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## Interrupting Cyclical Trauma: Transitional Justice in the Philippines

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# INTERRUPTING CYCLICAL TRAUMA: TRANSITIONAL JUSTICE IN THE PHILIPPINES

by Maria Jardeleza\*

## I. Introduction

In Manila, families are digging up the graves of their loved ones, hoping the bones will tell the story of death that the police conceal.<sup>1</sup> Dr. Fortun, one of only two forensic pathologists in the country, has analyzed the remains of Filipinos killed by police to gather evidence that can help recount the truth of what happened, not only for families, but also for domestic and international courts.<sup>2</sup> Tens of thousands suffered the extrajudicial killings at the hands of police from former President Rodrigo Duterte's War on Drugs.<sup>3</sup> Dr. Fortun is one of many advocates determined to hold perpetrators of human rights abuses accountable through transitional justice efforts.<sup>4</sup>

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1 Linda Pressly, *Philippines: Bone diggers seek justice for dead in Duterte's drug war*, BBC (Jan. 3, 2024), <https://bbc.com/news/world-asia-67825685>.

2 *Id.*; see also *STATEMENT ON THE ENHANCED INTERACTIVE DIALOGUE ON HUMAN RIGHTS IN THE PHILIPPINES AT THE ON-GOING 44TH SESSION OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL IN GENEVA, SWITZERLAND*, REPUBLIC PHIL. DEP'TP JUST, (July 2, 2020), [https://www.doj.gov.ph/news\\_article.html?newsid=661](https://www.doj.gov.ph/news_article.html?newsid=661) (offering the perspective of the Philippine Department of Justice on domestic and international accountability efforts).

3 See generally Carlos H. Conde, *Philippines' 'War on Drugs'*, HUM. RTS. WATCH, <https://www.hrw.org/tag/philippines-war-drugs> [hereinafter War on Drugs].

4 See generally OHCHR: *Transitional justice and human rights*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM'R, <https://>

To interrupt the cycles of human rights abuses in the Philippines, the approach to transitional justice must incorporate an understanding of its unique history of abuses. A reliance on both domestic and international justice systems, as well as the promotion of leaders that will build a foundational respect for the rule of law can position the nation to effectuate a more peaceful future.

## II. Background and Historical Context Duterte's War on Drugs

In 2016, Rodrigo Duterte ran for president on a platform that promised to address drug crimes in the country.<sup>5</sup> Following the lead and language of the country's former occupier, Duterte named this initiative the War on Drugs.<sup>6</sup> Like the U.S. War on Drugs, Duterte's war positioned the police as the primary actors.<sup>7</sup> But unlike U.S. War on Drugs, which relied heavily on prosecution and the prison-system as the primary methods of enforcement, Duterte's war quickly revealed itself as a systematic method of executing the accused without regard for constitutional or human rights.<sup>8</sup>

Before becoming president, Duterte was mayor of Davao City for over twenty years.<sup>9</sup> He created the "Davao Death Squad," comprised of police officers

[www.ohchr.org/en/transitional-justice#:~:text=Transitional%20justice%20aims%20to%20provide,the%20prevention%20of%20new%20violations](https://www.ohchr.org/en/transitional-justice#:~:text=Transitional%20justice%20aims%20to%20provide,the%20prevention%20of%20new%20violations) ("Transitional justice covers the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past conflict, repression, violations and abuses, to ensure accountability, serve justice and achieve reconciliation.") [hereinafter OHCHR: Transitional justice and human rights].

5 War on Drugs, *supra* note 3.

6 *Id.*

7 See generally Joy Sales, *U.S. Empire and the War on Drugs in the Philippines*, WASH. UNIV., ST. LOUIS ARTS & SCIS.: CTR FOR HUMANS., (Feb. 25, 2020), <https://humanities.wustl.edu/features/joy-sales-us-empire-and-war-drugs-philippines> (arguing that the history of U.S. imperialism inextricably relates to the present extrajudicial killings).

