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## Arbitrary Power and the Weakening of the Rule of Law in Duterte's War on Drugs

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## **Abstract**

Rodrigo Roa Duterte was elected president of the Philippines in 2016. He launched a violent War on Drugs only one day after his assumption of the presidency. In his inaugural speech, Duterte described his adherence to the rule of law as uncompromising. At the same time, he has publicly promised to kill anyone who is involved in the drug business and encouraged the police and ordinary citizens to do the same. The death toll of the drug war had risen to 12,000 killings after fifteen months. The extrajudicial killings of alleged drug users and dealers have been attributed to the Philippine National Police and vigilantes. The present study addresses the lack of research that explores this campaign against illicit drugs from a Sociology of Law perspective. The author of the study has conducted four in-depth Skype interviews with representatives of the human rights community in the Philippines to explore their perspectives on how the initial period of the Duterte administration's drug war has impacted on the state of the rule of law. The empirical material was analysed using a thematic analysis coupled with a theoretical framework that heavily draws on Martin Krygier's sociological works on arbitrary power and the rule of law. The interviewees' perceptions of the drug war suggest that the war has been characterised by widespread impunity, arbitrary power, and notions of 'the rule of men'. The study concludes that in the perspectives of the interviewees, the drug war seems to have resulted in a loss of social co-ordination and a normalisation of lawlessness that, in their view, seems to have weakened the rule of law.

**Keywords:** War on Drugs, Philippines, rule of law, rule of men, arbitrary power, extrajudicial killings, Skype interviews

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*I am taken with the Bulgarian saying that law is like a door in the middle of an open field. Of course, you could go through the door, but only a fool would bother. Where that saying has resonance, the rule of law is not likely to (Krygier 2009:60).*

## 1. Introduction

As a lawyer and a former prosecutor, I know the limits of the power and authority of the president. I know what is legal and what is not. My adherence to due process and the rule of law is uncompromising (Inquirer 2016).

These promises were made on the 30<sup>th</sup> of June 2016 by then 71-year-old Rodrigo Roa Duterte when he assumed the presidency of the Philippines, an archipelago of more than 7,000 islands in the Western Pacific. The Philippine National Police (PNP) issued an Anti-Illegal Drug Campaign called ‘Double Barrel’ the following day (PNP Commission 2016). This marked the start of a national War on Drugs that only after six months had resulted in 6,000 killings of alleged drug users and dealers committed by vigilantes and police officers (Reyes 2016). The bodies of the victims of extrajudicial killings (EJKs) are often left in public places and marked with signs that state their involvement in the drug business (Thompson 2016b). The guilt of these individuals has never adequately been investigated nor has it been proven in the judicial system (Reyes 2016). The violence that has been attributed to the Filipino War on Drugs is under scrutiny of the International Criminal Court (ICC). In the beginning of this year, the ICC opened a preliminary investigation into allegations of Duterte and other government officials having committed crimes against humanity (Villamor 2018b).

Duterte made it rather clear that his War on Drugs would be ‘bloody’. He has repeatedly threatened individuals who are involved in the drug business and encouraged EJKs in his speeches (Thompson 2016a). At one occasion, he for instance threatened that “[a]ll of you who are into drugs, you sons of bitches, I will really kill you” (Iyengar 2016). At another time, likening his drug war to the Jewish genocide in Hitler-Germany, president Duterte said, “I’d be happy to slaughter them,” referring to drug addicts in the Philippines (Villamor 2016). These statements stand in stark contrast to Duterte’s promise to adhere to due process and the rule of law that he made in his inauguration speech. Duterte’s provocative rhetoric and violent promises resonated with many Filipinos (Thompson 2016b)

that have been frustrated with the failure of previous administrations to counteract crime (Casiple 2016). Satisfaction with the drug war has remained strong despite the violence, but many have also come to fear that they, or someone close to them, might die in a drug operation (Boehringer 2017).

The campaign against illicit drugs is based on a watchlist that comprises the names of individuals involved in drugs. The list has however been claimed to be “based on hearsay” (Simangan 2017:10). Those who are named in the watchlist are subject to home visits by the police in an operation called *Oplan Tokhang*. Oplan means operation and tokhang is a combination of two Visayan words that translate to ‘knock’ and ‘plead’ (Ballaran 2018). The name is telling of the operation in which the police come to the homes of drug suspects to persuade them to surrender. The PNP has claimed that the operation has resulted in the surrender of one million individuals (Mallari Jr. & Tubeza 2017), but it has also resulted in numerous killings (Human Rights Watch 2017a). The poor have been disproportionately affected by the deadly violence (Amnesty International 2017:41) and children have fallen victim to it as well (Villaroman 2017). The police and president Duterte have continuously claimed that officers have acted in self-defence (Human Rights Watch 2017a) even though witness accounts suggest that officers have executed suspects and planted evidence to justify their lethal force (Amnesty International 2017; Human Rights Watch 2017a). The PNP is furthermore believed to have paid vigilantes for killings (Pazzibugan 2017) and some vigilantes allegedly are corrupt police officers who want to silence those who know about their involvement in the drug business (Boehringer 2017:234).

Criticism against the methods of the War on Drugs has in the Philippines almost exclusively come from the human rights community that has been subject to violent threats by their president (Human Rights Watch 2017b) and his supporters (Stansfield 2017). While the public largely has accepted the occurrence of EJKs, there have been two instances of major public criticism that went beyond the human rights community. The first instance followed the allegations of police-involvement



in the kidnapping and killing of a South Korean businessman (Mallari Jr. & Tubeza 2017). Duterte chose to withdraw the PNP in late January 2017 following this incident, but shortly after, he decided to bring them back into the war and the campaign against illicit drugs was renamed Oplan Double Barrel Reloaded (Ibid.). In October 2017, Duterte once again suspended the police from anti-drug operations due to public outrage over the highly publicised killings of three minors (Robins-Early 2017). This marked the 15<sup>th</sup> month of the drug war which had resulted in approximately 12,000 deaths (Human Rights Watch 2018). A few months later, the PNP was once again ordered back into the drug war which has resulted in new police killings of drug suspects (Villamor 2018a).

The EJKs that have been attributed to the War on Drugs have been claimed to be a state-sanctioned policy (Bautista 2017; Reyes 2016) that breaches Filipino, international, and human rights law (Ateneo Human Rights Center 2017). Instead of upholding the rule of law, as president Duterte promised in his inaugural speech, his administration seems to disregard it in the implementation of its drug war. I have conducted four in-depth Skype interviews with representatives of the human rights community in the Philippines to explore their perspectives on how the initial period of the drug war has impacted on the state of the rule of law. The empirical material of the present study was then analysed using a thematic analysis coupled with a theoretical framework that heavily draws on Martin Krygier's (2009) sociological works on arbitrary power and the rule of law. The interviewees' inside knowledge of the Filipino legal system, society, and drug war make their perspectives highly relevant for an in-depth study within the Sociology of Law that explores how the Duterte administration's drug war has impacted on the state of the rule of law.

## **1.1. Disposition**

The first chapter introduces the topic of the present study, its aim, the research questions it seeks to answer, and its delimitations. It further provides a background section in which the extrajudicial killings of Duterte's drug war are contextualised. The second chapter casts some light on previous literature on the War on Drugs phenomenon. Academic studies of the Filipino drug war and the research gap this study aims to fill are also discussed. Chapter three discusses the study's relevance to the Sociology of Law. It then discusses analytical concepts and the theoretical framework that is rooted in Martin Krygier's (2009; 2016) sociological understanding of arbitrary power and the rule of law. The fourth chapter provides a presentation of the chosen method for the data collection and data analysis and motivates for the choice of methods. The concepts of generalisability, validity and reliability as well as the use of semi-structured interviews and Skype as research medium are discussed in this chapter. Chapter four also makes ethical considerations and presents the sample criteria and the four interviewees. It further explains how Braun and Clarke's (2006) approach to thematic analysis was coupled with the theoretical perspective of the present study in the analysis of the empirical material. The fifth chapter then presents the analysis of the distinct themes. The sixth and final chapter summarises the conclusions that can be drawn from the findings and answers the research questions. It also discusses the limitations of the study and provides ideas for future research.

## **1.2.Aim and research questions**

The aim of the present study is to explore the perspectives of members of the Filipino human rights community on the impact the initial 15 months of the Duterte administration's drug war has had on the 'well-being' of the rule of law in the Philippines (see Chapter 1.3. for a discussion of this delimitation). In line with the aim of the study, the central research question asks: *How do members of the Filipino human rights community perceive the impact of the Duterte administration's War on Drugs on the state of the rule of law in the Philippines?* The following sub-questions are linked to the central research question and largely guide the analysis:

- Do members of the human rights community in the Philippines perceive the exercise of power by the Duterte administration in the implementation of the drug war as *arbitrary*? If so, in what ways and what impact do they think this has had on the rule of law?

The sub-questions derive from the theoretical perspective of this study to which Martin Krygier's work is central (see Chapter 3.). The theoretical framework of this study assumes that limiting the exercise of arbitrary power is the primary objective of the rule of law. From this perspective, studying if and in which ways arbitrary power is exercised by the Duterte administration in its War on Drugs provides an important understanding of the 'well-being' of the rule of law in the Philippines.

### **1.3.Delimitations**

The present study solely focuses on the initial 15 months of the Filipino drug war that lasted from July 2016 to October 2017. This period has resulted, as I mentioned in the introduction, in an estimated 12,000 killings of drug suspects (Human Rights Watch 2018). I regard it as highly important to provide an understanding of what consequences this initial phase of the drug war has had on the rule of law, for it has been the bloodiest. The PNP was in the 15<sup>th</sup> month withdrawn from drug operations for the second time and this marked a change in the campaign. There have not been as many deaths since then compared to the initial period of the drug war and the PNP has in the beginning of this year established new and improved guidelines for *Oplan Tokhang* following public criticism directed at the operation (ABS-CBN News 2018). The choice to delimit this study's focus to the first 15 months of the drug war was made because it would not have been possible to analyse both the effects of the initial and the newer phase in an in-depth manner due to the limited scope of this thesis. It might also be too early to study what consequences the more recent changes in the campaign against illegal drugs have had.

To further delimit this study, the focus is solely on the exercise of power by president Rodrigo Duterte, his administration and the PNP in the context of the War on Drugs. The choice to solely focus on state power and how it is exercised was made simply because it is the state that is the issuer and implementor of the drug war. It is lastly important to emphasise the qualitative nature of this study. I do not intend to *measure* the 'well-being' of the rule of law quantitatively but to explore the perspectives of members of the Filipino human rights community *in-depth*. The findings of the study are due to its qualitative approach not generalisable but provide instead a qualitative understanding of how four individuals – who hold inside-knowledge of the drug war and its context – perceive the phenomenon and its implications for the rule of law in the Philippines.

#### **1.4.Contextualising the extrajudicial killings of Duterte’s drug war**

An extrajudicial killing (EJK), otherwise also referred to as extra-legal killing or extrajudicial execution, goes beyond the scope of criminal law and is prohibited under international law (Pangilinan 2012). It constitutes a violation of human rights law since it for instance violates the fundamental right to life (Ibid.). The international community started to become concerned over such killings in the 1980s and an EJK came to be defined as a “[d]eprivation of life without full judicial and legal process, and with the involvement, complicity, tolerance or acquiescence of the Government or its agents” (United Nations 2002:15).

EJKs are no new phenomena in the Philippines (McCoy 2017). The Filipino society has experienced EJKs during several previous administrations where they allegedly were committed at the hands of – or tolerated by – the state, military, police, and para-military groups (Pangilinan 2012). The aftermath of these killings has been characterised by a lack of accountability for the perpetrators (Ibid.). The occurrence of EJKs in the Philippines has historically been closely linked to several previous administrations’ fight against the New People’s Army (NPA); the armed wing of the Communist Party of the Philippines (Ibid.). Many of the victims of EJKs however had nothing to do with the NPA. Victims of EJKs during former dictator Ferdinand Marcos’s rule could be anyone who opposed him, and the targets were thus rather broad; ranging from farmers to academics (Ibid.).

EJKs of alleged criminals have also occurred before Duterte was elected president. During his three mayoral terms in Davao, the most populous city in the southern island of Mindanao, the city experienced more than 800 EJKs of suspected criminals committed by a vigilante group (McCoy 2017). The group is known as the Davao Death Squad (DDS) and was allegedly led by Rodrigo Duterte (Ibid.). Many of the victims of EJKs in the Philippines have historically been leftist activists but Duterte is not the first president under whose rule criminals have been targeted. The Presidential Anti-Crime Commission under the government of Fidel Ramos

was for instance infamous “for the summary executions of criminal suspects with official sanction and with impunity” (Pangilinan 2012:820).

While it is important to acknowledge the local particularities of Duterte’s drug war, it is equally important to note parallels to other contexts. EJKs of criminals and the public display of their dead bodies have been used as a method to deter people from committing crimes in other countries as well; for instance, in Brazil and Guatemala (Kaufman & Weiss Fagen 1981). The victims in the Filipino War on Drugs are, as mentioned in the introduction, often marked with signs that state their involvement in the drug business to justify their deaths (Reyes 2016). This resembles the Red Terror in the 1970s when Ethiopians could find dead bodies in public places that were marked with signs that depicted them as counter-revolutionaries (Kaufman & Weiss Fagen 1981). Furthermore, the violent rhetoric and methods of the Filipino drug war reminds one of the War on Drugs that was launched in 2003 by the Thaksin Shinawatra Administration in Thailand and caused more than 2,800 EJKs after three months (Human Rights Watch 2008).

The Philippine Supreme Court has created “the writs of *amparo* and *habeas data*” to provide some protection from EJKs (Pangilinan 2012:825). In the definition put forward by the court in its annotation to the writ of *amparo*, “extralegal killings” are defined as “killings committed without due process of law, *i.e.* without legal safeguards or judicial proceedings” (Ibid.,825-826). Regardless of this effort and the long history of EJKs, the Philippines has still not adopted a legal definition of what an extrajudicial killing is (Ibid.). Prosecutors thus do not know which killings they can prosecute as extrajudicial (Ibid.). Despite the lack of a uniform legal definition, the killings of drug suspects that the Filipino society has experienced since the start of the drug war in 2016 are unlawful due to rights enshrined in the Philippine Constitution and Bill of Rights as well as in human rights conventions which the country is legally bound to adhere to (Chapman & Babor 2017).

