of Human Rights*, Hastings International and Comparative Law Review, Volume 43, number 1, Winter 2020, Aquila Mazzinghy, p. 79.

109. *Gómez-Paquiyaui Brothers v. Peru*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 110, 128 (July 8, 2004), in *Judicial Interpretation of Children's Human Rights under the Jurisprudence of the Inter-American Court of Human Rights*, Hastings International and Comparative Law Review, Volume 43, number 1, Winter 2020, Aquila Mazzinghy.

'States have a special position of guarantor, bearing duties of care and responsibility for minors, acting with increased responsibility in circumstances that affect children under its jurisdiction. When children are the alleged victims of state-sponsored human rights violations, this fact establishes the "aggravated international responsibility of the State."¹¹⁰

In light of the specific protection of children under international human rights law, the extrajudicial killings of children by the Government of President Duterte are of a particular character and gravity, which cannot remain unpunished.

(2) CHILDREN AS SPECIFIC TARGETS OF THE 'ANTI-DRUG WAR': EXISTING LEGAL FRAMEWORK ON CHILDREN UNDER THREAT

While the Government of the Philippines has, at times, acknowledged¹¹¹ and justified¹¹² the killings of children as collateral damage in the pursuit of the anti-drug campaign, some of the cases of killings of children show that they are actually targeted during police operations (Case Studies 1, 2, 3, 4 and 5).

As it has been observed in other countries or regions, teenagers, in majority teenagers from low-income families or street children, are often stigmatised as potential criminals and a threat to the society.¹¹³

In the Philippines, despite an otherwise protective legal framework for children, this trend is not only present, but is also progressively reflected in reforms aimed at undermining the legal framework otherwise protective of children, including by charging more, and younger, children with drug offenses. The sudden change of priorities under President Duterte's Administration has thus led to a shift from a system based on the State protection of children, reflected in a legislation generally in line with international standards, to a system in which the State constitutes a threat to children's lives and to the respect of their rights, and in which children are increasingly considered as a threat to society.

The extrajudicial killings of children carried out in the context of the "anti-drug war" are thus taking place against the background of a progressive erosion of this once protective legal framework. This is done through new or draft legislation that has the potential to further negatively impact the most vulnerable children, as described in this section.

110. 235. Rosendo Cantú et al v. Mexico, supra note 119, 201. 236. Vélez Restrepo and Family v. Colombia, Inter-Am. Ct. H.R. (ser. C) No. 248, 226 (Sept. 3, 2012). 237. Gómez-Paquiyaauri Brothers v. Peru, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 110, 162 (July 8, 2004). 238. Id. 39 (July 8, 2004). 239. Gómez-Paquiyaauri Brothers v. Peru, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 110, 76 (July 8, 2004), in *Judicial Interpretation of Children's Human Rights under the Jurisprudence of the Inter-American Court of Human Rights*, Hastings International and Comparative Law Review, Volume 43, number 1, Winter 2020, Aquila Mazzinghy.

111. The Guardian, Duterte says children killed in Philippines drug war are collateral damage, 17th October 2016. <https://www.theguardian.com/world/2016/oct/17/duterte-says-children-killed-in-philippines-drug-war-are-collateral-damage>

112. The Guardian, Philippines senator defends police over toddler's death in drugs raid, 5th July 2019. <https://www.theguardian.com/world/2019/jul/05/philippines-senator-dela-rosa-defends-police-over-toddlers-death-in-drugs-raid>

113. *Judicial Interpretation of Children's Human Rights under the Jurisprudence of the Inter-American Court of Human Rights*, Hastings International and Comparative Law Review, Volume 43, number 1, Winter 2020, Aquila Mazzinghy.

LOWERING THE MINIMUM AGE OF CRIMINAL RESPONSIBILITY

One of most flagrant examples of this is the attempt, through several bills¹¹⁴ presented since President Duterte came to power, to lower the minimum age of criminal responsibility, from age 15 as set by the Juvenile Justice and Welfare Act, to age 12 or even 9, thus attempting to bring into the scope of the criminal justice system increasingly younger children, and to charge a larger number of children with drug offences.