8 See generally "License to Kill" *Philippine Police Killings in Duterte's 'War on Drugs'*, HUM. RTS. WATCH, (Mar. 2, 2017), <https://www.hrw.org/report/2017/03/02/license-kill/philippine-police-killings-dutertes-war-drugs> (compiling data on War on Drugs victims, highlighting a case where police shot and killed a father at home, falsely claiming he had drugs and pointed a gun at them, though family disputes these allegations, stating he had neither drugs nor a gun). [hereinafter License to Kill].

9 License to Kill, *supra* note 8.

and vigilantes, who killed the poor in the name of preventing crime.<sup>10</sup> When running for president, he promised to do the same throughout the country.<sup>11</sup> As part of Duterte's anti-drug campaign, the police killed over 7,000 people.<sup>12</sup> Many of these murders followed a similar pattern: a poor victim, an accusation of drug use, and a reported shootout.<sup>13</sup> However, a deeper investigation revealed the farce: most victims were unarmed when gunned down, were occasional or even recovering users, and were not in possession of controlled substances.<sup>14</sup> The police placed evidence of weapons and drugs on the scenes to justify the murders.<sup>15</sup>

### III. A History of Impunity

Duterte's War on Drugs fits within a broader context of atrocity crimes.<sup>16</sup> In recent history, the nation suffered a similar period of violence and injustice under President Ferdinand E. Marcos.<sup>17</sup> In 1972, Ferdinand Marcos declared martial law and extended his term to last until 1986, when a revolution finally ousted him.<sup>18</sup> During twenty years as president and fourteen years of authoritarian rule, the regime killed over three thousand Filipinos, tortured thirty-five thousand, and

jailed seventy thousand. The peaceful People Power Revolution brought a new Constitution and new leader, President Corazon "Cory" Aquino.<sup>19</sup> But the existing violence and uncertainty remained.<sup>20</sup> During her presidency, Aquino faced six attempted coups while trying to address the abuses perpetrated by the preceding regime.<sup>21</sup>

Fearing a threat to national security, Aquino prevented Ferdinand Marcos from returning to the country.<sup>22</sup> Because of this, he never faced a tribunal for his violence, and he never took responsibility for the brutality.<sup>23</sup> Victims never accessed justice.<sup>24</sup> Some have noted the terrifying similarities between the Ferdinand Marcos era of martial law and Duterte's War on Drugs, viewing Duterte as yet another violent leader who rose to power on a platform of murder as a means to achieve political goals and suppress opposition.<sup>25</sup> Though Ferdinand Marcos escaped accountability, Duterte must not receive the same impunity.<sup>26</sup>

### IV. Emerging Use of Transitional Justice Framework

Recently, the Philippines has turned to transitional justice as a tool to interrupt cyclical violence.<sup>27</sup> Transitional justice is the multifaceted approach to promoting stability and justice after an experience of large-scale atrocity crimes.<sup>28</sup> This approach seeks to both pro-

10 *Id.*; See also, Euan McKirdy & Buena Bernal, *Self-Proclaimed Death Squad Chief: I Killed Almost 200 for Duterte*, CNN (Mar. 6, 2017), <https://www.cnn.com/2017/03/06/asia/davao-death-squad-leader-testimony/index.html> (reporting that Duterte paid a retired police officer over \$20,000 to lead the Davao Death Squad and kill nearly 200 people).

11 License to Kill, *supra* note 8.

12 *Id.*; See also, Sales *supra* note 7 (asserting the number of deaths is as high as 27,000 people).

13 Human Rights Watch, *Police Fake Evidence in Philippines' Drug War Killings*, YOUTUBE, (Mar. 1, 2017), <https://www.youtube.com/watch?v=bs5eRSA3GoQ&rc=1>.

14 License to Kill, *supra* note 8 (describing Human Rights Watch investigations debunking police reports of shootouts leading to deaths, revealing victims are often shot after arrest, with drugs and guns planted on them posthumously by police).

15 *Id.*

16 See Tine Destrooper, *Understanding the Unforeseen Consequences of an Incomplete Transitional Justice Ecology in the Philippines*, SAGE J., (July 13, 2023), <https://doi.org/10.1177/18681034231186632> ("The Philippines' history of violence is a long and multi-dimensional one with roots that can be traced back to the Spanish and American colonial periods.") [hereinafter Destrooper].