## **2. Literature Review**

This chapter firstly provides a discussion of previous literature on the War on Drugs phenomenon. In a second section, it discusses the recent literature on the drug war in the Philippines. The final section outlines the research gap that this study aims to fill. The literature on the drug war phenomenon is comprehensive and this review should therefore not be regarded as exhaustive. It is for instance limited since it solely discusses works that have been published in English. This review provides nevertheless a significant point of reference for the present study.

### **2.1. The War on Drugs phenomenon**

Scholarly works on the War on Drugs have been prevalent in the fields of sociology, anthropology, public health, human rights, economy, and political science. It has also been of scholarly interest among criminologists, humanitarians, historians, and legal scholars. The literature on the drug war phenomenon has largely focused on its ineffectiveness, its detrimental consequences for the societies in which it wages, and its disproportionate effects on marginalised groups. The literature is dominated by studies on the War on Drugs in Mexico (see e.g. Campos 2010; Galen Carpenter 2015; Shirk 2011) and the United States (see e.g. Bertram et. al. 1996; Lassiter 2015; Patten 2016). This comes not as a surprise considering that they were “among the first countries to raise the flags of the war on drugs” (Polomarkakis 2017:397).

Inequality is a central theme within the literature. Scholars have for instance highlighted that the War on Drugs disproportionately targets and affects already disadvantaged and marginalised communities and individuals such as the poor (Abadie et al. 2018), racial minorities (Lassiter 2015) – especially members of racial minorities who are poor (Bertram et. al. 1996; Lassiter 2015; Mohamed & Fritsvold 2011; Rudovsky 1994) – and young people (Simatupang 2016; Stuart 2011). Other scholars have argued that the War on Drugs foremost targets those who are at the bottom of the drug business (Abadie et al. 2018; Fleetwood & Torres 2011). Research shows that the rise in drug-related incarcerations and overcrowded

prisons (Gray 2001) – that falls back on the “tough-on-crime rhetoric” (Patten 2016:85) the phenomenon is interlinked with – has affected people differently. In *Why our drug laws have failed and what we can do about it: a judicial indictment of the War on Drugs*, Judge James P. Gray (2001) for instance notes that celebrities and other wealthy people in the US tend to get fined and sentenced to probation for the possession of drugs, while those without the means are going behind bars for years. The above-mentioned literature shows that the War on Drugs has, as Gerber and Jensen (2011:1) rightly have noted, “a relatively powerless target population” and that it views and treats people differently depending on their status in society.

Findings from previous studies show that a “militaristic rhetoric” (Stuart 2011:3) has been used to portray drug use as a matter of security by which warlike methods are easily justified (Mohammad & Fulkerson 2015). The rhetoric draws on “crime and fear narratives” (Polomarkakis 2017:398) and it is used to create a “moral panic” (Mohammad & Fulkerson 2015:237), a “culture of fear” (Prieto Mora 2018:122) in society. When those in power repeatedly make claims about the threat of drugs, those claims become the legitimization of the war (Gerber & Jensen 2011). Previous research shows that there is often some truth to these claims, but they overall distort reality (see e.g. Barrett 2011; Carrier & Klantschnig 2012; Gerber & Jensen 2011). Some scholars have argued that the “drug war rhetoric” (Carrier & Klantschnig 2012:6) involves a process of othering (see e.g. Barrett 2011; Gray 2011), for the targets are portrayed as “enemies” (Prieto Mora 2018:122; Simatupang 2016:10; Stuart 2011:3), a threat to society, and the counterpart to “decent people” who do not engage in drugs (Gray 2001:125). Prieto Mora (2018:122) poignantly states that the dehumanisation of individuals who use or sell drugs makes it possible to justify more easily “any act” taken against them.

Another central theme within research on the phenomenon is its failure to fulfil its aim to depress “the production, distribution and consumption of illicit drugs” (Ibanez & Klasen 2017:1650). Scholars largely agree that the War on Drugs has failed and has had devastating consequences (see e.g. Abadie et al. 2018; Bertram



et. al. 1996; Malinowska-Sempruch & Gallagher 2004; Mohammad & Fulkerson 2015; Stuart 2011; Thompson 2014). Scholars who emphasise the inefficiency of the War on Drugs argue for the need for novel drug policies. Abadie et. al. (2018:122) for instance argue for a shift “from repression to treatment and rehabilitation.” Mohammad and Fulkerson (2015:243) argue that any new approach will need to consider “the underlying economic, social, and cultural conditions” of the drug problem. In line with this, Horwitz (2015) writes that it is important that new policies acknowledge the peculiarities of the drug issue in distinct countries.

Previous literature also emphasises the “human costs of the War on Drugs” (Sandvik & Hoelscher 2017:170) such as grave human rights abuses (see e.g. Carrier & Klantschnig 2012; Rosen 2015; Sandvik & Hoelscher 2017; Wolfesberger 2017). The prevalence of human rights violations has for instance been linked to the preference among many states to implement drug war policies through law enforcement agencies (Mohammad & Fulkerson 2015; Polomarkakis 2017). In his socio-legal study *Drug Law Enforcement Revisited: The “War” Against the War on Drugs*, Polomarkakis (2017) discusses the use of law enforcement for drug control in the light of the principle of proportionality. Polomarkakis (2017:401) concludes that the use of law enforcement for drug control has far more downsides than advantages since it “exacerbates and increases harms to users, worsens public health levels, and reproduces social exclusion and division, through patterns of race disadvantage.” The first aspects he highlights has been voiced by other scholars as well. Research has for instance found that the War on Drugs has resulted in the spread of HIV among persons who inject drugs because drug war policies have been found to pressure drug users into risk-behaviour (Abadie et al. 2018; Dombrowski, Dorabjee & Strathdee 2017) and restrict their opportunities to seek help due to fear of prosecution (Gray 2001).

The present study aims to explore the Filipino drug war’s effects on the rule of law. It is therefore highly relevant to note that scholars have emphasised that the War on Drugs phenomenon weakens the rule of law. Corruption within the police and the

judicial system (Andreas & Youngers 1989; Gray 2001), the suspension of constitutional protections (Stuart 2011), and the erosion of civil rights protections (Gray 2001) have been some of the reasons that scholars have named for the weakening of the rule of law by the drug war phenomenon. Stuart (2011:3) has noted that those who are targets of the drug war “stand outside of the protection of the rule of law.” Wolfesberger’s (2007) ethnographic study also shows that the rule of law loses its significance in society due to the War on Drugs. The findings show that while Mexico officially provides its citizens the possibility to seek justice for human rights abuses committed in its war against illicit drugs, the ineffectiveness of the system, threats by abusive police officers, and the often-limited economic means of the victims makes it very hard to seek justice. Wolfesberger’s (2017:104) findings suggest that “fundamental citizen rights are transformed into moral rights lacking legal consequences or justice” in the War on Drugs.

Lastly, while some aspects of the War on Drugs phenomenon discussed in this chapter can be generalised, it is important to note that one also needs to acknowledge the significance of “particular social contexts” (Abadie et al. 2018:126). Critical studies of the drug war phenomenon therefore need to consider the local circumstances in which the war is implemented and experienced (Ibid.). This leads me to the next section of this chapter in which I discuss previous literature on the War on Drugs in the Philippines.

## **2.2.The War on Drugs in the Philippines**

The Duterte administration's War on Drugs has made headlines in the Filipino and international media. Academic research of the drug war is, at least what concerns English publications, however scarce. The few studies that exist nevertheless provide important insights into the drug war and its implications for the Filipino society. These studies come from a broad spectrum of research fields such as sociology, political science, studies of democracy, legal studies, public health, criminology, and anthropology. The literature on the War on Drugs in the Philippines voices some of the themes highlighted in previous research on the drug war phenomenon discussed earlier (see Chapter 2.1.), as for instance its disproportional effects on the most vulnerable and marginalised groups in society. Numerous scholars (Bautista 2017; Boehringer 2017; Lasco 2018; Macalalad & Rayco 2018; Reyes 2016; Simangan 2017; Tigno 2018), as well as the Committee on Economic, Social and Cultural Rights (2016) and Amnesty International (2017), have emphasised that the poor have been the primary victims of Duterte's drug war.

### **2.2.1. Dehumanisation and othering**

The literature has further highlighted a process of othering and dehumanisation in the Filipino War on Drugs which again resonates with previous research of the drug war phenomenon discussed in the preceding chapter. Scholars have argued that the dehumanisation of drug personalities in the Philippines is mirrored in their portrayal as "expendable" (Boehringer 2017:234), "scum of society" (Bautista 2017: para.4), and the "enemy" (Barrera 2017:350). The targets of the drug war have further been depicted as a threat to the security of ordinary citizens and the well-being of the nation (Reyes 2016). Reyes (2016:117) argues that the drug war sends the message to society that drug users and dealers are of lesser worth than "law-abiding and god-fearing" Filipinos and he thus concludes that it "declare[s] whose life has and does not have value." Simangan (2017) also emphasises this view (see Chapter 2.2.2.). This process of othering has made it possible for Duterte to portray the drug problem as a matter of national security (Bautista 2017) and a matter of either

‘them’ or ‘us’ getting harmed which justifies the war against ‘the other’ as an act of self-defence (Simangan 2017).

### **2.2.2. Violence**

Reyes (2016:128) rightly notes that the EJKs of drug suspects symbolise a new form “of political violence” in the Philippines where the primary targets of such killings, as I discussed in chapter 1.4., historically have been leftist activists. It is however also important to note, as Filipino medical anthropologist Gideon Lasco (2018) recently has done, that drug users in the Philippines have been subject to violent drug busts, inhumane treatment, and even deadly force by the police before the drug war. Tendencies to treat drug suspects violently are not new to the country but are part of a development towards increasingly harsh drug policies (Ibid.). Drawing on Foucault’s (1979) prominent *Discipline and Punish: The Birth of the Prison*, Reyes (2016:117) argues that the public character of the EJKs makes them into a “spectacle of violence.” Reyes (2016) argues that the practice to publicly shame and mark the dead bodies as drug users or dealers transforms the body into an object that voices a political message. The message is a justification for the killings and a promise to keep ordinary Filipinos safe which ultimately enables Duterte to strengthen his support (Ibid.).

Simangan (2017) provides a rather different understanding of the violence, for she draws parallels between the drug war to cases of genocide where groups similarly have been blamed for society’s ills, dehumanised, and killed. Simangan’s (2017) study argues that the public display of the dead bodies of drug suspects classifies as a form of symbolisation, for the bodies become symbols for who is and who is not worthy of life. Duterte’s drug war does not fit the legal definition of genocide since drug users and dealers do not constitute “a national, ethnic, racial, or religious grouping” (Ibid.,75). Simangan’s (2017) study however shows that the drug war encompasses many of the processes inherent in a genocide, which reveals the gravity of what has been happening in the Philippines.

### **2.2.3. Supporters and critics**

Previous literature provides an understanding of the rather strong domestic support for the deadly violence in Duterte's War on Drugs. Scholars have argued that a widespread frustration with drug-related crimes and an inefficient criminal justice system as well as a desire for security are significant reasons behind the support (Curato 2016; Reyes 2016; Simangan 2017; Stansfield 2017). Filipino sociologist Nicole Curato (2016:101) has tellingly noted that many Filipinos accept that the process is being set aside in the campaign against illicit drugs because they already see an absence of it "in the slow and inefficient process of the criminal justice system." Serafica's (2018) study of the media coverage of the police killing of 17-year old student Kian de los Santos shows in contrast that the support for the drug war has not been absolute. Kian's killing was followed by major public outrage and Serafica's (2018) study concludes that even pro-Duterte newspapers blamed the police for misconduct and argued for an investigation into the killing.

Research that explores how the drug war has affected domestic critics in the Philippines is scarce. Lauren Stansfield's (2017:64) ethnographic study provides some answers. In her master thesis, Stansfield (2017:65) writes that since Duterte has launched his drug war, human rights organisations who challenge him and the war are experiencing, as she writes, violent threats by the president and his supports, "the loss of public support" and their portrayal as "criminal-sympathisers." Stansfield's (2017) thesis indicates that the perception of human rights and its advocates is becoming increasingly negative in Filipino society due to Duterte and his War on Drugs. The present study also analyses how the human rights community in the Philippines has been affected by the drug war (see Chapter 5.5.1.) because its theoretical perspective argues that power is exercised arbitrarily if people who are subject to it are not getting their voices heard by the powerful.

#### **2.2.4. The drug war and the law**

Scholars have argued that the EJKs of alleged drug users and dealers constitute a state-sanctioned policy (see e.g. Bautista 2017; Chapman & Babor 2017; Kine 2017). The literature further emphasises a disregard to human rights (Bautista 2017; Dombrowski, Dorabjee & Strathdee 2017) and the rule of law in the War on Drugs (Bautista 2017; Chapman & Babor 2017:491; Kine 2017:26). Reyes's (2016:125) study for instance shows that the law, at least to some extent, has lost its significance within the Philippine society since the targets of the war "have become people with no rights and are excluded from the protection of the state." Reyes (2016:129,130) further claims that Duterte's "promise to protect the police from prosecution for killings in the line of duty" is nullifying the rights that are enshrined in the Filipino constitution and provides "the police and the military a license to kill." Previous literature on the Filipino War on Drugs has however also noted that impunity is not a new phenomenon to the country but has been a part of society for decades (Boehringer 2017; Casiple 2016). While the literature acknowledges that the Duterte administration's War on Drugs has had a negative impact on the rule of law, there exists yet no study who explores this impact in-depth.

### **2.3.The Research Gap**

The literature on the Duterte administration's War on Drugs has highlighted that the drug war has been characterised by a disregard to the law. They indicate that the drug war has weakened the rule of law in the Philippines. A study that systematically explores *how* the Filipino War on Drugs has affected the state of the rule of law seems however to be missing. The present study therefore aims to fill this research gap. There also seems to be a lack of research that explores Duterte's drug war from a Sociology of Law perspective. The present study aims to change this and therefore adopts a theoretical perspective that allows for a sociological analysis of the rule of law (see Chapter 3.1. for a discussion of this study's relevance to the Sociology of Law).

### **3. The theoretical framework**

This chapter first explains the relevance the present study holds in the light of the Sociology of Law. It then provides a discussion of the theoretical perspective that informs this study. It would be naïve to claim that the choice of theoretical framework and methods of this study is the optimum, for there is no such thing as “one ideal theoretical framework” or “one ideal method” (Braun & Clarke 2006:80). The choices were made because a qualitative interview approach and a thematic analysis coupled with a sociological approach to the rule of law and arbitrary power fit very well with the aim and research questions. This chapter, as well as the following methods chapter (see Chapter 4.), aim to demonstrate this.