The aim of this reform is clearly reflected in the reasons put forward by its proponents, who invoke the necessity of the measure for public safety and crime reduction, stressing that the current minimum age of criminal responsibility “has had the opposite effect of pampering youthful offenders who commit crimes knowing they can get away with it”; that “adult criminals knowingly and purposely make use of youths below 15 years of age to commit crimes, such as drug trafficking, aware that they cannot be held criminally liable”; that “The choice of nine years old as the minimum age of criminal responsibility under the Revised Penal Code was infused with wisdom”; and that “Most children above these age, especially in these times when all forms and manner of knowledge are available through the internet and digital media, are already fully informed and should be taught that they are responsible for what they say and do.”¹¹⁵ The proponents also argue that this would discourage criminal syndicates from using children for the commission of their illegal activities.

Lowering the minimum age of criminal responsibility would not only open the floodgates of abuses against children,¹¹⁶ since criminal syndicates would then use younger children to perpetrate their crimes, but it would further stigmatize the children and the youth as potential criminals. The bill aiming at lowering the minimum age of criminal responsibility is, in this context, a clear effort of the government to broaden the anti-drug campaign by pursuing and prosecuting minors and legitimizing State-led violence against children .

Such proposed reforms also run contrary to the standards set by the UN Committee on the Rights of the Child encouraging States to “increase their minimum age of criminal responsibility to at least 14 years of age”¹¹⁷. While several of the attempts to lower the minimum age of criminal responsibility have been defeated through the crucial mobilisation of human rights groups since 2016, it is now feared, after the President won a majority in the Senate in May 2019, that the proposed Bill could be adopted in the coming months.

The attempts to lower the minimum age of criminal responsibility take place in a much broader climate of efforts of the government aimed at undermining the existence and recognition of human rights in the country. Among those, of particular concern is the

114. House Bill No. 00002 (An act amending Republic act no. 9344, as amended by republic act no. 10630, and reverting the minimum age of criminal responsibility from fifteen (15) years old to nine (9) years old (last accessed 18 June 2019); Senate Bill No.1603 (an act lowering the age of criminal responsibility, amending for the purpose republic act no. 9344, otherwise known as the ‘juvenile justice and welfare act of 2006’, as amended (last accessed 19 June 2019)

115. House Bill 002, House of Representatives, 17th Congress, Philippines.

116. paragraph nine of House Bill 002.

Washington Post, Rodrigo Duterte's next target: 9-year-old children, 26th February 2017.

https://www.washingtonpost.com/world/asia_pacific/rodrigo-dutertes-next-target-9-year-old-children/2017/02/25/c02f6e6c-f863-11e6-aa1e-5f735ee31334_story.html?utm_campaign=buffer&utm_content=bufferb8da8&utm_medium=social&utm_source=facebook.com&utm_term=f537b85a7cf8.

117. General Comment n°24 ‘Children’s Rights in the Justice System’, United Nations Committee on the Rights of the Child, CRC/C/GC/24, 18 September 2019, para 22.

attempt to reintroduce the death penalty, with a proposed legislation filed during the 17th Congress in 2019.¹¹⁸

RANDOM HIGH SCHOOL DRUG TESTING

In the context of the anti-drug campaign and the extrajudicial killings conducted under *Oplan TokHang*, the implementation of additional measures aimed at bringing children under the scope of law enforcement and at reducing children's individual liberties is particularly preoccupying. Memorandum Order 40 of the Department of Education (Mandatory Drug Testing in Public and Private Secondary Schools¹¹⁹), effective from September 2017, requires mandatory drug testing to be conducted in all high schools, for children as young as 10.¹²⁰

While the expressed intent of the authorities is to curb the alleged illegal drug use by children, this measure seems to aim at charging a maximum of children with drug-related offences and disregards the most basic legal safeguards, since the results of the test will be communicated to officials before being notified to the student and their parents.¹²¹

The human rights violations documented in this report not only target one of the most specific categories of the population, increasingly undermining an otherwise protective legal framework for children, but does so in total impunity for the perpetrators of these crimes.

118. House Bill No. 00001, House of Representatives, 17th Congress, Philippines.

119. https://www.deped.gov.ph/wp-content/uploads/2017/08/DO_s2017_040.pdf (last accessed 19 June 2019); DepEd Memorandum Order No. 40, S.2017.

120. CNN Philippines, A chief wants mandatory drug testing for 10-year-old students, 21st June 2018. <https://cnnphilippines.com/news/2018/06/21/PDEA-Chief-wants-mandatory-drug-testing-for-10-year-old-students.html> (last accessed 19 June 2019).113. Judicial Interpretation of Children's Human Rights under the Jurisprudence of the Inter-American Court of Human Rights, Hastings International and Comparative Law Review, Volume 43, number 1, Winter 2020, Aquila Mazzinghy.