17 *Id.*

18 *Id.*

19 *Id.*

20 *Id.*

21 *Id.*

22 Destrooper, *supra* note 16.

23 *Id.*

24 *Id.*

25 See, Dana R. Herrera, *The Philippines: An Overview of the Colonial Era*, ASSOCIATION FOR ASIAN STUDIES, (2015), <https://www.asianstudies.org/publications/ea/archives/the-philippines-an-overview-of-the-colonial-era/>.

26 Destrooper, *supra* note 16.

27 TRANSITIONAL JUST. AND RECONCILIATION COMM'N, REPORT OF THE TRANSITIONAL JUSTICE AND RECONCILIATION COMMISSION 1 (Dr. Marita Concepcion Castro Guevara ed., 2016). [HTTPS://ASIAPACIFIC.UNWOMEN.ORG/SITES/DEFAULT/FILES/FIELD%20OFFICE%20EASIA/DOCS/PUBLICATIONS/2016/10/TJRC%20REPORT.PDF](https://asiapacific.unwomen.org/sites/default/files/field%20office%20easia/docs/publications/2016/10/TJRC%20REPORT.PDF) [hereinafter Report of the TJRC].

28 See U.N. Secretary-General, *The rules of law and transitional justice in conflict and post-conflict societies*, ¶ 4, U.N. Doc. S/2004/616 (Aug. 23, 2004). <https://documents.un.org/doc/undoc/gen/n04/395/29/pdf/n0439529.pdf?token=XPIgK3UOhAtsloyvny&fe=true>.

vide justice and prevent future conflict by investing in the necessary domestic institutions, promoting respect and trust in the rule of law, and recognizing victims and the abuses committed against them.<sup>29</sup> The Secretary-General of the United Nations Security Council asserted that effective transitional justice could interrupt cycles of injustice and could lead to more stability.<sup>30</sup> However, the failure to comprehensively address past trauma may leave the country bound to repeat the cyclical injustices of the past.<sup>31</sup> In 2016, the Transitional Justice and Reconciliation Commission (TJRC) issued a report on Bangsamoro, an autonomous region on the Filipino island of Mindanao. The TJRC helped leaders identify strategies for healing and accountability for the decades of armed conflict between indigenous communities, Moro Islamic Liberation Front, and the Philippine government.<sup>32</sup> The transitional justice precedent in Bangsamoro directly informs how to handle Duterte's War on Drugs.<sup>33</sup> The TJRC found that state actors, state-affiliated groups, and non-state armed groups committed mass atrocity crimes, including displacement, recruitment of children as soldiers, rape and sexual violence, and forced disappearances.<sup>34</sup> Additionally, like Duterte's War on Drugs, the abuses in Bangsamoro included extrajudicial killings.<sup>35</sup> Like the police coverups skewed the data on the killings in Duterte's War on Drugs, underreporting prevented a comprehensive understanding of the magnitude of the extrajudicial killings in Bangsamoro.<sup>36</sup> The TJRC Report recommended a formal investigation to remedy this lack of accurate data.<sup>37</sup> TJRC

29 *Id.*

30 *Id.* ("Peace and stability can only prevail if the population perceives that politically charged issues, such as ethnic discrimination, unequal distribution of wealth and social services, abuse of power, denial of the right to property or citizenship and territorial disputes between States, can be addressed in a legitimate and fair manner.")

31 *See Destrooper, supra* note 16 ("In spite of this plethora of [transitional justice] initiatives, the Philippines can hardly be called a 'successful' case of dealing with violent legacies – with the recent election of Bongbong Marcos as the most striking example thereof.")

32 Report of the TJRC, *supra* note 27.

33 *Id.*

34 *Id.* at 35-40.

35 Report of the TJRC, *supra* note 27 at 62.

36 *Id.* at 33.

37 *Id.* at 43 ("The TJRC is adamant that a formal investigation must be undertaken to gain a fuller understanding of the extent

Report also specifically addressed impunity, asserting that "impunity in the Bangsamoro is directly associated with the failure to deliver timely and independent justice, security, and the rule of law."<sup>38</sup> Leaning on this Bangsamoro precedent, the Philippines can develop a similar approach for transitional justice for Duterte's War on Drugs.<sup>39</sup>

## V. Using International Law to hold perpetrators accountable, provide justice to victims, and establish respect for the rule of law.