#### **3.1.Relevance to the Sociology of Law**

The Sociology of Law, alike Sociology, is interested in the study of society. While the sociological tradition is interested in society in its entirety, the Sociology of Law holds a focus on society as far as law is concerned (Deflem 2008). Put differently, the Sociology of Law explores how the law and society interact. The Sociology of Law draws heavily on sociological theories (Banakar 2015) and “shares much intellectual common ground with jurisprudence” (Treviño 2008:7). Research from this discipline for instance studies how law influences people’s behaviour (Timasheff 1937). Ewick and Silbey’s (1998) *The common place of law* provides a fine example of the interest within the discipline to explore how people experience and understand the law. It is important to note that sociologists of law differ significantly in their conception and study of the law (Banakar 2015:43). What they however largely have in common is that their sociological approach to the law enables them to go beyond an analysis of what the law aims to do, and instead to explore “the actual workings and consequences of law” in society (Deflem 2008:7). Martin Krygier (2013:7) has emphasised this view and highlights the reciprocal impact law and society have on each other:

... law is *in* society, so to understand how it does what it does, and why it doesn’t always do what we might like it to do, among other things effectively constrain the



exercise of power, we need to understand the workings of law in society and of society in law.

These questions are part of what makes up the essence of research within the Sociology of Law. The complexity of these questions and the discipline's overall openness enables the use of distinct perspectives and topics. The field's "[t]heoretical diversity" (Deflem 2008:117) enables me to study the rule of law – which mostly has been explored as a legal or political issue – from a sociological perspective. This study for instance emphasises the view that "law never really rules unless it rules in the world around it" (Krygier 2011:89). From this perspective, it would not tell us much about the well-being of the rule of law in the Philippines if I was to analyse which legal institutions exist in the country and what the law in the books says. In line with the essence of the Sociology of Law, this study instead looks at how law is received in the Filipino society, among ordinary citizens as well as the powerful, to explore the 'well-being' of the rule of law.

The Sociology of Law is furthermore concerned with the study of power which also is a central undertaking within the present study. The works of Eugen Ehrlich, Nicholas Timasheff and Max Weber have been highly influential within the Sociology of Law. These prominent scholars have in distinct ways acknowledged that law can be used for domination and that power is decisive regarding who can and who cannot reflect their interests in the law (Johnson 1979). Ehrlich, Timasheff, and Weber further believed that power is important to consider for they regarded conformity to the law as based on coercion or the threat of coercion instead of consensus (Ibid.). The present study sets out to explore, as I mentioned earlier (see Chapter 1.2.), if and in what ways the Duterte administration has exercised its power arbitrarily in its War on Drugs. This is highly relevant regarding the interest in domination and power within the Sociology of Law. The present study is part of a larger scholarly undertaking within the Sociology of Law to explore how law and power work in society and vice versa.

### **3.2.The rule of law vs. the rule of men**

Professor of Law and Social Theory Martin Krygier has in several of his works outlined a sociological perspective to the rule of law (see e.g. 2009; 2012; 2016). The theoretical framework of the present study draws heavily on Krygier's writings. The rule of law has been widely studied from legal and political perspectives, but as Krygier (2009) notes, sociological approaches to the topic remain scarce. It is a fact, which Krygier (2009:45) argues, is rather puzzling, "[f]or if the rule of law matters legally and politically, it certainly matters socially." Philip Selznick (1968:52 in Krygier 2016:222) had already stressed fifty years ago that the rule of law should be treated as "a chief preoccupation of legal sociology." Krygier's (2009) approach goes beyond simply listing legal institutions and practices that make up the rule of law, as so many lawyers tend to do. Krygier (2009:52) stresses the need to consider the local particularities of a context, for legal institutions "always need supporting circumstances, social and political structures and cultural supports, which are not always available and are difficult to engineer." His approach thus argues that there is no one unitary 'version' of the rule of law.

There exists no consensus among scholars on what the rule of law is but, as Tamanaha (2012:233) rightly notes, most scholars agree that it "means that government officials and citizens are bound by and abide by the law." The rule of law thus "stands for the principle that law is above men" (Ingram 1984:359). As Dicey (1924:184 in Grant 2017:383) has famously stated, the rule of law stands in contrast to "the exercise by persons in authority of wide, arbitrary, or discretionary powers of constraint." This is a common view within the literature on the rule of law. The rule of law can be understood as a protection against people becoming "subject to the unpredictable vagaries of other individuals" (Tamanaha 2012:243). The rule of law is widely contrasted against "the rule of *men*" (Ingram 1985:359) which is a "rule of persons" (Grant 2017:383). The law is often understood to be governed by "reason" and objectivity, while man is governed by "passion" and subjectivity (Tamanaha 2012:243). Apart from passion, humans also hold biases, impulses, and prejudices that have been argued to speak against the rule of men

(Ibid.,243). Ingram (1985:359) has very well captured the contrast between the rule of law and the rule of men:

Simply, there is an opposition between the idea of actions which are an expression of the agent's will and therefore also, too often, an expression of his partiality, irrationality or liability to error, and the idea of actions that, although they are still a person's actions, are guided and even determined by law as a secure system of rules representing abiding general standards and not immediately embodying the particular desires of individuals.

Krygier (2009:47) argues that the "*telos*" of the rule of law – its purpose and goal – is nonarbitrary power. How arbitrary power can be limited has been "a perennial struggle for societies as long as they have existed" (Tamanaha 2012:237) and it has been a central question for intellectuals for centuries (Krygier 2016). A ruler acts arbitrarily if he solely acts upon his or her "own will or pleasure" without any kind of accountability to the law or regard to the "legitimate interests, expectations, and opinions" of the subjects of power (Krygier 2016:203). The exercise of arbitrary power thus takes away predictability and certainty, but it also holds positive values such as "flexibility" and "creativity" which stand in contrast to the rule of law which is rather rigid and mechanical (Spader 1984:385). It is therefore important to remember that this is not a clear-cut issue where one can easily claim that arbitrariness is pure evil and that the rule of law is always the best option. It is however also important to remember that there is a lot of evidence that suggests that arbitrary rule is dangerous. There is for instance a common notion within literature on the rule of law, as for instance emphasised by Aristotle and Plato, that it is favourable over the rule of man "because the power to rule over others has the potential for abuse and can corrupt even the best among us" (Tamanaha 2012:244).

The distinction between the rule of law and the rule of men can easily provide a false picture of law and arbitrariness being dichotomies. Such a rigid distinction does however not exist, for there are many ways in which law and arbitrariness mix. Davis (1975:33 in Spader 1984:380) has for instance rightfully claimed that "no

government has ever been a government of laws and not of men in the sense of eliminating all discretionary power.” This is because “laws are not self-interpreting or self-applying” (Tamanaha 2012:244) and we therefore cannot fully take away human influence from the rule of law (Ingram 1984). It is lastly important to note that the rule of law, the rule of men and arbitrariness are complex concepts and can thus be interpreted in varying ways. The following chapter furthers the understanding of how the present study uses these concepts.

### **3.3. Studying arbitrary power and if the rule of law matters**

Krygier (2016:203) has outlined three “sources and sorts” of arbitrariness. The theoretical framework of the present study uses these three forms to explore the sub-questions that ask if members of the human rights community in the Philippines perceive the exercise of power in the War on Drugs by the Duterte administration as arbitrary and if so, in what ways. These are important questions, for they tell us a lot about if the rule of law can be interpreted as succeeding in or failing at preventing the exercise of arbitrary power – and ultimately its ‘well-being’. There might be more ways in which power comes to be exercised in arbitrary ways, but Krygier’s (2016) three sorts capture the essence of arbitrariness and thus provide a relevant analytical tool for the present study. They are defined as follows:

- (1) Power is exercised in an arbitrary way “where power-wielders are not subject to routine, regular control or limit, or accountability to anything other than their own will or pleasure” (Ibid.,203).
- (2) Arbitrary power occurs “when those it affects cannot know, predict, understand, or comply with the ways power comes to be wielded” (Ibid.,204).
- (3) Power is exercised arbitrarily “where there is no space or means made available for its targets to be heard, to question, to inform, or to affect the exercise of power over them and no requirement that their voices and interests be taken into account in the exercise of power” (Ibid.,204).

The first form of arbitrary power implies that arbitrariness occurs when those in power are not being held to account by anything; not even by the restraints of the law nor by the interests of the people over which they rule. The only thing that matters is their own interests (Krygier 2016). Krygier (2009:60) has therefore argued that for the rule of law to be strong, institutions need “to be able to reach those who matter.” To answer the sub-questions of this study, I analyse if the legal

system in the Philippines reaches those who are in power in the War on Drugs, such as president Duterte and the PNP.

The second form of arbitrary power argues that arbitrariness occurs when social co-ordination is absent in society. Krygier (2009) therefore states that if legal institutions want to limit the possibility for the exercise of arbitrary power, they need to encourage people to understand and follow the law. If this undertaking is successful, even those who are strangers can “feel some security and predictability in their dealings with each other” (Ibid.,58). This also applies to the relationship between citizens and the state. Even if one knows the law because legal institutions have facilitated its understanding in society, arbitrary power can still pose a threat when there is a discrepancy between the law in the books and how the law is applied in practice. The theoretical framework in this study adopts the view that even if the legal system succeeds in creating a strong social co-ordination in society, this can be weakened “by more immediate, urgent, extralegal, often anti-legal messages” (Ibid.,67). Why people in the Philippines do or do not obey the law has thus not only to do with the law itself but also with the societal context and distinct notions in society such as “norms” and “attitudes” (Krygier 2011:87).

The third way in which power is exercised arbitrarily according to Krygier (2016) applies in a context in which criticism is not being heard and the interests of the subjects of power are not considered by those in power. Such a situation would imply that the people are not given any opportunity to impact the exercise of power over them. For the rule of law to be able to efficiently limit the exercise of arbitrary power, it is therefore highly important that those in power provide opportunities for dissidents to utter criticism and that they consider and act upon valid and extensive criticism. The present study therefore also sets out to explore how the Duterte administration has treated critics of the drug war.

Lastly, the theoretical perspective of this study claims that for the rule of law to be strong, “institutionalised norms need to *count* as a source of restraint and a

normative resource, usable and with some routine confidence used in social life” (Krygier’s 2009:60). This implies that for the law to matter, ordinary Filipinos as well as those in power must principally obey the law. For Krygier (2009:60), this condition is of utmost importance “since unless the norms do count nothing else much matters.” The essence of this perspective is elegantly captured in a Bulgarian saying Krygier (2009:60) refers to, that states “that law is like a door in the middle of an open field. Of course, you could go through the door, but only a fool would bother.” He argues that where this saying resonates, the rule of law does not (Ibid.). This understanding is central to the theoretical framework of this study. Tamanaha (2012:247) similarly emphasises this view; noting that “[f]or the rule of law to exist, people must believe in and be committed to the rule of law,” and if they are not, the rule of law will be weakened or even eroded.

The concept of arbitrary power in the three-fold understanding presented above enables me to analyse if and in which ways the Duterte administration has exercised its power arbitrarily in the War on Drugs. If the conditions discussed above are being upheld in a society does largely depend on “the social *reach* and *weight* of law” (Krygier 2009:61). The theoretical perspective of the present study enables me to explore how the interviewees (see Chapter 4.1.2. for a presentation of the sample) perceive how people rely on the law and how much bearing the law has on how people – those with and without power – act in the Filipino society. This provides the starting point for answering the central research question that asks how members of the human rights community in the Philippines perceive the impact of the Duterte administration’s War on Drugs on the state of the rule of law.

## **4. Methods**

This chapter aims to provide a detailed and transparent account of how the data was collected and analysed and why the methods were chosen. In the first part, I discuss the concepts of generalisability, validity and reliability. Then follows a presentation of the sample criteria and the interviewees. The third part discusses the use of semi-structured interviews and the outline of the interview guide. The fourth part discusses the use of Skype as interview medium and is followed by a discussion of ethical issues that are important to consider. Finally, the chapter ends with a discussion on why and how a thematic analysis was conducted.

### **4.1. Qualitative interviews**

The empirical material of the present study consists of four in-depth interviews with members of the Filipino human rights community. I was interested in talking to members of this community because they hold inside-knowledge of the Filipino society, legal system, and drug war. The interviews were of a semi-structured nature. This choice was made since this approach enabled me to follow up on new aspects the interviewees brought up. This would not have been possible if a too structured approach had been used. An overly conversational interview approach was also deemed to be unsuitable for the present study because it might have missed to touch upon central topics that are relevant to the aim and research questions of the study. Semi-structured interviews combine the structure and the flexibility of the above-mentioned approaches (Sharan 2009) which made it advantageous for the present study.

The four in-depth interviews that were conducted via Skype (see the following chapter for a discussion of the use of Skype) lasted between approximately forty to eighty minutes. The interviews followed a rather unstructured guide that consisted of central issues and questions that were of relevance for the aim and research questions of this study. This flexible approach enabled me to adapt the questions to the interview more flexibly and to respond to new thoughts the interviewees lifted during the conversation (Sharan 2009). A friend of mine, who himself is a lawyer,



provided valuable feedback to the interview guide prior to the interviews. This enabled me to revise the guide through the re-formulation and elimination of unclear questions (Ibid.). Even though there was no overall structure to the interviews, all the interviews started off with less sensitive questions about for instance the interviewee's work and age. From there, the interviews went to focus on more specific issues, such as the interviewees' experience of the War on Drugs and questions about their understanding of the topic.

#### **4.1.1. Generalisability, validity and reliability**

The concepts generalisability, validity and reliability are often primarily associated with quantitative research. They are however also highly relevant to discuss in the context of a qualitative study as the present one.

As I mentioned in the previous section, the sample consists of four members of the Filipino human rights community. It would of course have been highly interesting to talk to more individuals but due to the limited timeframe of this study, the rather busy schedules of the sample population and the threats by the government and Duterte supporters that members of the Filipino human rights community are subject to, this was not an easy undertaking. The choice to use a qualitative approach implies, as I have noted earlier (see Chapter 1.3.), that the findings of this study are not generalisable, for the very small sample and the interviewees' perspectives cannot be said to represent the entire human rights community in the Philippines. A qualitative approach provides however an advantage over quantitative research when it comes to studying the complexity of a phenomenon. The present study does not aim to make any generalisations but is instead interested in exploring "an in-depth experience of individual perspectives" (Creswell 2015:15) on the complex drug war phenomenon and its implications for the rule of law in the Philippines. In line with this, the sample is small and the aim and the research questions explicitly ask for the perspectives of *members* of the human rights community and not of the community as such.