121. The missing piece of the puzzle in safeguarding children from violence in the Philippines, in *Violence against Children in Criminal Justice Systems*, published by Wendy O'Brien and Cédric Foussard, 2019.

5. IMPUNITY AND THE EROSION OF THE RULE OF LAW: THE SPECIFIC DUTY TO INVESTIGATE EXTRAJUDICIAL KILLINGS OF CHILDREN

Since the start of the anti-drug campaign, and among the hundreds of children and thousands of adults killed, the death of 17-year-old Kian De Los Santos has so far been the only case prosecuted where the perpetrators, who were policemen, were convicted for the murder of Kian. The killing of Kian created an intense public pressure and outrage due to the existence of video footage of the killing, which led most national and international human rights groups to consider it a “token case”¹²², used by the authorities

122. Amnesty International, ‘They Just Kill’, Ongoing Extrajudicial Executions and other Violations in the Philippines War on Drugs’, 2019, p.32.

to demonstrate their willingness to prosecute, but never followed by any additional prosecutions.

Apart from this isolated case, there has been no accountability in the Philippines for the thousands of executions that have taken place since the start of the anti-drug campaign, leading to a climate of total impunity for these crimes.

As the cases presented in this report illustrate, the anti-drug campaign has also created a culture of fear among the population, especially the urban poor communities, linked to the climate of total impunity for police forces involved in these killings. As described in Cases 2, 3, 4 and 6, the children's families explain that fear of retaliation by the authorities prevents them from filing complaints. In many cases, families are also checked on and threatened by the police, which sometimes uses false identities to make sure that families do not get in contact with any human rights organisation to relate their stories. Families, but also other witnesses of the killings, are thus entirely silenced, allegedly by the authorities.

In addition to the fear of retaliation and associated threats, the documentation of the killings of children also shows that the police and the authorities arbitrarily qualify the perpetrators as "unidentified assailants", allowing investigations to be closed, as illustrated in Case n° 1. In Case n° 6, which reflects many of the 122 cases documented, the police simply qualify the killing as an accident.

Besides using the argument of the absence of witnesses, silenced by their fear of retaliation, the authorities also justify the closure of investigations by claiming that the killings took place during legitimate police operations, thus proving consistently unwilling to investigate and prosecute.

Beyond the observed lack of investigations, the authorities have also kept justifying and legitimizing the killing of alleged drug suspects, including of children, while such killings continue to this day.

The killing of a three-year old girl, allegedly used as a human shield by her father suspected of being involved in drug trafficking, was thus justified by a senator and former chief of police¹²³. President Duterte has himself justified the killings in public speeches and announced the continuation of his State policy of eliminating those suspected of being drug criminals. In his 2018 State of the Nation Address on 23 July 2018, the President warned that "the war against illegal drugs is far from over, it will be as relentless and chilling as on the day it began."¹²⁴

The extrajudicial killings are characterised by violations of other key elements of the rule of law, such as the principle of presumption of innocence and the right to a fair trial, including the right to be heard and to defence before the courts. Individual rights to privacy and constitutional guarantees against illegal arrests, searches and seizures are also set aside under the guise of protecting public safety.

123. The Guardian, Philippines senator defends police over toddler's death in drugs raid., 5th July 2019. <https://www.theguardian.com/world/2019/jul/05/philippines-senator-dela-rosa-defends-police-over-toddlers-death-in-drugs-raid>.

124. Rappler, FULL TEXT: President Duterte's 2018 State of the Nation Address, 23 July 2018, <https://www.rappler.com/nation/207989-rodrido-duterte-sona-2018-philippines-speech>.

This context of blatant disregard by the authorities for any due process and the rule of law leads the population, especially those living in poverty, to lose their faith in the criminal justice system and to prevent themselves from exercising their rights to fair trials, including access to justice.

Beyond this violation of the rule of law, which has been extensively demonstrated¹²⁵, a widespread and systematic climate of impunity is also one of the main causes of the persistence of human rights violations. The situation for children in the Philippines today is no different, as, in the prevailing environment of total impunity for police forces, killings of children still continue, with seven children already killed from January to March 2020.