As Bangsamoro drew international focus, many countries, non-governmental organizations, and intergovernmental organizations have called for intervention and justice in Duterte's War on Drugs.<sup>40</sup> After decades of extrajudicial killings, the International Criminal Court ("ICC") opened an investigation.<sup>41</sup> The investigation aimed to determine whether these extrajudicial killings constitute a crime against humanity of murder, and how to hold the perpetrators accountable.<sup>42</sup> This investigation, brought by the ICC under Article 7(1), is part of a larger effort to come to terms with the shared history of trauma and human rights abuses and transition to a more peaceful future, a concept known as transitional justice.<sup>43</sup>

In September of 2021, the Pre-Trial Chamber of the ICC authorized an investigation into the War on Drugs and the alleged human rights abuses from 2011 to 2019.<sup>44</sup> Establishing subject-matter jurisdiction un-

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and range of the human rights violations that have occurred during the four decades of armed conflict in the Bangsamoro").

38 *Id.* at 62.

39 *Id.* at 11-12.

40 *See, e.g., Philippines*, AMNESTY INT'L, <https://www.amnestyusa.org/countries/philippines/> (showing that "the Amnesty International Report 2021/22 . . . presents Amnesty International's concerns and calls for action to governments and others").

41 *See Situation in the Republic of the Philippines*, Case No. ICC-01/21, Judgment, ¶ 5 (Jan. 26, 2023), <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd18051fd37.pdf> [hereinafter ICC Judgment].

42 *See Situation in the Republic of the Philippines*, Case No. ICC-01/21, Decision, ¶¶ 28-31 (Sept. 15, 2021), [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021\\_08044.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021_08044.PDF) [hereinafter ICC Decision].

43 OHCHR: Transitional justice and human rights, *supra* note 4.

44 ICC Decision, *supra* note 42, ¶¶ 109 & 112 (asserting both territorial jurisdiction because the alleged crime against humanity occurred in the Philippines and temporal jurisdiction because

der Article 7(1), the Prosecutor alleged a crime against humanity of murder.<sup>45</sup> Within a couple of months of the authorization of investigation, the Philippines requested a deferral, disputing the need for ICC involvement.<sup>46</sup> In response to the Deferral Requested, the ICC issued an Impugned Decision which authorized the continuation of the investigation.<sup>47</sup> The Philippines appealed on four grounds.<sup>48</sup> One of the issues on appeal was whether the ICC had territorial jurisdiction. In 2019, Duterte withdrew from the Rome Statute, the treaty that grants the ICC authority over the State parties.<sup>49</sup> The ICC held that Philippines had failed to properly raise this issue on appeal.<sup>50</sup> Another issue on appeal was whether domestic courts in the Philippines were holding perpetrators accountable sufficient to satisfy complementarity.<sup>51</sup> The Philippines argued that domestic efforts to prosecute cases of extrajudicial killings was sufficient, showing that Department of Justice (“DOJ”) decided to prosecute thirty police officers for murder and investigate hundreds of other cases.<sup>52</sup> But this is a fraction of the estimated twenty-seven thousand deaths.<sup>53</sup> The Ap-

the crime against humanity occurred while the Philippines was a party to the Rome Statute).

45 ICC Decision, *supra* note 42 at ¶ 28-29 (“Under Article 7(1) of the Statute, a crime against humanity involves one of the acts that are listed (‘underlying acts’) when committed as part of a widespread attack directed against any civilian population, with knowledge of the attack.”).

46 ICC Judgment, *supra*, note 9, ¶ 3.

47 *Id.* ¶ 13.

48 *Id.* (describing that the four issues raised are first, whether the Philippines was a State Party; second, whether the Pre-Trial Chamber properly reversed the Prosecutor’s burden of proof; third, whether the Pre-Trial Chamber properly applied the legal standard; and fourth, whether the domestic courts had demonstrated a “real or genuine effort” to handle the investigation and prosecutions sufficiently).