Validity refers in qualitative research to the question of if what is said to be explored actually is studied and not something else. It is about how valid for instance the aim, research question, sample and methods are in relation to each other. It was therefore highly important for me to consider how appropriate my choices made for the present study were. The research question and aim reflect in my opinion very well the limitations of the study and the appropriateness of using qualitative interviews as method of data collection. As I said above, the present study aims to explore the perspectives of members of the Filipino human rights community and the best way might be to talk to these individuals. The findings of the present study are in my interpretation valid regarding the study's aim, for they are, as I claim throughout the study, limited to the perspectives of the interviewees. I have included data extracts in the analysis (see chapter 5.) to provide examples that show the reader that the conclusions drawn from them reflect the content of the material.

Reliability, as the other two concepts discussed above, is often associated with quantitative research where it implies that results are reliable if they can be replicated by using the same process. This is not that easy in qualitative research, but I explain in this methods chapter in detail how the empirical material was collected and analysed to provide the reader with a detailed understanding of how the how the present study was conducted. In qualitative research, reliability is about consistency. The present study and its findings are in my view reliable, for the aim is consistent with the research gap and the sample, the research question with the method of data collection, the analysis with the method of data analysis and the theoretical perspective, and the findings with all these things.

#### **4.1.2. The sample**

Due to the qualitative and in-depth nature of this study, the sample is “non-random, *purposeful*, and small” (Sharan 2009:16). I e-mailed rather prominent non-governmental organisations (NGOs) that work on human rights and other legal issues in the Philippines as well as law professors who are engaged in NGOs to contact potential interviewees. This choice was made because the research

questions established a need to talk to individuals who hold first-hand experiences of the Filipino society, drug war, and legal system. This sample criterion is important when considering that, as I mentioned earlier (see Chapter 2.1.), previous literature stresses the need for studies to acknowledge the local particularities of the context in which a War on Drugs is waging. Duterte's drug war has been claimed to breach Filipino as well as human rights law (Ateneo Human Rights Center 2017). It was therefore crucial for me to try to talk to Filipinos who are knowledgeable in these areas. It was further in line with the aim of the present study to limit the sample to members of the human rights community in the Philippines. My knowledge of the Tagalog language is unfortunately not sufficient to have a fluent conversation. The sample is therefore limited to individuals who are fluent in English. Following from this, the sampling criteria were:

- (1) The interviewee is knowledgeable about human rights and Filipino law.
- (2) The interviewee is knowledgeable about the Filipino legal system.
- (3) The interviewee is a member of the Filipino human rights community.
- (4) The interviewee is English-speaking.

Three of the interviewees are Filipino lawyers who, among other things, are specialised in human rights law. Arvin is in his fifties and has been working as a lawyer for almost thirty years during which he has become a rather prominent figure in the Philippines. Kim is in her thirties and holds a position at the Human Rights Commission in the Philippines. She has been a lawyer for twelve years as of this year. Daniel is in his forties and has been a lawyer for twenty-three years during which he has extensively worked on human rights and social justice issues. He works as a law professor in the Philippines and holds a position at an international NGO. One of the interviewees, Justine, does not have a formal legal education but his background as a human rights activist has provided him with practical knowledge of the Filipino legal system and human rights law. Justine is in his forties and works at a prominent human rights NGO where he for instance has been involved in the crafting and passing of human rights laws in the Philippines.

#### **4.1.3. Using Skype as interview medium**

Skype originated in 2003 as an online-conferencing software that can be downloaded without a fee by anyone who has access to an Internet connection. One can communicate via the chat, audio and/or webcam function. Skype is known for its user-friendliness (Saumure & Given n.d.) and it has become prominent worldwide (Deakin & Wakefield 2014). Technology has become “a feature of everyday interaction” and in line with that, it has also found its way into the Social Sciences (Weller 2017:613). Face-to-face interviews are however still regarded as the optimum within qualitative research (Deakin & Wakefield 2014). Synchronous online interviewing via Skype should however not be written off as secondary option (see e.g. Deakin & Wakefield 2014; Weller 2017). As with every interview technique, Skype interviews come with both “pros and cons” (Hamilton 2014:356).

The choice to use Skype as interview medium for the present study was primarily made since it enabled me to talk to individuals in another continent in a cost-effective manner. I used the audio-function of Skype during three interviews. The video-function was additionally used in one interview which had the advantage of providing some kind of “‘face-to-face’ experience” (Hanna 2012:241). Listening is key for a good interview (Mann 2016) and while I could nod my head to show that I was understanding what was said in the latter interview, it was important that I frequently used non-verbal utterances to show that I was listening during the former. A challenge one faces when using Skype as a research tool is the unpredictability of technology (Weller 2017). The software can suddenly experience disruptions in the audio which makes it hard to create a flowing conversation (Ibid.) and can complicate the transcription process (Hamilton 2014). There were a few instances of bad connection in three of the interviews, but this did not substantially affect the transcription and the conversations were easily resumed.

One advantage with the use of Skype is that it enables an extent of flexibility which is often not possible with face-to-face interviews (Lo Iacano, Symonds & Brown 2016). The interviews in the present study were rescheduled due to the rather busy

schedules of the respondents. It should not be a stressful task to participate in an interview and being able to spontaneously reschedule is an advantage that the use of Skype provides. Skype further brings flexibility when it comes to the interview location. The participant can be in a place where he or she feels at ease which can be helpful in creating a relaxed atmosphere (Hanna 2012; Seitz 2016). While the author of this study was at home, the interviewees were either at their home or workplace which provided some background noise. This did not seem to disturb the interviewees and only impacted on the transcription process to a limited extent. As with all interview methods, Skype interviews have disadvantages but in the present study, “the benefits strongly outweigh them” (Sullivan 2012:60).

#### **4.1.4. Ethical considerations**

Ethical issues can arise during any phase of the research (Kvale 2007). This study therefore considered potential issues and adhered to ethical guidelines from the initial to the final phase of the research process. Ethical guidelines and principles outline how research “*ought to be* conducted.” (Boon 2005:301).

To gain the informed consent from an interviewee is crucial if one wants to conduct ethically sound research (Kvale 2007). The interviewees were informed about the aim of the study and that no conflict of interest exists for the author via e-mail. They received a consent form that stated the distinct ethical guidelines the study would adhere to. The interviewees could sign the consent form and send it back via e-mail or tell me in the beginning of the Skype call that she or he has read the form and consents to participate. The consent form ensured the voluntary nature of the participation, the confidentiality of the information provided during the interview, and the anonymity of the interviewee’s identity. To ensure anonymity, the names of the interviewees are fictitious. To ensure confidentiality, no “private data identifying the subjects” has been published (Ibid.,27). The interviewees were also informed “about their right to withdraw from the study at any time” (Ibid.,27). The consent form further stated that the interview would be recorded, transcribed, and analysed by the author of the study. The data was stored on a password protected

laptop and the consent form informed the interviewees that the recording would be deleted no later than three weeks after the interview.

Building rapport between the interviewer and the interviewee is crucial for the conversation to become fruitful and comprehensive (Seitz 2016). The interviews in this study were in my view conducted in a friendly and respectful manner. Deakin and Wakefield (2014:610) experienced that it can be more challenging to create rapport via Skype than in person for respondents who are “more reserved.” This seems to not have been an issue in the present study since the interviewees were highly responsive. This might have to do with the fact that they are rather familiar with being interviewed. When it comes to the “power dynamics” (Sharan 2009:108) between the interviewer and the interviewee, it is important to note that while I had control in the sense that I asked the questions, the interviewees were more knowledgeable on the topic, guided the interview in certain directions, and could choose a place and a time for the interview that suited them.

It was especially relevant to consider potential harms the study could cause due to the current political climate in the Philippines in which those who criticise the War on Drugs are threatened by president Duterte and his supporters. The interviewees in this study are protected from harm through anonymity and confidentiality. The larger group of drug war critics should also not be negatively affected, for this study explores criticisms that already have been expressed publicly. It is crucial to adhere to the ethical guidelines and principles discussed here to produce ethically sound research, but it also largely depends on the researcher’s integrity (Kvale 2007) and “own values and ethics” (Sharan 2009:230). I therefore strived to conduct the present study in a sensitive, honest, and respectful way.

## **4.2. Thematic analysis**

The transcribed interview accounts were analysed following Braun and Clarke's (2006) approach to thematic analysis which consists of six distinct phases. This analytic method coupled with the theoretical lens of this study (see Chapter 3. for a presentation of the theoretical framework) enabled me to identify themes in the transcribed interviews and to interpret them. It is important to be transparent with how a thematic analysis has been conducted (Braun & Clarke 2006) and I therefore outline the data analysis process of this study in some detail below.

Thematic analysis is widely used within qualitative research, for it enables the scholar to use this method without being limited regarding the choice of theoretical framework and epistemological approach (Braun & Clarke 2006). The method can however also become subject to the critique that "anything goes" due to this theoretical flexibility (Ibid.,95). Braun and Clarke's (2006) six-step approach provides a method of analysis that offers clear guidelines that in my opinion withstands this criticism. The present study used a theoretical approach towards thematic analysis which means that the theoretical perspective drives the thematic analysis. The analysis thus focused on data extracts that touched upon aspects that were relevant to an understanding of how the interviewees perceive the topic at hand. This choice was made since it provides "a more detailed and nuanced account" (Ibid.,83) than an analysis of the data set in its entirety could have.

Following Braun and Clarke's (2006:86) understanding of what constitutes a theme, I identified themes within the data as "repeated patterns of meaning" that I considered pertinent for the research questions. The present study uses thematic analysis as a "realist method" which enables me to explore "experiences, meanings and the reality of participants" (Ibid.,81). I further used a semantic approach to identify themes which means that "the themes are identified within the explicit or surface meanings of the data" (Ibid.,84). Thus, the analysis concentrated on what the interviewees had said to identify themes that were prominent in the data set and then interpreted the themes using the theoretical framework of this study. Data

extracts are included in the analysis of the empirical material that I present in the following chapter (see Chapter 5.) to provide the reader with examples of responses that are encompassed by a theme.

Following Braun and Clarke's (2006) six-steps approach, I began my analysis with familiarizing myself with the data. I started this process with the transcription and re-listening of the recorded interviews as well as several re-readings of the transcribed interview accounts. During this first phase of the analysis, ideas about the content of the data and its importance were noted which provided a starting point for the subsequent coding process. I then identified features of the content that seemed to be of interest for the research questions of my study to construct initial codes during the second phase. This was followed by the third phase during which the codes were analysed and either discarded or grouped into main themes or sub-themes. In the fourth phase, the initial themes were reviewed and refined to make sure that there is coherence within every theme and a distinction between distinct themes. Themes were for instance merged or separated whenever pertinent. The fifth phase consisted of a further review of the themes as well as the construction of clear definitions and final names of the themes that captured their 'story'. The analysis of the distinct themes that is presented in the following chapter was written during the sixth and final process of the thematic analysis.



## 5. Analysis

This chapter presents the analysis of the empirical material. The analysis was conducted using a thematic analysis (see Chapter 4.5. for a discussion of the distinct phases of the analysis) coupled with a sociological perspective on arbitrary power and the rule of law (see Chapter 3.). I want to once again remind the reader of the central research question of the present study that asks how members of the Filipino human rights community perceive the impact of the Duterte Administration's War on Drugs on the state of the rule of law in the Philippines. This question, as well as the sub-questions of the present study (see Chapter 1.2.), have guided the analysis. As mentioned in the methods chapter, the following presentation of the analysis of the distinct themes includes several data extracts to make it more transparent. In front of each quoted response, the first letter of the interviewee's alias is stated: A for Arvin, D for Daniel, J for Justine, and K for Kim (see Chapter 4.1.2. for a presentation of the four interviewees). The central research question of this study is then answered in a conclusion section drawing from the findings of the analysis. The analysis is divided into subchapters that encompass the distinct meta- and subthemes. As mentioned in the previous chapter, the names of the themes were constructed to capture the essence of the responses that they encompass.

### 5.1. Duterte's personal crusade

One meta-theme that was prominent within the data set depicts the War on Drugs as something which seems to be rather personal to president Duterte. The theme, which I have labelled *Duterte's personal crusade*, is hereinafter referred to as theme 1. Theme 1 encompasses responses in which the interviewees emphasised that the drug war is not about drugs *per se*, but about Duterte's obsession with fighting what he has portrayed as a drug menace. The name of theme 1 is taken from the following response which very well illustrates the essence of the entire meta-theme:

D: *It's about the president's obsession on the issue, uh, I think it's more a personal, a personal crusade. I, I actually, and many people don't understand where that is coming from. [...] it had reached absurd extents insofar as, therefore I call it, I call*

*it obsession over, over focus on the issue to the point of neglecting the others, to the point of, uh, contextualising everything else within the, the very limited, very constricted parameters of the drug issue.*

Daniel highlights above that the drug war is about something else than drugs; stating that the drug war is “*more* a personal crusade” (my emphasis). In my interpretation, Daniel understands the motives behind the War on Drugs to be personal to the president, for he describes the drug war as being rooted in Duterte’s “obsession.” As Daniel explains, he uses the word “obsession” since Duterte is “contextualising everything else” in terms of the drug issue. Two other interviewees also highlighted the centrality of the drug war to the president’s administration and linked this to Duterte as being obsessed with fighting drugs. This could be understood to mirror a tendency which is highly central to the “rule of men” (Krygier 2016:206), namely, that passion governs over subjectivity (Tamanaha 2012:243).

Arvin, Justine and Kim all at some point seemed to voice similar confusion as Daniel as to where the president’s obsession “is coming from.” The four interviewees acknowledged that, in their view, the Filipino society experiences problems due to illicit drugs, but they also emphasised that they think that Duterte has exaggerated the situation by for instance inflating the number of drug addicts in the country. Responses in the data set further emphasised that the government’s limited perspective on the drug issue, which Justine tellingly summarised as “drugs equals crime, kill them and then there is no crime,” distorts reality. In the perspective of the interviewees, poverty seems to be the reason for why many Filipinos get involved in the drug business; one interviewee for instance poignantly said that many people sell drugs “to survive.” The interviewees stressed that the government’s perspective demonises drug users and portrays them as criminals. In the perspective of the interviewees, this ignores the socio-economic causes of drug use and crime. Justine for instance argued that many Filipinos use drugs to be able to work more efficiently or to stay awake during long shifts.