Under international law and standards, States have the obligation to investigate and prosecute violations of the right to life, including unlawful deprivation of life, in an independent, impartial, prompt, effective, thorough and credible manner, to bring those responsible to justice, and to provide full reparations to the victim¹²⁶. In addition, the specific protection of children under international law calls for specific accountability for crimes committed against children. This is what has been considered by the Inter-American Court of Human Rights, whose extensive jurisprudence concludes that, with regard to children, 'the state's obligation is not "a simple formality preordained to be ineffective".¹²⁷ It assumes that "the crimes perpetrated against children are of such seriousness and nature to require specific positive actions from the state"¹²⁸.

The danger of the prevailing impunity for these crimes has also been pointed out by the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, who indicated in 2018 that 'the near complete lack of investigation into thousands of police killings violates the most basic State's obligation'.¹²⁹ As such, the recommendations of the UN Committee on the Rights of the Child in 2009 "to thoroughly investigate all alleged cases of killings and bring the perpetrators to justice"¹³⁰ are all the more relevant in light of the current unprecedented number of these killings of children.

In this context, it is imperative to ensure accountability for these killings, including as part of international investigations of the crimes committed in the context of the anti-drug campaign, which legal luminaries considered as crimes against humanity¹³¹. While the anti-drug campaign and related killings have been the subject of the preliminary examination by the International Criminal Court since February 2019, the recourse to this international accountability avenue led the President to withdraw the Philippines' ratification of the Rome Statute in March 2019. This therefore seriously impacts and strengthens impunity, especially for future violations. The United Nations Human Rights Council took, in the same vein, a fundamental step towards accountability in July 2019, by

125. Judicial Interpretation of Children's Human Rights under the Jurisprudence of the Inter-American Court of Human Rights, *Hastings International and Comparative Law Review*, Volume 43, number 1, Winter 2020, Aquila Mazzinghy, p. 100.

126. Human Rights Committee, General Comment 36, The right to life (art 6), 30 October 2018, para. 27.

127. Véliz Franco et al., Inter-Am. Ct. H.R. (ser. C) No. 277, 183; Gelman v. Uruguay, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 221, 184 (Feb. 24, 2011); Río Negro Massacres v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 250, 192 (Sept. 4, 2012), in *Judicial Interpretation of Children's Human Rights under the Jurisprudence of the Inter-American Court of Human Rights*, *Hastings International and Comparative Law Review*, Volume 43, number 1, Winter 2020, Aquila Mazzinghy, p.74.

128. Gelman, Inter-Am. Ct. H.R. (ser. C) No. 221, 183, in *Judicial Interpretation of Children's Human Rights under the Jurisprudence of the Inter-American Court of Human Rights*, *Hastings International and Comparative Law Review*, Volume 43, number 1, Winter 2020, Aquila Mazzinghy, p.7.

129. The missing piece of the puzzle in safeguarding children from violence in the Philippines, in *Violence against Children in Criminal Justice Systems*, published by Wendy O'Brien and Cédric Foussard, 2019.

130. CRC/C/PHL/CO/3-4.

131. They Just Kill, Ongoing Extrajudicial Executions and other violations in the Philippines' War on Drugs, Amnesty International 2019; Licence to Kill, Philippines Police Killings in Duterte's "War on Drugs", Human Rights Watch 2017.

adopting a resolution requesting the UN Office of the High Commissioner for Human Rights to present a comprehensive report on the situation of human rights in the Philippines by June 2020. However, it is time for the international community to go further and ensure that independent investigations are conducted into these grave human rights violations.

In light of the findings of the present report, the scope of the killings and specific status of children, it is crucial that any of these investigations include and prioritise the accountability for the extrajudicial killings of children since the beginning of the anti-drug campaign, in total impunity.

6. CONCLUSION AND RECOMMENDATIONS

The government of the Philippines' so-called anti-drug campaign has not only led to gross human rights violations; it has also entrenched a climate of terror among the poorest sectors of the population, who have become the favourite target of this campaign.¹³² Combined with continued impunity for human rights abuses and President Duterte's violent anti-human rights rhetoric, it has also contributed to a rise in the attacks and violence against civil society activists.¹³³

Despite the constitutional recognition of the importance of the role of children and youth in the Philippines, the concrete situation of the most marginalized children, killed in a culture of violence, fear, and impunity sowed by the current administration shows a different reality.

Contrary to the expressed intent of the authorities to put an end to the "drug problem", there has allegedly been no arrest of any major drug dealer since the start of the "anti-drug campaign". In the meantime, the most marginalized children continue to be affected by this senseless war. This is one of the many signs that, far from aiming at addressing the "drug problem", the authorities are clearly using such a "war paradigm" to order and justify the relentless killings of the poorest among the population and to infuse terror into the most vulnerable sectors of the society, leading to the total impunity in which these crimes are conducted.