49 *International Criminal Court’s Philippines*, HUM. RTS. WATCH, (February 13, 2023), <https://www.hrw.org/news/2023/02/13/international-criminal-courts-philippines-investigation>.

50 ICC Judgment, *supra* note 41, ¶¶ 55-57.

51 *Id.* ¶ 144.

52 *Id.*; see also, Lian Buan, *PNP kept during drug war abuses internal, imposed light penalties – DOJ matrix*, RAPPLER (Oct. 20, 2021), <https://www.rappler.com/nation/doj-matrix-duterte-drug-war-deaths-philippine-police-abuses/> (reporting on the official matrix that described the domestic justice system’s investigations into police conduct during anti-drug operations) [hereinafter DOJ].

53 Matthew Tostevin and Neil Jerome Morales, *War on numbers – Philippines targets drug killing data*, REUTERS (July 18, 2019),

peals Chamber affirmed the finding that the Philippines failed to advance the process of domestic investigations and prosecutions to sufficiently mirror the scope of the intended investigation.<sup>54</sup> The Appeals Chamber therefore upheld the Impugned Decision, finding the authority to investigate.<sup>55</sup> The ICC established the requisite authority to hold perpetrators of Duterte’s War on Drugs accountable for the crimes against humanity of murder.

## VI. Using domestic law to hold perpetrators accountable to provide justice to the victims and establish respect for the rule of law.

Both international and domestic justice systems are necessary for lasting change.<sup>56</sup> Domestically, the Supreme Court has heard cases on extrajudicial killings and held for victims, demonstrating the Court’s willingness to hold state actors responsible for their crimes.<sup>57</sup> Still, many lack hope for justice, recognizing the many perpetrators who have continued to escape accountability.<sup>58</sup> In October 2021, the DOJ issued a press release, assuring review of fifty-two cases of police misconduct and potential criminal prosecution.<sup>59</sup> In the press release, the DOJ claimed that it recognized, “the importance of transparency in its review process,” and “respecting due process.”<sup>60</sup> In the review of these cases, the DOJ notes a pattern of officers being giving light suspensions or demotions in response to wrongfully killing people in the course of duty.<sup>61</sup> In 2022, the

<https://www.reuters.com/article/us-philippines-drugs/war-on-numbers-philippines-targets-drug-killing-data-idUSKCN1UD-1CJ/>.

54 ICC Judgment, *supra* note 41, ¶¶ 110.

55 *Id.* ¶ 3.

56 OHCHR: Transitional justice and human rights, *supra* note 4.

57 *SC Upholds Amparo as Remedy vs Extralegal Killings, Threats*, SUP. CT. PHIL., (August 9, 2022) <https://sc.judiciary.gov.ph/sc-upholds-amparo-as-remedy-vs-extralegal-killings-threats/> [hereinafter Amparo as Remedy].

58 See Lian Buan & Jodesz Gavalin, *In Duterte’s drug war, justice is ‘nearly impossible,’* RAPPLER (Jul 15, 2024), <https://www.rappler.com/newsbreak/in-depth/duterte-drug-war-killings-justice-nearly-impossible-2021/>; See also Miguel Syjuco, *This Is Why Philippine President Rodrigo Duterte Will Get Away With Murder*, TIME (Aug. 16, 2016), <https://time.com/4453587/philippines-rodigo-duterte-dictator-impunity-marcos/>.

59 DOJ, *supra* note 52.

60 *Id.*

61 *E.g., Philippines: Government review a woefully insufficient*



Supreme Court of the Philippines upheld the granting of a writ of *amparo* to a widow whose husband was a victim of what the Court recognized as an extrajudicial killing by the police.<sup>62</sup> This decision not only demonstrated Court recognition of the extrajudicial killings, but also recognized an avenue for legal protection against the violation of Constitutional rights.<sup>63</sup> Accountability in one case is but a start, and many are calling for more investigations.<sup>64</sup>

By relying on both domestic and international institutions, victims can access multifaceted and comprehensive justice.<sup>65</sup> On the international stage, the ICC's investigation and, hopefully, subsequent trial will be positioned to hold the leaders of the initiative accountable for the systemic injustices promoted and perpetrated.<sup>66</sup> The domestic courts, through writs of *amparo*, DOJ investigations, and criminal prosecutions are in the position to address the individual cases of constitutional rights violations and provide individualized remedies for victims.<sup>67</sup> International and domestic efforts together ensure successful transitional justice capable of interrupting the cycles of abuse.<sup>68</sup> Furthermore, the justice systems are but one part of a larger approach to establish a foundational respect for the rule of law.