In the light of the responses discussed above, I interpret theme 1 as showing an understanding that is shared by the four members of the Filipino human rights

community whom I have interviewed – they all seem to perceive the War on Drugs as being about Duterte’s “own will” (Krygier 2016:203) to be *tough* on drugs and crime instead of counteracting the root causes of the issue he so eagerly claims he wants to end. Theme 1 furthermore encompasses responses that depict the War on Drugs as a tool Duterte has used to establish his position in power. This view was prominently stated but only within two interviews in which the interviewees said that they think that Duterte has used the drug war to portray himself as a strong leader who is in control. Again, the focus within the responses is on the drug war as something inherently personal to the president. Responses in theme 1 overall seemed to emphasise that Duterte’s tough attitude exudes that he does not take orders by anyone – not by the United Nations, the ICC, or the human rights community – which according to the interviewees has been a central reason behind his popularity. One interviewee said,

*J: So, they scare you into believing that this is a man who can, will do anything and can do anything and everyone will be submissive and then they can do whatever it is that they want. So, it's a scare tactic. It's actually more of a tactic than, than, than really getting rid of drugs.*

For Justine, the drug war seems to be “a tactic” used to scare people into submission instead of “*really* getting rid of drugs” (my emphasis). Drawing on the theoretical perspective of this study, I interpret Justine’s description above –specifically the sentence “they can do whatever it is that they want” – as indicating that he perceives those in power (the current administration) as consciously having used the tough-on-drugs ‘tactic’ to avoid being restrained by anything. As I have noted in an earlier chapter, this notion is central to the rule of men and stands in stark contrast to the principle of the rule of law “that law is above men” (Ingram 1984:359).

In conclusion, theme 1 can be interpreted as showing that all of the interviewees seem to think that the drug war is not about drugs and criminality *per se*. While all four interviewees seem to regard the drug war as being about the president’s obsession with the drug issue, two of them also seem to perceive it as being about Duterte and his administration’s desire for unrestrained power.

## 5.2. Standing above the law

The idea for the name of theme 2 – *standing above the law* – comes from the following response in which Arvin talks about the perpetrators of EJKs:

*A: They are able to, they are above the law, essentially, and they are able to commit killings without having to be held accountable for it.*

This data extract captures what was central to the responses in theme 2, and the name *standing above the law* was therefore chosen. The responses in this meta-theme emphasised the view that rights violations committed within the War on Drugs – with a focus on the EJKs of alleged drug users and dealers – have been characterised by a lack of accountability for the perpetrators. All four interviewees held the perspective that the crimes committed in the War on Drugs have been characterised by a widespread impunity. One interviewee for instance noted,

*K: Uh, I think that uh, there is really a climate of impunity because if we were to look at the numbers and if we were to follow even the data provided by the government, there has already been 4,000 established deaths resulting from police operations and yet we haven't seen a single case yet, a single perpetrator being held to account yet. So, that itself already illustrates the fact that there is impunity.*

Kim poignantly says that the current situation in the Philippines is characterised by “a climate of impunity,” for there is a lack of accountability for the police officers responsible for the shootings of suspects even though the vast number of killings that have been committed by the PNP. The interviewees all noted that there has been too big of a discrepancy between the numerous EJKs and the lack of legal cases brought against suspected perpetrators. I interpret theme 2 as a perspective that all four interviewees shared and that seems to understand the widespread impunity for the police and vigilantes as allowing the continuous violation of fundamental rights. The responses in theme 2 can be interpreted to show that “the principle that law is above men” (Ingram 1984:359) does not apply to Duterte’s drug war since no one is being held to account for the numerous EJKs. Responses in the meta-theme prominently brought up two distinct perspectives. These make up the two subthemes that are analysed in the following sections.

### 5.2.2. A culture of impunity

The first subtheme of theme 2 is *a culture of impunity*; hereinafter referred to as subtheme *a*. I interpret the responses in subtheme *a* as associating the lack of accountability in the War on Drugs as rooted in a history of impunity in the Philippines. The interviewees noted that for decades, there has been a lack of accountability for those in power, such as preceding presidents, as well as those without power, such as petty criminals. All of the interviewees said that previous administrations have failed to make accountability a priority within the justice system. Responses in subtheme *a* argue, in my interpretation, that the Duterte administration has been able to take advantage of the existence of a culture of impunity in the implementation of its drug war. This perspective is for instance poignantly captured in the following data extract:

*J: [Previous presidents] weren't able to cement, uh, and make accountability a foundation in the criminal justice system in this country or the culture of this country, it was easy for this administration to just break everything.*

Justine's response voices a view that was prominent within the data set that seems to argue that the lack of accountability within the Filipino criminal justice system and "culture" has enabled the Duterte administration to wage a War on Drugs that "breaks everything." The data extract, as well as other responses in subtheme *a*, can be interpreted as voicing the first of Martin Krygier's (2016:203) three sources of arbitrariness, for they highlight that the current government in the Philippines has not been constrained by law, but is only subject to its "own will or pleasure." In the perspective of the interviewees of this study, the institutional landscape in the Philippines thus does not seem "to be able to reach those who matter" (Krygier 2009:60); those who hold extensive power over the lives of others. In the perspective of two of the members of the Filipino human rights community that I have interviewed, Duterte's background as a lawyer and prosecutor has provided him with knowledge about a longstanding culture of impunity in the Philippines. This was by the two interviewees perceived as having been an indication for Duterte that prosecution of him and his administration would be unlikely.

Subtheme *a* can be interpreted as a depiction by the interviewees of the War on Drugs as a new chapter in a long history of impunity in the Philippines. The interviewees seem to understand impunity not only as characterising the drug war, but also as having made it possible in the first place. Subtheme *a* shows the perspective that all four interviewees highlighted that seems to claim that the widespread lack of accountability in the Philippines has enabled the Duterte administration to wage a violent drug war without fear from prosecution.

### **5.2.3. Institutional shortcomings**

While subtheme *a* indicates that the interviewees perceive the government as being able to stand above the law in the drug war due to a longstanding culture of impunity, the second subtheme of theme 2 blames institutional shortcomings. The subtheme's name *institutional shortcomings* thus captures the central 'story' of the responses it encompasses. The responses in subtheme *b* depicted the lack of governmental and especially police efforts to investigate the EJKs of alleged drug users and dealers as a major obstacle to hold perpetrators to account for their crimes. This perspective is very well illustrated by these two responses:

*A: We can say at least that the vigilante-type of killings are not being genuinely investigated by the government. There has not been much effort to identify, much less to stop, those types of killings.*

*J: I mean even if you go to the communities, the people from the communities will tell you that the policemen rarely go back. When somebody was killed, the policemen rarely go back and investigate. They just let it be.*

Arvin's response can be interpreted as expressing a tolerance for the vigilante killings by the government since they do not try to set a "stop" to these killings. Justine's response in which he explains that instead of investigating killings, the police "just let it be," also seems to highlight a tolerance for EJKs. This tolerance of the Duterte administration of the vigilante and police killings was prominently stated within the data set. In my interpretation of the data, the interviewees seem to disbelief that the police genuinely have been investigating EJKs, for they explicitly state their doubts. Responses in subtheme *b* further showed an understanding

among the interviewees of an unwillingness within the police to be transparent about their investigations with the human rights community and the public, which has further been an obstacle to make people accountable. One interviewee claimed that the unwillingness to investigate vigilante killings has to do with that vigilantes are contracted by the PNP and some are even police themselves which, as I mentioned in the introduction (see Chapter 1.), is widely believed to be true.

Subtheme *b* further encompasses responses that note shortcomings within the criminal justice system as reasons for a lack of accountability in the War on Drugs. Interviewees explicitly blamed what they described as the inefficiency of the system on a lack of congressional support, corruption, a lack of judges and prosecutors, overcrowded court dockets, a lack of a central database that determines if a convicted individual serves his or her sentence, and a very low conviction rate in the Philippines. Arvin for instance said that the result of this is that “it’s very hard to convict and even if we convict, we’re not sure if the person convicted actually goes to jail.” Responses in subtheme *b* seem to express the perspective that the slow and inefficient justice system is a major obstacle for holding people accountable. While responses overall painted a rather grim picture, the interviewees also expressed hope for future prosecutions. They however acknowledged that the process to get justice for those who have been victimised in the War on Drugs will be lengthy due to the many issues within the legal system.

The responses in subtheme *b* can be interpreted as mirroring a perspective among the interviewees that associates a lack of accountability – and thus a *standing above the law* – with lacking efforts by the government and the police to investigate EJKs and a dysfunctional criminal justice system. It is also relevant to note that one interviewee mentioned that the doctrine of presidential immunity is a major obstacle for holding Duterte accountable for his role in the drug war. The Philippines holds immunity for the president during his term and immunity provides according to the interviewee a shield from prosecution for Duterte; at least during his presidency.

In conclusion, theme 2 and its two subthemes, that I have analysed on the previous pages, seem to voice the first of Krygier’s (2016) sorts of arbitrary power, for they

can be interpreted to suggest that the law does not reach those in power in the War on Drugs. Based on the theoretical perspective of this study, this can be said to point towards a loss of significance of law in Filipino society.



### 5.3. Normalising lawlessness

Theme 2 (see Chapter 5.2.) comprises a perspective of the interviewees that seems to understand the Duterte administration as having been able to stand above the law in the War on Drugs. Theme 3, that I analyse on the following pages, further emphasises the view expressed by the interviewees that the drug war seems to have diminished the significance of law in society. I have chosen the name *normalising lawlessness* for this theme because the responses that it encompasses can be interpreted to highlight that the drug war has made lawless solutions more attractive in the Philippines. This was most poignantly expressed in Justine's response:

*J: Three months ago, there was a huge fire that happened somewhere here in Quezon City and you know what they did to the guy who they believe started the fire? They shot him. The neighbours killed him. Who's going to tell them not to do it? It's the new way right now.*

That shooting a suspected criminal seems to have become, as Justine states, “the new way,” can from the theoretical perspective of this study be interpreted to imply that social co-ordination within society is being weakened. Krygier (2009) has noted that the law aims to create and uphold social co-ordination to provide some predictability in how others will behave towards each other. What Justine, as well as another interviewee, described in many of their responses is what I interpret as a normalisation of lawlessness that can be understood to take away the predictability that Krygier (2009) has talked about. Following Krygier's (2009) understanding, this could lead to the weakening of the rule of law. Responses in theme 3 voice the perspective that seems to be inherent in Justine's response that I think suggests that the drug war has resulted in that the law is losing its bearing on how people act towards each other. Theme 3 encompasses three subthemes that express distinct perspectives of how lawlessness has been normalised by the drug war. The first subtheme (see Chapter 5.3.1.) seems to blame the systematic disregard of the law by the government. The second subtheme (see Chapter 5.3.2.) consists of responses in which the interviewees noted that the support for lawless solutions among many Filipinos has played a crucial role as well. The third and final subtheme (see Chapter 5.3.3.) depicts a loss of faith in the law as reason for a normalisation of lawlessness.

### 5.3.1. Systematic disregard of the law

Subtheme *c* has been named *systematic disregard of the law*, for the responses encompassed by seem to express the perspective that the implementation of the War on Drugs has, according to the interviewees, been characterised by an intentional disregard, circumvention, and violation of the law. Responses in subtheme *c* brought up Duterte's public encouragements to kill drug suspects as encouraging lawlessness. In the light of the theoretical perspective of the present study, this can be interpreted as diminishing the significance of law. This is very well illustrated in Arvin's response in which he talks about what the War on Drugs symbolises:

*A: It's, ultimately, it's really a war against the legal system. Because by encouraging people to take the law into their own hands, by encouraging EJKs, it really minimises and demeans the value of the legal system.*

Arvin voices a worry that was prominent within the data set; that the drug war "minimises and demeans the value of the legal system." In line with this, another interviewee said that "this president has, he made a mockery out of the Philippine criminal justice system." Arvin seems to regard the War on Drugs as "a war against the legal system" and thus an attack on the law itself. He argues that the public encouragements to kill and disregard the law made by president Duterte have ultimately diminished the significance of the judicial system. This perspective was prominently stated within the data set. The interviewees all said that Duterte has clearly stated that killing drug personalities is something the head of state approves of and even encourages. Seen from the theoretical perspective of the present study, this could be understood to have contributed to a normalisation of lawlessness. As I have mentioned throughout this study, Duterte's violent promises to kill drug personalities gained large support in the Philippines. The message Duterte sends could be seen as "anti-legal messages" (Krygier 2009:67) that seem to have diminished legal signals that portray killings as immoral and unlawful.

Responses in subtheme *c* also highlighted that the PNP has committed numerous rights violations and has systematically disregarded the law in the implementation of the drug war. Interviewees brought up the lack of search and arrest warrants,

defective warrants, violations of the right to life, the right to due process and the presumption of innocence as support for their claims about the police's unlawful behaviour in the context of drug operations. Kim for instance said,

*K: And, uh, the campaign against drugs, if you were to look at Oplan Tokhang, where the police officers knock on dwellings. It is but in fact a circumvention of the law because the strict requirement of the law is to obtain search warrants and warrants of arrest and to observe the sanctity of the dwelling.*

In Kim's perspective, *Oplan Tokhang* is an operation that builds on the "circumvention of the law" in its implementation due to its lack of warrants. This data extract, as well as other responses in this subtheme, highlight that circumventing and violating the law is not an exception, but rather makes up the foundation for the entire operation of the War on Drugs. Responses in subtheme *c* brought up that the police have become an institution that disregards the law instead of enforcing it. One interviewee expressed that he is very concerned that it will take a long time to reverse the institutional changes that the drug war has had on the police force. As Krygier (2009:60) has noted, for the rule of law to exist, "the institutionalised norms need to *count* as a source of restraint." Responses in subtheme *c* indicate that the members of the Filipino human rights community I have interviewed do not think that this has been the case in the drug war because, in their view, not even those who are supposed to enforce the law are obeying it.

In conclusion, subtheme *c* shows in my interpretation a perspective that regards president Duterte's encouragements to kill individuals involved in the drug business and the police's systematic disregard of the law in the context of the drug war as having resulted in a normalisation of lawlessness in the Philippines.