The Special Rapporteur on Extrajudicial, unlawful and summary executions firmly denounced the concept of the "war on drugs" used by President Duterte's government to allow and justify killings of alleged suspects, and instead emphasized the measured approach to the drug problem taken by the United Nations, commending the call for "what amounts to a balanced, multi-faceted, multi-disciplinary approach," and the "great emphasis on health, rights, and justice"¹³⁴.

132. Evidenced by the facts gathered and verified on the incidents of killings by local and international organisations who have interviewed the families of victims and their witnesses. Such as the Amnesty International research at this link <https://www.amnestyusa.org/reports/if-you-are-poor-you-are-killed-extrajudicial-executions-in-the-philippines-war-on-drugs/>

133. "I will kill you along with drug addicts" President Duterte's war on human rights defenders in the Philippines", the Observatory for the Protection of Human Rights Defenders, OMCT, FIDH, February 2019.

134. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21593&LangID=E>

Four years into the anti-drug campaign that has taken the lives of thousands of people, including of children, it is urgent to put an end to the dangerous framing of the drug problem by President Duterte's government and move towards an approach based on international human rights and public health.

Because of the specific status of children in international law, and their specific vulnerability to violations of their rights, States have an increased responsibility to guarantee and promote children's rights, and a specific duty to investigate these violations. It is thus crucial not only to put an immediate end to the killings of children in this context, but also to shed light on all killings of children since the start of the anti-drug campaign and put an end to the impunity for the perpetrators.

In the light of the situation outlined in this report, the World Organisation Against Torture and the Children's Legal Rights and Development Center would like to make the following recommendations.

TO THE GOVERNMENT OF THE PHILIPPINES:

General recommendations

- Ensure, in all circumstances, respect for human rights and fundamental freedoms in the Philippines, including those of children, in accordance with international human rights standards and international human rights instruments to which the Philippines is a State party.
- Fully implement all provisions under international human rights treaties binding on the Philippines, in particular, the UN Convention on the Rights of the Child, ratified by the Philippines in 1990, including its articles 37 and 40; and the UN Convention Against Torture, ratified by the Philippines in 1986. In addition, fully implement all recommendations made to the Philippines by relevant UN Treaty Bodies and UN Special Procedures, and during the Universal Periodic Review (UPR).

On ending extrajudicial killings of children

- Urgently put an end to any extrajudicial killing of children in the context of the "war on drugs", whether as direct targets or collateral damage.
- Repeal PNP Command Memorandum Circular No. 16-2016, and military policies *Oplan Double Barrel* and *Oplan TokHang*.
- Ensure the fundamental right to life and security of every person, including children, in the Philippines. In particular, approach drug-related policies from a perspective of health and human rights, in compliance with international human rights law and standards, including children's rights, and take all necessary measures to protect the Philippine population from targeted killings and extrajudicial executions in the context of the "war on drugs".

- Ensure that the Social Welfare Department provides psychological support to the families who experience trauma and the psychological consequences of the loss of their children.

On impunity

- Put an end to the prevailing culture of impunity for human rights violations in the country, including extrajudicial killings of children. To that effect, prioritise the accountability for the extrajudicial killings of children by ensuring prompt, thorough, impartial, and transparent investigations into all allegations of human rights violations against children, including extrajudicial killings, torture, and arbitrary arrests and detention of children, with the aim to identify all those responsible, including law enforcement agencies, and those who support and participate in these acts at all levels, bring them before an independent tribunal, and sanction them in accordance with the law.
- Ensure that family members of children victims, or any witness to such killings, are protected against any form of reprisals.
- Ensure that the Commission on Human Rights has the capacities, including financial resources, to conduct investigations into alleged human rights violations of children, including extrajudicial killings, and that the local authorities provide the Commission with the necessary documentations to conduct investigations.
- Ensure that all the families of children victims of extrajudicial killings by government officials and their agents receive appropriate compensation and reparation for the loss of their children.