## VII. Political leaders must promote respect for the rule of law through both policy and practice.

As the judicial institutions are essential to transitional justice, so too are the political ones. Before the Philippine-American War, the Philippines had established a Republic with a president with executive pow-

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response to victims of "war on drugs," AMNESTY INT'L (Oct. 22, 2021), <https://www.amnesty.org/en/documents/asa35/4911/2021/en/>.

62 Amparo as Remedy, *supra* note 57.

63 *Id.* ("The fact that respondent... and [the victim] were previously arrested for selling illegal drugs is beside the point. As stated earlier, even if the respondent committed a crime, the petitioners, as law enforcement agents, are not at liberty to disregard the respondent's constitutionally guaranteed rights to life, liberty, and security.")

64 DOJ, *supra* note 52.

65 Destrooper, *supra* note 16.

66 War on Drugs, *supra* note 3.

67 Amparo as Remedy, *supra* note 57.

68 Destrooper, *supra* note 16.

er.<sup>69</sup> Since then, the political structure of the Philippines has alternated between Republic and Commonwealth.<sup>70</sup> In 1987, the current Constitution took effect.<sup>71</sup> The political leaders in the Philippines reflect a cyclical nature of abuse.<sup>72</sup> President Bongbong Marcos is the son of former president Ferdinand Marcos,<sup>73</sup> and Vice President Sara Duterte is the daughter of former president Rodrigo Duterte.<sup>74</sup> Both are the children of infamous political leaders in the Philippines who ruled with violence and a disregard for the rights of the Filipino people.<sup>75</sup> They appear to follow the precedent; Ferdinand "Bongbong" Marcos stated his refusal to cooperate with the ICC's investigation.<sup>76</sup> Furthermore, there is a trend of political leaders campaigning on platforms to downplay or even forget this history of human rights abuses.<sup>77</sup> The legacy of Ferdinand Marcos and Duterte undermined the respect for the rule of law.<sup>78</sup>

Though past political leaders depended on violence as a political tactic, current political leaders must focus on rebuilding respect for the rule of law by priori-

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69 See generally *The Executive Branch*, GOV'T PHIL.: OFF. GAZETTE, <https://www.officialgazette.gov.ph/about/gov/exec/> (last visited Mar. 1, 2024) [hereinafter Official Gazette].

70 See *id.*

71 See *id.*

72 Jonathan Head, *What the Marcos' return to power means for the Philippines*, BBC, (May 10, 2022), <https://www.bbc.com/news/world-asia-61389684> (citing in an article from 2022 after Bongbong Marcos won the election, Head warns, "History has come full circle in the Philippines.")

73 *Id.*

74 *Id.*

75 *Id.*

76 *Philippines will not cooperate with ICC in drugs war probe, Marcos says*, REUTERS, (Jul 21, 2023) <https://www.reuters.com/world/asia-pacific/philippines-will-not-cooperate-with-icc-drugs-war-probe-marcos-2023-07-21/>.

77 See, e.g., Regine Cabato & Shibani Mahtani, *How the Philippines' Brutal History Is Being Whitewashed for Voters*, WASH. POST (Apr. 12, 2022) (describing President Bongbong's campaign as, "a years-long, carefully crafted campaign to rewrite history, harnessing the power of social media to blur the lines between fact and fiction.")