### **5.3.2. Desire for security**

The second subtheme of theme 3 is *desire for security*. I hereinafter refer to it as subtheme *d*. The name is rather telling of the story of the subtheme. Three of the interviewees noted that they think that many – foremost middle-class – Filipinos

accept and support the drug war because of a widespread desire for security. This view is for instance highlighted in the following data extract:

*D: For the majority of Filipinos [the drug war] is a problem that does not affect them meaning until the time that you are victimised, until the time that your family member has been affected, uh, you see it as, you see it as something external to your life, to your community. So, uh, so they, they view it as something positive because that does not affect them directly. [...] they perceive it as improving their security. They see it as improving the peace and order. They turn a blind eye to the victims because they are not affected.*

The acceptance of the unlawful methods of the drug war seems to be linked to, as Daniel tellingly said, that many Filipinos who largely have been unaffected by the violence understand it as a promise for “security” and “peace and order.” Responses in subtheme *d* overall emphasised that Duterte’s promise to bring security to ordinary citizens through his drug war resonated with many Filipinos. Daniel, as well as other interviewees, emphasised that the War on Drugs has disproportionately targeted and affected the poorest communities. As I have stated earlier (see Chapter 2.), this unequal effect has been a central theme within previous literature of the phenomenon. In the view of the interviewees, due to this unequal character of the drug war, middle and upper-class Filipinos do not feel affected by its violent methods. Daniel said that many wealthier Filipinos regard the threat of EJKs as “external” to them and that they only realise that it is a “problem” when they themselves or their relatives are “victimised.” Daniel’s response seems to voice a paradox that was prominently highlighted in the data set. The paradox lies in that, according to him and the other interviewees, many Filipinos have supported the drug war due to their hope for “security” which simultaneously seems to have resulted in a development that threatens these same concepts through a systematic disregard of the law (see Chapter 5.3.1.) and impunity (see Chapter 5.2.).

Subtheme *d* can be interpreted to show an understanding that the interviewees shared and which seems to regard the unlawful ways of confronting the drug issue in the campaign against illicit drugs as having been accepted by a large part of the Filipino society. According to the interviewees, many Filipinos do not feel affected

by the violence and find that the drug war caters to their desire for security. The subtheme suggests that this has contributed to a normalisation of lawlessness in Filipino society.

### **5.3.3. Loss of faith in the law**

The third reason for a normalisation of lawlessness that was prominently stated within the data set is what the interviewees explained as a loss of faith in the legal system in Filipino society. Responses that emphasise this perspective make up subtheme *e*. In line with the perspective expressed in the subtheme, I have called it *loss of faith in the law*. The interviewees seem to believe that lawless solutions have become more attractive since the legal system in their country, in their view, does not work (see Chapter 5.2.2. for an explanation of the reasons the interviewees brought up for the inefficiency of the legal system). The reason for the loss of faith in the legal system that was prominently highlighted in the data set seems, according to the interviewees, to be interlinked with a longstanding culture of impunity in the country (see Chapter 5.2.1.). One interviewee for instance noted,

*K: And then with regards of the drastic, or with regards, the extreme measures taken with the government's campaign against drugs, you could attribute that to the fact that a lot of people, Filipinos especially, are disgruntled with the criminal justice system here in the Philippines. Uh, during the past administrations [...] nobody has been held to account [...] and therefore, people now seem to favour vigilante or swift justice, wanting to see quick results.*

Kim's response implies that she thinks that many people in the Philippines "are disgruntled with the criminal justice system" due to the lack of accountability, for "nobody has been held to account." Kim links impunity to the preference among many Filipinos for a War on Drugs that through the killing of drug suspects brings "swift justice" and "quick results" in their eyes. Responses in subtheme *e* highlighted the view expressed in the data extract above that many Filipinos have been supporting the drug war, even though its blatant disregard to the law, for it promises them, as the interviewees said, something their criminal justice system cannot provide them with – justice in the form of accountability. While interviewees

largely emphasised that the lack of accountability has resulted in a strong support for the War on Drugs, they also noted that many Filipinos have expressed that they would favour drug suspects to be held to account instead of being killed.

Interviewees seem to think that the culture of impunity in the Filipino society has resulted in a favouring of alternative – and more bloody and lawless – solutions to ‘make people accountable’ for their crimes. Krygier (2009:60), referring to a Bulgarian saying, notes “that law is like a door in the middle of an open field. Of course, you could go through the door, but only a fool would bother. Where that saying has resonance, the rule of law is not likely to.” I think that this saying captures the dire situation in the Filipino drug war that this subtheme highlights. In my interpretation, the interviewees think that Filipinos do not want to *go through the door* that symbolises the law, for they know that this will most likely not provide them with justice. Viewed from the theoretical perspective of the present study, this indicates a weakening of the rule of law.

In conclusion, the perspective that is captured in subtheme *e* shows that the interviewees regard preferences for solutions that stand outside the realm of the law as a result of a widespread loss of faith in the Filipino justice system. What above has been called a normalisation of lawlessness in society is in the responses by the interviewees in subtheme *d* (see Chapter 5.3.2.) linked to the support for the drug war by many Filipinos which, in the interviewees view, is rooted in their desire for security. In subtheme *c* (see Chapter 5.3.1.), the responses highlight a systematic disregard of the law in the drug war. The meta-theme that encompasses these subthemes, theme 3 (see Chapter 5.3.), can be interpreted as suggesting that the law has lost its “social *reach* and *weight*” (Krygier 2009:61) in the Philippines. For Krygier (2009:65), the rule of law exists insofar “the law counts significantly” for how a large part of the society think and behave. The responses in this theme, viewed from this perspective, could be understood to suggest that the Philippines has experienced a weakening of the rule of law.

#### **5.4. Anyone can become a victim**

The meta-theme I discuss in this chapter is concerned with the loss of social coordination (I have already touched upon this form of arbitrary power in Chapter 5.3.). *Anyone can become a victim* is hereinafter referred to as theme 4. As I have mentioned earlier (see Chapter 5.3.2.), the interviewees acknowledged that the War on Drugs disproportionately has affected the poor. They however also prominently emphasised that there exists a possibility for virtually anyone to become a target – and thus a victim – of the drug war. The responses in theme 4 noted that the police’s use of the so-called watchlist is the reason for this situation. The watchlist was by the interviewees depicted as largely based on hearsay. One interviewee said,

*A: Anyone can be a target as long as your name finds its way into the list and you are perceived to be somehow connected with drugs, whether true or not, you could be a target.*

As I understand it, Arvin depicts the use of the watchlist as decisive for if someone can become a target in the War on Drugs. This was voiced in other responses in theme 4 as well. The interviewees seem to regard the watchlist as problematic since there is, as Daniel put it, “no clear procedure on how one can be in the list and how one can be removed from the list.” Interviewees for instance mentioned that some of the names on the list are from people who were already dead before the drug war or who stopped using drugs many years ago. They linked this to the lack of a mechanism that allows for names to be crossed from the watchlist. Responses within this theme explicitly noted that names are put up in a manner that stands in contrast to investigative work. The interviewees explained that barangay officials – the officials of the smallest local government units – compile the list and that the police also take tips from ordinary Filipinos. In my interpretation of the interviewees’ responses, they seem to think that letting virtually anyone tell the government who is a drug user or dealer makes it possible for anybody to become a victim. The interviewees emphasised that the current system of collecting names is dangerous since it allows people to settle personal feuds. Interviewees further noted that they think that there is no way of knowing and predicting how the police will use its power in the implementation of the drug war which, according to the

theoretical perspective of this study, can be interpreted to indicate arbitrariness. One interviewee said,

*J: Now if you're lucky, uh, you go home [after surrendering] and there's no problem but if you're unlucky, if there's a quota that is needed in your place [...] then you might be victimised, you might be killed. That's a problem with the list that they have, it's not actually a watch list, it's actually a kill list. Because many of those people, most of those people who have died are on the list.*

It seems as if Justine thinks that if you become a victim in the drug war after surrendering largely depends on if the police needs to fill a quota. This response, as well as other responses in this theme, imply that the police, instead of being concerned with law enforcement, is acting on political interests. Justine calls the watchlist a “kill list” for he says that many of those who have had their names on the list were killed. Responses in theme 4 overall linked the killings to the list. The responses can be interpreted to express the perception that Filipinos cannot be sure to avoid the exercise of power by the PNP even if they are innocent. Looking at the responses, it seems as if it has become very hard for Filipinos to “know, predict, understand, or comply with the ways power comes to be wielded” (Krygier 2016:204) in the context of the War on Drugs. The data extracts that make up this theme all seem to highlight that the drug war has, in the interviewees’ understanding, weakened social co-ordination between the state and its citizens. Theme 4 can therefore, in my view, be interpreted to show that power has been exercised arbitrarily in the drug war, for power seems to have been “exercised in ways unrelated to the rules that purport to govern them” (Krygier 2016:204). The police seems to deprive suspects of their right to due process instead of conducting thorough investigations according to the interviewees.

In conclusion, the interviewees acknowledged that even though most of the victims of EJKs have come from the poorest sectors of society, they think that one can become a victim regardless of societal status or actual involvement in the drug business. Theme 4 could be interpreted as voicing the second of Krygier’s (2016:203) three “sources and sorts” of arbitrary power, for the interviewees seem to suggest that it takes away social-coordination between the state and its citizens.



## 5.5. Criticism does not really matter

The previous meta-theme I analysed was concerned with the loss of social coordination in the War on Drugs. The final and fifth meta-theme that was prominent within the data set and relevant to the research questions is *criticism does not really matter*. I hereinafter refer to it as theme 5. Responses in this theme emphasised the view that criticism of the drug war has only had a limited impact on how the Duterte administration has been exercising its power in the context of the initial period of the War on Drugs. Two distinct perspectives were brought up in the data set. These make up the two subthemes that I analyse below. The central story of theme 5 is explored through an analysis of the responses encompassed by the subthemes. The first subtheme is *discrediting the human rights community* (see Chapter 5.5.1.) and the second subtheme is *Duterte's interests are priority* (see Chapter 5.5.2.).

### 5.5.1. Discrediting the human rights community

The first subtheme is subtheme *f*. I have named this subtheme *discrediting the human rights community*, for all four interviewees highlighted that the Duterte administration has been trying to discredit the human rights community to diminish the credibility of their criticism against the War on Drugs. All four interviewees expressed that they think that president Duterte and the drug war have had a major impact on how many Filipinos perceive human rights and human rights activists. This is for instance illustrated in the following response:

K: Well, uh, the campaign against drugs uh, if you try to look at it from uh, from my background, I look at it as a very, as a narrative that has changed how people look at human rights and has portrayed it in a negative sense.

Kim depicts the drug war “as a narrative that has changed how people look at human rights.” That it has portrayed human rights, as Kim says, “in a negative sense” was prominently stated within the data set. The responses in theme 5 suggest that the interviewees think that Duterte and his administration have been using their position in power to discredit the concept of human rights as well as those who are standing up for human rights. The Philippines is state party to a wide range of human rights

conventions, but the significance of these rights seems however, in the perspective of the interviewees, to have diminished due to the War on Drugs and a president who portrays human rights as unimportant. Responses in theme 5 further emphasised how the interviewees themselves have experienced how this negative perception of human rights, that has been promoted in Duterte's drug war, has negatively affected their work. This is for instance highlighted in the following response in which Justine talks about how people in communities in which his organisation works have started to react to human rights activists:

*J: They do not feel comfortable or they don't feel comfortable being seen in public with, with human rights activists because they really do think that many of their neighbours will think that because they are engaging with human rights activists, they are sympathetic to criminal elements and, and, and drug syndicates and it is indeed becoming a problem.*

Justine's response can be understood to argue that human rights activists, and those who engage with them, are widely believed to be "sympathetic to criminal elements." This was a notion that was prominent within the data set. Responses in subtheme *f* emphasised that, in the view of the interviewees, the Duterte administration has been trying to discredit any form of criticism of the drug war by portraying critics as 'criminal sympathisers'. This resonates with the findings of Lauren Stansfield's (2017:65) ethnographic study I discussed earlier (see Chapter 2.2.), that suggests that the Filipino human rights community has been portrayed as "criminal-sympathisers" in Duterte's War on Drugs. The interviewees in the present study emphasised that in the current political climate in the Philippines, those who are speaking out against the drug war are facing many obstacles in being able to get their voices heard by the government as well as by Duterte supporters. This theme could be interpreted as showing that critics of the drug war are not given any "space...to be heard, to question, to inform or to affect the exercise of power over them" (Krygier 2016:204). This is the third form of arbitrary power as outlined by Krygier. One interviewee explained,

*K: And then of course, some human rights defenders also have been targets of remarks and insinuations. And, of course, there are also some other human rights*

*organisations who have said that they fear that they are being, they are under surveillance and their physical well-being is being put at risk.*

Kim highlights intimidation as one obstacle human rights activists and legal professionals who challenge the drug war are facing. Responses further mentioned the politically motivated imprisonment of Senator Leila de Lima over her investigation into the drug war's EJKs, the critical media organisation Rappler's revoked license and the killings of lawyers who handle drug cases as other examples of obstacles that those who challenge the War on Drugs face.

Subtheme *f* stands for the struggles the interviewees say the Filipino human rights community and critics overall have been facing in their undertaking to challenge the War on Drugs. The interviewees depict the drug war as having changed how people in the Philippines look at human rights and those who defend them. They highlighted that the Duterte government has used tactics to intimidate, discredit, and obstruct critics. Subtheme *f* can in my view be said to voice one of Krygier's forms of arbitrary power, for it shows that critics seem to struggle in their undertaking to impact on the exercise of power by the government in the drug war.

### **5.5.2. Duterte's interests are priority**

While responses in subtheme *f* paint a rather grim picture, the next subtheme – subtheme *g* – notes that the interviewees also acknowledge that criticism has had some impact on the War on Drugs. Responses in subtheme *g* however also emphasises the view that public outrage in the Filipino society solely had a limited impact since Duterte's interests, according to three of the interviewees, seem to come first. I have therefore called this subtheme *Duterte's interests are priority*. The interviewees noted that while the government largely has dismissed criticism, two instances show that public outrage seemed to have had some effect on the exercise of the government's power in the campaign against illicit drugs. These instances that were brought up by the interviewees were the public criticism of the police killing of a South Korean businessman and the publicised killings of minors I discussed in the introduction to the present study (see Chapter 1.). The public

outrage over these killings led to the withdrawal of the PNP from drug operations. One interviewee explained,

D: To a certain extent I think there had been some responses to public criticisms, especially to widespread public criticisms except it's like a rollercoaster ride, there are ups and downs and, and depending on the president's mood, and the president will, will sometimes make the announcement the, 'the police officers are corrupt so I am removing you from the, the campaign, you can no longer implement the campaign' then eventually the president says 'I'm bringing back the police'.