On torture, ill-treatment and arbitrary detention of children

- Put an end to the arbitrary arrest and detention of children, including based on trumped-up charges, and reduce the overcrowding in detention centres for children resulting from an increase in arrests.
- Ensure that all children are protected from torture and ill-treatment, including during arrest, while in detention or in police custody, including in the context of the “war on drugs”.
- Maintain the minimum age of criminal responsibility at 15 years old under the Juvenile Justice Law and Welfare Act of 2006, in line with international standards.
- Fully implement and operationalize the Mandatory Registry of Children in Conflict with the Law under Section 12 of Republic Act 10630.
- Implement fully the Juvenile Justice Law and Welfare Act of 2006 as amended in 2013, in particular including its provisions on the prohibition of torture and ill-treatment of children; of capital punishment and life imprisonment of children; of

unlawful or arbitrary deprivation of liberty; on the principle of deprivation of liberty of children as a last resort and for the shortest appropriate period of time, and on intervention, suspension of sentences and diversion.

On the protection of human rights defenders, including child rights defenders

- Guarantee, in all circumstances, the physical and psychological safety and well-being of all human rights defenders in the country, including those working on children's rights.
- Put an end to the public stigmatization of human rights defenders and publicly recognize the legitimate and crucial role they play as watchdogs of the rule of law, including in the context of the "war on drugs."
- Put an end to all forms of harassment, including at the judicial level, against human rights defenders, and ensure that they are able to carry out their activities without hindrance and are protected from threats, defamation, attacks, criminalization, and other acts of violence.

On cooperation with UN bodies and agencies

- Cooperate with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the mechanisms of the Human Rights Council (HRC), and implement the recommendations included in the report to be presented by the OHCHR to the HRC during its 44th session on the situation of human rights in the Philippines.
- Cooperate with and allow access to the country to all representatives from UN human rights mechanisms and UN Special Procedures, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, to investigate alleged extrajudicial killings of children and other abuses taking place in the context of the so-called "war on drugs".

TO THE COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES:

- Investigate the death of all children killed in the context of the "war on drugs" and make recommendations for accountability in cases where there is sufficient evidence.
- Act on and resolve reports, cases or investigations in a timely manner in accordance with the rules, particularly on the situation and treatment of children in detention.

TO THE UNITED NATIONS AND BODIES:

- Call on the UN Human Rights Council to extend the current mandate of the Office of the High Commissioner for Human Rights to monitor the human rights situation in the Philippines and establish an international on-the-ground, impartial, independent investigation («Commission of Inquiry») into all allegations of human

rights violations, especially of children, including extrajudicial killings, torture, enforced disappearances, kidnapping, and arbitrary detention committed in the context of the 'war on drugs'.

- Call the Office of the High Commissioner for Human Rights to pay specific attention to the situation and violations of human rights of children in all its discussions, initiatives and reports, including in its mandate granted by the UN Human Rights Council regarding the human rights situation in the Philippines.
- Call on the Philippine government to take immediate steps to end gross human rights violations, including extrajudicial killings, torture, enforced disappearances, kidnapping, and arbitrary detentions that affect human rights defenders, and to publicly announce a transparent and accountable human rights-based approach to combating drugs after broad and meaningful consultation with civil society and victims' families.
- Call on the Special Procedures to integrate a children's rights perspective in their work, and to urge the authorities of the Philippines to end any policy supporting the "war on drugs", to put an end to any extrajudicial killing, torture and arbitrary arrest, including of children, and to hold perpetrators accountable for these acts.

TO THE INTERNATIONAL CRIMINAL COURT:

- Expedite the preliminary examination into possible crimes committed in the context of the Philippines' "war on drugs", conduct investigations in the cases brought before the Court, and provide reparations to victims or families of victims of these crimes.

TO THE EUROPEAN UNION, ITS MEMBER STATES AND OTHER STATES:

- Urge the Philippines' government to end any policy supporting the "war on drugs", to put an end to any extrajudicial killings, torture and arbitrary arrest, including of children and to hold perpetrators accountable for these acts. Use all available instruments to do so, such as the Partnership and Cooperation Agreement (PCA) and the Generalised System of Preferences Plus or continuing to hold Free Trade Agreement negotiations.
- Pay particular attention to the situation and protection of children in the Philippines, in accordance with the UN CRC and other international human rights instruments ratified by the Philippines, and systematically condemn their violations.
- Take all protective, preventive and responsive measures necessary for the safety of human rights defenders, including those working on children's rights in the Philippines.
- Continue monitoring the implementation of recommendations addressed to the authorities of the Philippines, including the report of the High Commissioner on Human Rights published in June 2020 pursuant to HRC resolution A/HRC/41/L.20

calling the government of the Philippines to take all necessary measures to prevent extrajudicial killings and enforced disappearances, to carry out impartial investigations and to hold perpetrators accountable.