78 Official Gazette, *supra* note 69; see also, Oliver Holmes, *Rodrigo Duterte vows to kill 3 million drug addicts and likens himself to Hitler*, GUARDIAN, (Sept. 30, 2016), <https://www.theguardian.com/world/2016/sep/30/rodrigo-duterte-vows-to-kill-3-million-drug-addicts-and-likens-himself-to-hitler> (reporting Duterte's statement of his similarity to Hitler and that he would be "happy to slaughter" three million drug users in the Philippines).

tizing constitutionality.<sup>1</sup> The Constitution provides that “the [Philippines] values the dignity of every human person and guarantees full respect for human rights.”<sup>2</sup> It further guarantees the right to due process and the presumption of innocence until proven guilty of a criminal offense.<sup>3</sup> Extrajudicial killings deny victims these constitutional rights by executing alleged drug-dealers to death without even an indictment.<sup>4</sup> By refusing to prosecute drug crimes through the courts in accordance with constitutional provisions, the War on Drugs undermines the Constitution and the judicial system, perpetuating a lack of trust in the rule of law.<sup>5</sup> Political leaders must invest in the institutions and systems that ensure government actors, including the police, comply with the Constitution.<sup>6</sup>

The past five decades of political history in the Philippines have seen three different Constitutions,<sup>7</sup> four different presidential regimes,<sup>8</sup> and several instances of human rights abuses.<sup>9</sup> Perhaps Rodrigo Duterte and his War on Drugs were a product of a lack of transitional justice from the long history of

human rights abuses suffered.<sup>10</sup> Perhaps earlier efforts to reckon with collective trauma could have interrupted the cycle sooner.<sup>11</sup> Nevertheless, the Philippines again finds itself with an opportunity to hold perpetrators accountable, comply with domestic and international law, and prevent future abuses.<sup>12</sup>

## VIII. Conclusion

To interrupt cycles of abuse, many different institutions, organizations, and actors must make creative and collaborative efforts to provide justice to victims, hold perpetrators accountable, and build a respect for the rule of law. Ending the abuses of one regime is just the first step. To prevent another regime from repeating the violence in another iteration of human rights abuses, the Philippines must invest in complete and comprehensive transitional justice. Understanding the unique historical context, taking advantage of international and domestic justice systems, and providing stability in political leadership are necessary, but more work is also needed. The country should also consider investing in social programs and economic development to identify and address root causes of conflict in the country. Additionally, the country should consider improving avenues for political activism and inclusion to diversify political discourse in favor of stability and lasting justice over reiterations of violent regimes.

1 OHCHR: Transitional justice and human rights, *supra* note 4.

2 CONST. (1987), art. II, § 11 (Phil.).

3 CONST. (1987) art. III, § 1 (Phil.) (“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.”). *See also*, Art III 14 (“No person shall be held to answer for a criminal offense without due process of law.”).

4 License to Kill, *supra* note 8 (“Duterte’s outspoken endorsement of the campaign implicates him and other senior officials in possible incitement to violence, instigation of murder, and in command responsibility for crimes against humanity.”).

5 Destrooper, *supra* note 16 (comparing the lack of accountability in the War on Drugs with the lack of accountability following Martial Law that prevented the Philippines from interrupting the abuse).

6 *Id.*

7 Official Gazette, *supra* note 69 (describing that President Ferdinand Marcos declared martial law and voided the Constitution of 1935. The ESDA Revolution established a temporary Freedom Constitution in 1986 then a permanent Constitution in 1987).

8 *Id.* (describing how the Third Republic lasted until 1972, when martial law took effect; the Fourth Republic lasted from 1981 to 1986. With the Constitution of 1987, the Fifth Republic began and continues today).

9 *Compare Report of an Amnesty International Mission to The Republic of the Philippines 22 November – 5 December 1975*, *supra* note 28 (reporting Martial Law under Ferdinand Marcos) with *War on Drugs*, *supra* note 3 (reporting Duterte’s War on Drugs); *see also* Report of the Transitional Justice and Reconciliation Commission, *supra* note 27 (reporting Transitional Justice efforts in Bangsamoro).

10 Destrooper, *supra* note 16 (arguing that a more comprehensive approach to transitional justice after Martial Law could have prevented subsequent human rights abuses).

11 *Id.*

12 Ruben Carranza, *Under Marcos Again, What Lies Ahead for Filipinos*, INT’L CTR. FOR TRANSITIONAL JUST., (June 6, 2022). <https://www.ictj.org/latest-news/under-marcos-again-what-lies-ahead-filipinos>.