Daniel notes that even though public criticism has had some effect on the administration, this has been “like a rollercoaster ride” since, as I understand his response, there is no predictability in if and how Duterte will react to public criticism. Daniel's response could be interpreted to voice a tendency of the rule of men, namely, that public criticism is only heard “depending on the president's mood” and does thus not seem to depend on the interests of the subjects of his power. Responses in subtheme *g* overall noted that the withdrawal of the PNP only was short-lived and one needs thus to ask if those who are subject to Duterte's power *really* had been heard? The responses in subtheme *g* suggest that this was not the case, for, in the perspective of the interviewees, Duterte's interests outweighed that of the public. The interviewees noted that Duterte withdrew the police from drug operations to, as one interviewee tellingly put it, “let things calm down.” Responses also stated that he chose to bring back the PNP even though a growing criticism since has the police with him.

Subtheme *g* shows that the interviewees see that there have been instances when criticism did impact on how power has been exercised by the Duterte administration in the drug war. The interviewees seem to think that this was not due to Duterte taking in the critics' interests but because he acted in his own interest. Subtheme *f* (see Chapter 5.5.1.) shows that the interviewees have experienced how the human rights community has been discredited by the government. These two subthemes make up the bigger story of theme 5 that can be interpreted to show that criticism *does not really matter* in the War on Drugs, for those who utter it are discredited and dismissed and their interests are outweighed by Duterte's own agenda.

Lastly, the analysis of the distinct themes presented in Chapter 5 provides valuable answers for the central research question and the sub-questions of the present study. I answer these questions drawing on the findings from the analysis of the five distinct meta-themes and five subthemes in the following chapter.

## **6. Conclusions and discussion**

This final chapter presents and summarises the conclusions that can be drawn from the analysis and answers the central research question and sub-questions of this study. The second part of this chapter discusses the findings more freely, addresses the limitations of the present study and provides ideas for future research.

### **6.5. Conclusions**

The aim of the present study has been to explore the perspectives of members of the Filipino human rights community on the impact they think the initial 15 months of the Duterte administration's drug war has had on the 'well-being' of the rule of law in the Philippines. In line with the aim and the research questions, I have conducted four qualitative interviews via Skype with members of the human rights community in the Philippines. I then analysed the transcribed interview accounts using a thematic analysis using Braun and Clarke's (2006) approach coupled with a theoretical framework rooted in Martin Krygier's (2009) sociological perspective on arbitrary power and the rule of law. As mentioned earlier (see Chapter 2.3.), there is a lack of studies that explore the War on Drugs in the Philippines from a Sociology of Law perspective. The present study addresses this research gap.

Five meta-themes and five subthemes were constructed. They were prominent within the data set and, in my interpretation, relevant to the aim and the research questions of this study. The meta-themes are *Duterte's personal crusade, standing above the law, normalising lawlessness, anyone can be a victim, and criticism does not really matter*. The subthemes are *a culture of impunity, institutional shortcomings, systematic disregard of the law, desire for security, loss of faith in the law, discrediting the human rights community, and Duterte's interests are priority*. These names capture the essence of the themes that are encompassed in the responses by the interviewees. The analysis of the themes provides answers to the sub-questions that asked if the interviewees perceive the exercise of power by the Duterte administration in the context of the War on Drugs as arbitrary and if so, in what ways. The findings suggest that the interviewees think that the Filipino

government has been exercising its power arbitrarily in the drug war, for the themes can be interpreted to voice all three forms of arbitrariness that Martin Krygier (2016) has outlined.

The first form of arbitrariness notes that power is exercised arbitrarily when the powerful are not held accountable by “anything other than their own will or pleasure” (Krygier 2016:203). The findings show that, according to the interviewees, this condition applies to the Filipino drug war, for their responses can be interpreted as suggesting that those in power have been *standing above the law*. That impunity prevails for the perpetrators of EJKs seems to be a central understanding among the interviewees. The findings suggest that the interviewees think that vigilantes, the police, and president Duterte can stand above the law because of what I interpreted as a widespread *culture of impunity* and *institutional shortcomings* within the PNP and the criminal justice system. Some of the interviewees also held the view that Duterte and his administration have seen the campaign against drugs as a tool to gain unrestrained power. The analysis shows that many of the things the interviewees brought up in their discussion of the Duterte administration’s role in the War on Drugs can be interpreted to voice notions of the *rule of men*.

Krygier’s (2016) second form of arbitrary power seems also to apply to the perspectives by the interviewees on the exercise of state power. This second form implies that power is exercised arbitrarily when the subjects of power “cannot know, predict, understand, or comply with the ways power comes to be wielded” (Ibid.,204). This seems to be the case in the context of the Filipino drug war according to the interviewees, for their responses highlighted the unpredictable way in which targets have been chosen. The official targets of the war are drug users and dealers, but the findings suggest that the interviewees also think that virtually *anyone can become a victim* of EJKs. This study concludes that the interviewees seem to think that *social co-ordination* in the Filipino society has been diminished because of the unpredictability of the police’s exercise of power. Social co-

ordination seems in their understanding to further have been weakened by what I have interpreted as a *normalisation of lawlessness*. The interviewees noted that the drug war has made lawless solutions to confront crime more attractive. The reasons for a normalisation of lawlessness are, according to the four members of the Filipino human rights community that I have interviewed, a *systematic disregard of the law* by the PNP, a widespread acceptance for lawless solutions due to a *desire for security*, and a *loss of faith in the legal system*.

The findings further suggest that the interviewees' perspectives of the drug war phenomenon can be interpreted to voice the third and final form of arbitrary power Krygier (2016:204) has outlined which, as he writes, occurs when the subjects of power cannot get their voices and criticism heard or cannot "affect the exercise of power over them." This study shows that the interviewees think that public outrage seems to have affected the drug war but that criticism has not *really* mattered for the Duterte administration in the end. I argue this, for the findings suggest that the interviewees think that Duterte chose to withdraw the PNP from drug operations not because he sincerely answered Filipinos' calls for an end to EJKs, but because that was *in his own interest*. The withdrawal of the police enabled him, according to some of the interviewees, to let things calm down, so that his drug war could be resumed shortly after. The findings further show that in the interviewees' understanding, the Duterte administration has been exercising its power arbitrarily in its drug war since they all emphasised that the government has used tactics to *intimidate, discredit, and obstruct* domestic critics from the human rights community. The interviewees thus seem to think that the incumbent administration has denied this community's "voices and interests be taken into account in the exercise of power" (Ibid.,204) in the context of the War on Drugs.

Lastly, the findings provide answers to the last sub-question and the central research question that together ask how the interviewees think that the Duterte administration's drug war and exercise of arbitrary power has affected the state of the rule of law in the Philippines. The findings of the present study suggest that in



the perspective of the four interviewees, the War on Drugs has significantly weakened the, as the interviewees said, already weak and ineffective judicial system of the country. The findings show that according to the interviewees, the exercise of *arbitrary power* by the Duterte administration, widespread *impunity*, the loss of *social co-ordination* and the *normalisation of lawlessness* in the Filipino society, that I have discussed above, have resulted in a weakening of the rule of law. The perspectives of the four members of the Filipino human rights community that I have talked to dismantle in my view Duterte's claim that his "adherence to due process and the rule of law is uncompromising" (Inquirer 2016) as an empty promise in the light of his administration's violent War on Drugs.

## 6.2. Discussion

As I mentioned earlier (see Chapter 2.2.), previous research on Duterte's drug war has found that many Filipinos have supported the killings of drug users and dealers due to a desire for safety (Curato 2016; Reyes 2016) and a frustration with an ineffective justice system (Simangan 2017; Stansfield 2017). The perspectives of the interviewees in the present study seem to resonate with the above-mentioned literature, for they suggest that the acceptance of the violence is rooted in a widespread belief that the drug war could give Filipinos something their criminal justice system is not able to – *justice, security, and an end to impunity*. Maybe the most disheartening finding of the present study is that while many Filipinos seem to have supported the War on Drugs because of their loss of faith in the legal system and their desire for security, justice, and accountability, the interviewees seem to think that the war has weakened the rule of law and social co-ordination and has created more injustices and impunity. The campaign many Filipinos have supported was intended to diminish crime, but the findings of this study suggest that the interviewees think that it has resulted in a *normalisation of lawlessness*. The present study indicates that the War on Drugs could be understood as paradoxically characterised by many of the things its supporters have been frustrated with for years and that gave rise to their support in the first place.

It is important to note that while this study provides interesting findings, it also holds limitations. The findings of the present study solely focused on the initial 15 months of the War on Drugs. As I mentioned earlier (see Chapter 1.3.), improved guidelines have been adopted for operation *Tokhang* and the killings have become fewer. It would therefore be highly interesting to conduct future research on what social and legal implications these changes have had. Another delimitation to this study is that its findings are not generalisable. The findings are of a qualitative nature and are limited in that they only voice the understandings of the interviewees. The present study, as well as previous literature, depict the drug war as a divisive issue. Future research could therefore aim to explore the questions this study illuminates from differing perspectives. It would for instance be highly interesting

to conduct observational work and interviews in communities that have been affected to different extents by the Filipino drug war. Such an ethnographic approach would provide important answers to how *the loss of significance of the law* has affected the lives of Filipinos.

Given that research on the Duterte administration's drug war and its effects on the rule of law in the Philippines is limited, the present study hopefully can highlight the importance of further exploring this complex phenomenon and the distressing developments it has influenced.

## **Bibliography**

- Abadie, R., Gelpi-Acosta, C., Davila, C., Rivera, A., Welch-Lazoritz, M. & Dombrowski, K. (2018) "It Ruined My Life": The Effects of the War on Drugs on people who inject drugs (PWID) in rural Puerto Rico. *International Journal of Drug Policy* 51:121-127.
- ABS-CBN News (2018) TOKHANG RELOADED: PNP's new guidelines. *ABS-CBN News*. January 29. Available at:  
<http://news.abs-cbn.com/focus/01/29/18/tokhang-reloaded-pnps-new-guidelines> (Accessed: 2018-05-01).
- Amnesty International (2017) *"If you are poor, you are killed": Extrajudicial Executions in the Philippines' "War on Drugs"*. London: Amnesty International Ltd.
- Andreas, P. & Youngers, C. (1989) U.S. Drug Policy and the Andean Cocaine Industry. *World Policy Journal* 6(3) 529-562.
- Ateneo Human Rights Center (2017) *Summary & Extrajudicial Killings in the Philippines: A Submission to the United Nations Human Rights Council for the Universal Periodic Review of the Philippines. 3<sup>rd</sup> Cycle, 27<sup>th</sup> Session.*
- Ballaran, J. (2018) Bato assures 'bloodless', 'real Oplan Tokhang'. *Philippine National Inquirer*. January 12. Available at:  
<http://newsinfo.inquirer.net/959650/bato-assures-bloodless-real-oplan-tokhang> (Accessed: 2018-04-26).
- Banakar, R. (2015) *Normativity in Legal Sociology: Methodological Reflections on Law and Regulation in Late Modernity*. Switzerland: Springer International Publishing.

- Barrett, D. (2011) Introduction: Counting the Costs of the Children's Drug Wars. In. D. Barrett (ed.) *Children of the Drug War: Perspectives on the Impact of Drug Policies on Young People*. New York: International Debate Education Association, 1-10. E-Book.
- Barrera, D.J. (2017) Drug War Stories and the Philippine President. *Asian Criminology* 12:341-359. DOI 10.1007/s11417-017-9253-x.
- Bautista, L.B. (2017) Duterte and his quixotic war on drugs. *University of Wollongong Australia Faculty of Law, Humanities and the Arts – Papers*. Available at: <http://ro.uow.edu.au/lhapapers/2866/> (Accessed: 2018-03-09).
- Bertram, E., Blachman, M., Sharpe, K. & Andreas, P. (1996) *Drug war politics: the price of denial*. Berkeley: University of California Press. E-Book.
- Boehringer, G. (2017) Duterte's drug war: violating rights for a quick fix. *Alternative Law Journal* 42(3) 233-236.
- Boon, A. (2005) The Formalisation of research Ethics. In R. Banakar & M. Travers (eds.) *Theory and Method in Socio-Legal Research*. Oxford: Hart Publishing, 301-326.
- Braun, V. & Clarke, V. (2006) Using thematic analysis in psychology. *Qualitative Research in Psychology* 3(2) 77-101.
- Campos, I. (2010) Degeneration and the Origins of Mexico's War on Drugs. *Mexican Studies/ Estudios Mexicanos* 26(2) 379-408.

- Carrier, N. & Klantschnig, G. (2012) *Africa and the War on Drugs*. London: Zed Books. E-Book.
- Casiple, R.C. (2016) The Duterte Presidency as a Phenomenon. *Contemporary Southeast Asia: A Journal of International & Strategic Affairs* 38(2) 179-184.
- Chapman, A.R. & Babor, T.F. (2017) Duterte's War on Drugs and the Silence of the Addiction Science Community. *Journal of Studies on Alcohol and Drugs* 78(4) 491-493.
- Creswell, J. (2015) *A Concise Introduction to Mixed Methods Research*. Los Angeles: Sage.
- Curato, N. (2016) Politics of Anxiety, Politics of Hope: Penal Populism and Duterte's Rise to Power. *Journal of Current Southeast Asian Affairs* 35(3) 91-109.
- Davis, K. (1975) *Administrative law and government*. St. Paul: West Publishing Co.
- Deakin, H. & Wakefield, K. (2014) Skype interviewing: reflections of two PhD researchers. *Qualitative Research* 14(5) 603-616.
- Deflem, M. (2008) *Sociology of Law: Visions of a Scholarly Tradition*. Cambridge: Cambridge University Press.
- Dicey, A.V. (1964) *Introduction to the Study of the Law of the Constitution*. 10<sup>th</sup> edition. London: Macmillan.
- Dombrowski, J. C., Dorabjee, J. & Strathdee, S. A. (2017) Atrocity in the Philippines: How Rodrigo Duterte's War on Drug Users May

- Exacerbate the Burgeoning HIV Epidemic. *Journal Of Acquired Immune Deficiency Syndromes* 76(1) 23-25.
- Ewick, P. & Silbey, S.S. (1998) *The common place of law: Stories from everyday life*. London: The University of Chicago Press.
- Fleetwood, J. & Torres, A. (2011) Mothers and Children of the Drug War: A View from a Women's Prison in Quito, Ecuador. In. D. Barrett (ed.) *Children of the Drug War: Perspectives on the Impact of Drug Policies on Young People*. New York: International Debate Education Association, 127-141. E-Book.
- Foucault, M. (1979) *Discipline and Punish: The Birth of the Prison*, New York: Random House Inc.
- Galen Carpenter, T. (2015) The Drug War's Damaging Impact on Mexico and its Neighbors. In M.W. Brienen, & J.D. Rosen (eds.). *New Approaches to Drug Policies: A Time for Change*. Basingstoke: Palgrave Macmillan, 17-34. E-Book.
- Gerber, J. & Jensen, E.L. (2011) The Internationalization of U.S. Policy on Illicit Drug Control. In J. Gerber & E.L. Jensen (eds.). *Drug War, American Style: The Internationalization of Failed Policy and its Alternatives*. New York: Garland Publishing, 1-18.
- Gray, J.P. (2001) *Why our drug laws have failed and what we can do about it: a judicial indictment of the War on Drugs*. Philadelphia: Temple University Press.
- Grant, J.A. (2017) The Ideals of the Rule of Law. *Oxford Journal of Legal Studies* 37(2) 383-405.

- Hamilton, R.J. (2014) Using Skype to Conduct Interviews for Psychosocial Research. *CIN: Computers, Informatics, Nursing* 32(8) 353-358.
- Hanna, P. (2012) Using internet technologies (such as Skype) as a research medium: a research note. *Qualitative Research* 12(2) 239-242. DOI: 10.1177/1468794111426607.
- Human Rights Watch (2018) Philippines: Duterte's 'Drug War' Claims 12,000+ Lives: Government Harassment, Threats Against Rights Defenders. *Human Rights Watch*. January 18. Available at: <https://www.hrw.org/news/2018/01/18/philippines-dutertes-drug-war-claims-12000-lives> (Accessed: 2018-02-15).
- Human Rights Watch (2017a) "License to Kill": Philippine Police Killings in Duterte's "War on Drugs". Human Rights Watch.
- Human Rights Watch (2017b) Philippines: Duterte Threatens Human Rights Community - Call for Police to Shoot Activists 'Reprehensible'. *Human Rights Watch*. August 17. Available at: <https://www.hrw.org/news/2017/08/17/philippines-duterte-threatens-human-rights-community> (Accessed 2018-04-26).
- Human Rights Watch (2008) Thailand's 'war on drugs': International Harm Reduction Association and Human Rights Watch briefing paper. *Human Rights Watch*. March 12. Available at: <https://www.hrw.org/news/2008/03/12/thailands-war-drugs> (Accessed: 2018-02-08).
- Ibanez, M. & Klasen, S. (2011) Is the War on Drugs Working? Examining the Colombian Case Using Micro Data. *The Journal of Development Studies* 53(10) 1650-1662. DOI: 10.1080/00220388.2016.1241386.



- Ingram, P. (1985) Maintaining The Rule of Law. *The Philosophical Quarterly* 35(141) 359-381. DOI: 10.2307/2219472.
- Inquirer (2016) FULL TEXT: President Rodrigo Duterte inauguration speech. *Philippine Daily Inquirer*. June 30. Available at: <http://newsinfo.inquirer.net/793344/full-text-president-rodrigo-duterte-inauguration-speech#ixzz57BXzJgVR> (Accessed: 2018-04-24).
- Iyengar, R. (2016) Inside Philippine President Rodrigo Duterte's War on Drugs. *Time*. September 15. Available at: <http://time.com/4495896/philippine-president-rodrigo-duterte/> (Accessed: 2018-04-05).
- Johnson, A. (1979) The Recognition of Differential Power in the Sociology of Law. *Mid-American Review of Sociology* 4(1) 57-70.
- Kaufman, E. & Weiss Fagen, P. (1981) Extrajudicial Executions: An Insight into the Global Dimensions of a Human Rights Violation. *Human Rights Quarterly* 3(4) 81-100.
- Kine, P. (2017) President Duterte's 'War on Drugs'. *Harvard International Review* 38(3) 24-27.
- Krygier, M. (2016) The Rule of Law: Pasts, Presents, and Two Possible Futures. *Annual Review of Law and Social Science* 12:199-229. DOI: 10.1146/annurev-lawsocsci-102612-134103.
- Krygier, M. (2013) Still a Rule of Law Guy. *UNSW Law Research Paper No. 2013-53*. (Available at <https://ssrn.com/abstract=2311858>).

- Krygier, M. (2012) Why the Rule of Law is too important to be left to lawyers. *Prawo i Więż* 2(2) 30-52.
- Krygier, M. (2011) Four Puzzles about the Rule of Law: Why, What, Where? And Who Cares? In Fleming, J.E. (ed.) *Getting to the rule of law*. New York: New York University Press, 64-104. E-book.
- Krygier, M. (2009) The Rule of Law: Legality, Teleology, Sociology. In G. Palombella & N. Walker (eds.) *Relocating the Rule of Law*. London: Hart Publishing, 45-70.
- Kvale, S. (2007) *Doing Interviews*. Los Angeles; London: SAGE. E-Book.
- Lasco, G. (2018) *Kalaban*: Young drug users' engagement with law enforcement in the Philippines. *International Journal of Drug Policy* 52:39-44.
- Lassiter, M.D. (2015) Impossible Criminals: The Suburban Imperatives of America's War on Drugs. *The Journal of American History* 102(1) 126-140.
- Lo Iacano, Symonds & Brown (2016) Skype as a Tool for Qualitative Research Interviews. *Sociological Research Online* 21(2) 1-15. DOI: 10.5153/sro.3952.
- Malinowska-Sempruch, K. & Gallagher, S. (2004) *War on drugs, HIV/AIDS, and Human Rights*. New York: International Debate Education Association. E-Book.
- Mallari Jr., D. & Tubeza, P.C. (2017) 'Oplan Tokhang' back nationwide. *Philippine Daily Inquirer*. March 6. Available at:

<http://newsinfo.inquirer.net/877688/oplan-tokhang-back-nationwide>

(Accessed: 2018-04-26).

Mann, S. (2016) *The Research Interview: Reflective Practice and Reflexivity in Research Processes*. London: Palgrave Macmillan. E-Book.

McCoy, A.W. (2017) Philippine Populism: Local Violence and Global Context in the Rise of a Filipino Strongman. *Surveillance & Society* 15(3/4) 514-522.

Mohamed, A.R. & Fritsvold, E.D. (2011) Under Cover of Privilege: College Drug Dealing in the United States. In D. Barrett (ed.) *Children of the Drug War: Perspectives on the Impact of Drug Policies on Young People*. New York: International Debate Education Association, 91-103. E-Book.

Mohammad, F. & Fulkerson, G. (2015) The “War on Drugs”: A Failed Paradigm. In M.W. Brienen, & J.D. Rosen (eds.). *New Approaches to Drug Policies: A Time for Change*. Basingstoke: Palgrave Macmillan, 229-249. E-Book.

Pangilinan, C.D. (2012) The Dispute over Extrajudicial Killings: The Need to Define Extrajudicial Killings as State-Sponsored Acts. *Philippine Law Journal* 86(4) 811-863.

Patten, D. (2016) The Mass Incarceration of Nations and the Global War on Drugs: Comparing the United States’ Domestic and Foreign Drug Policies. *Social Justice* 43(1) 85-105.

Pazzibugan, D.Z. (2017) ‘PNP paid killers P5,000 per drug users.’ *Philippine Daily Inquirer*. February 2. Available at:

<http://newsinfo.inquirer.net/867389/pnp-paid-killers-p5000-per-drug-user> (Accessed 2018-04-25).

PNP Commission (2016) *Command Memorandum Circular No. 16-2016*. Republic of the Philippines National Police Commission. July 1. Quezon City.

Polomarkakis, K. A. (2017) Drug Law Enforcement Revisited: The “War” Against the War on Drugs. *Journal of Drug Issues* 47(3) 396-404. DOI: 10.1177/0022042617697017.

Prieto Mora, H.U. (2018) Government advertising and the war on drugs: the narrative proposed by the Mexican Federal Government (2006-2012). *Communication & Society* 31(1) 107-124. DOI: 10.15581/003.31.1.107-124.

Reyes, D.A. (2016) The Spectacle of Violence in Duterte’s “War on Drugs”. *Journal of Current Southeast Asian Affairs* 35(3) 111-137.

Robins-Early, N. (2017) Killings Of Three Teens Prompts Public Scorn Over Duterte’s Philippine Drug War. *Huffingtonpost*. September 27. Available at: [https://www.huffingtonpost.com/entry/philippines-duterte-protests-teens-killed\\_us\\_59b04014e4b0354e440ee7ec](https://www.huffingtonpost.com/entry/philippines-duterte-protests-teens-killed_us_59b04014e4b0354e440ee7ec) (Accessed: 2018-04-26).

Rosen, J.D. (2015) The War on Drugs in Colombia: A History of Failure. In M.W. Brienens, & J.D. Rosen (eds.). *New Approaches to Drug Policies: A Time for Change*. Basingstoke: Palgrave Macmillan, 58-72. E-Book.

Rudovsky, D. (1994) The Impact of the War on Drugs on Procedural Fairness and Racial Equality. *University of Chicago Legal Forum* 1:237-274.

- Sandvik, K.B. & Hoelscher, K. (2017) The Reframing of the War on Drugs as a “Humanitarian Crisis” – Costs, Benefits, and Consequences. *Latin American Perspectives* 44(4) 168-182. DOI: 10.1177/0094582X16683375.
- Saumure K. and Given L.M. (n.d.) *Using Skype as a Research Tool: Lessons Learned from Qualitative Interviews with Distance Students in a Teacher-Librarianship Program*. Edmonton, AB. Canada: School of Library and Information Studies. University of Alberta. Available at: [www.lrsv.umd.edu/abstracts/Saumure\\_Given.pdf](http://www.lrsv.umd.edu/abstracts/Saumure_Given.pdf) (Accessed: 2018-02-05).
- Seitz, S. (2016) Pixilated partnerships, overcoming obstacles in qualitative interviews via Skype: a research note. *Qualitative Research* 16(2) 229-235. DOI: 10.1177/1468794115577011.
- Selznick P. (1968.) The sociology of law. In D.L. Sillis & R.K. Merton (eds.) *The International Encyclopedia of the Social Sciences*, Vol. 9. New York: Macmillan.
- Serafica, G.G. (2018) Putting a Face on the Philippines’ Drug War. *Asian Politics & Policy* 10(1) 154-159. DOI: 10.1111/aspp.12371.
- Shirk, D.A. (2011) *The Drug War in Mexico: Confronting a Shared Threat*. New York: Council on Foreign Relations, Center for Preventive Action. E-Book.
- Simangan, D. (2017) Is the Philippine “War on Drugs” an Act of Genocide? *Journal of Genocide Research* 20(1) 68-89.
- Simatupang, E. (2016) Getting out of the Trap of War on Drugs. *Jurnal Kebijakan dan Administrasi Publik* 20(2) 9-23.

- Spader, D.J. (1984) Rule Of Law V. Rule Of Man: The Search For The Golden ZigZag Between Conflicting Fundamental Values. *Journal of Criminal Justice* 12:379-394.
- Sullivan, J. R. (2012) Skype: An Appropriate Method of Data Collection for Qualitative Interviews? *The Hilltop Review* 6(1) 54- 60.
- Stansfield, L. (2017) Human Rights Advocacy in a Context of Extreme Securitisation: Amnesty International and the ‘War on Drugs’ in the Philippines (July 2016-May 2017). Master of Arts in Conflict Studies and Human Rights. *Utrecht University*. Utrecht.
- Stuart, S. (2011) War as Metaphor and the Rule of Law in Crisis: The lessons we Should Have Learned from the War on Drugs. *Southern Illinois University Law Journal* 36(1) 1-44.
- Tamanaha, B.Z. (2012) The History and Elements of the Rule of Law. *Singapore Journal of Legal Studies* 232-247.
- Tigno, J.V. (2018) The Philippines in 2017: Popularity Breeds Contempt. *Asian Survey* 58(1) 142-148. DOI: 10.1525/AS.2018.58.1.142.
- Timasheff, N.S. (1937) What is “Sociology of Law”? *American Journal of Sociology* 43(2) 225-235.
- Thompson, M. R. (2016a) The Specter of Neo-Authoritarianism in the Philippines. *Current History* 115(782) 220-225.
- Thompson, M. R. (2016b) Bloodied Democracy: Duterte and the Death of Liberal Reformism in the Philippines. *Journal of Current Southeast Asian Affairs* 35(3) 39-68.
- Thompson, G.D. (2014) Slowly Learning the Hard Way: U.S. America’s War on Drugs And Implications for Mexico. *Norteamérica* 9(2) 59-83.

- Treviño, A. J. (2008) *The Sociology of Law: Classical and Contemporary Perspectives*. New Brunswick: Transaction Publishers.
- United Nations (2002). *Human rights and law enforcement: A trainers guide on human rights for the police*. Geneva: Office of the UN High Commissioner on Human Rights.
- Villamor, F. (2018a) Philippine Police Resume War on Drugs, Killing Dozens. *The New York Times*. February 2. Available at: <https://www.nytimes.com/2018/02/02/world/asia/philippines-drug-war.html> (Accessed: 2018-02-15).
- Villamor, F. (2018b) International Criminal Court Will Investigate Duterte over Drug War. *The New York Times*. February 8. Available at: <https://www.nytimes.com/2018/02/08/world/asia/philippines-duterte-hague.html> (Accessed: 2018-02-15).
- Villamor, F. (2016) Duterte, Citing Hitler, Says He Wants to Kill 3 Million Addicts in the Philippines. *The New York Times*. September 30. Available at: <https://www.nytimes.com/2016/10/01/world/asia/philippines-rodrigo-duterte-hitler-drugs.html> (Accessed: 2018-02-15).
- Villaroman, A. (2017) The State of the Filipino Child under Duterte's "War on Drugs". *PhilRights*. November 20. Available at: <http://philrights.org/the-state-of-the-filipino-child-under-dutertes-war-on-drugs/> (Accessed: 2018-02-15).
- Weiss, B. (2017) The lawyers taking on Duterte over his 'war on drugs'. *Al Jazeera*. April 24. Available at: <https://www.aljazeera.com/indepth/features/2017/04/lawyers-duterte-war-drugs-170406100150963.html> (Accessed: 2018-04-26).

Wolfesberger, P. (2017) Coercive Inclusion in the Mexican War on Drugs – A Field Study of Human Rights and the State in Michoacán. *Latin American Perspectives* 44(5) 91-107. DOI: 10.1177/0094582X17713753.