

# Duterte's Philippines: Extrajudicial Killings and the Road to Martial Law

Friday 3 March 2017, by [FENTON James](#) (Date first published: 23 February 2017).

## Contents

- [Murderous Manila: On the \(...\)](#)
- [Duterte's Last Hurrah: On \(...\)](#)

### Murderous Manila: On the Night Shift

One night in December, I was standing in heavy rain, under an umbrella, in a dark Manila alleyway, outside a house known to be a drug den, waiting with “the night shift,” the photographers and reporters on the crime beat, on the off chance of being shown upstairs to the scene of the killings. We knew the story in outline only: four men had been getting ready for a pot-smoking session on the second floor when a masked intruder burst in and shot them all dead. There was one witness, a sixteen-year-old boy, but he was said to be too shocked to speak.

Now the police were examining the upstairs room, while we examined the alleyway. There wasn't much to it. Someone had scrawled on the wall two local synonyms for pot: dubie and chongkee. So this had been a potheads' hangout. Now, for a while, it would belong to the SOCO—the scene of crime operatives—before the bodies were handed over to whichever firm of undertakers enjoyed the concession for this kind of work. There was an established routine in these matters.

A man came out of the building and stopped, seemingly on an impulse, as he passed by me. He was more carefully dressed than the rest of us. From the fact that he was accompanied by his own barangay policeman, I took him to be a local official, perhaps the barangay captain himself. [1] “Excuse me,” he said, in a tone that managed to be both urgent and fussy, “but, as a matter of information...as a matter of information, something terrible has happened here.” His face had a crumpled look that I recognized instantly from long ago—the look of a face that had seen something our faces were not designed to see: carnage, for instance.

“As a matter of information,” he repeated, as if the phrase were something he could lean on, when all other props had suddenly been kicked away, “as a matter of information, something terrible has happened in this country.” Then he made as if to go, so I was moved to thank him for taking time with me. And I turned toward the upstairs room. “Can you tell me,” I asked, “what has happened there?” He looked back with horror toward the scene he had clearly just left. He seemed about to use one word, then change his mind in order to frame the modish acronym that offended his natural fastidiousness. “EJK,” he spat it out, “EJK!” and left.

There are two chief kinds of carnage taking place here, these wet Manila nights. There is the “buy-bust” operation, in which the targeted criminal attempts to buy some drugs, only to find that he is dealing with undercover police. He panics and reaches for a weapon, a pistol perhaps or a kind of homemade shotgun. Before he can use it (so the familiar script reads) the police shoot him dead.

There have been around two thousand of these buy-bust killings since the war on drugs under President Rodrigo Duterte began at the start of July. The dead are both pushers and users. If you're a user, Duterte's wisdom has it, then you're also a pusher. And even if you aren't a pusher, the users of the drug in question, "shabu" or crystal meth, very soon forfeit their claims to humanity. They lose their souls. The only thing to do with them is kill them.

This is the horror topos. I heard it, without asking for it, on my first day here in the Philippines. The *shabu* user, deluded and inhuman, looks at his family and what he sees coming at him is a pack of wild beasts. He becomes frantic. It's him or them, do or die. Don't talk to us about the human rights of this kind of violent zombie. Get real. Kill him before he kills you.

A rival view: just as Valium was nicknamed "mother's little helper" in the Rolling Stones' (actually rather hypocritical) song, so shabu, in modest quantities, helps the poor man a little better to endure a difficult life, and in particular to work longer hours. We heard this at a wake, from the pregnant widow of a pedicab driver. He took shabu once a week on this kind of pretext. His wife, she told us, said to him: If you can do that and still support the children, that's all right. The calculation depended on his ability to function as a breadwinner. But it was a miscalculation, for the husband fell victim to an EJK.

An EJK, the second form of carnage, is an extrajudicial killing, and it was outnumbering the buy-bust incident, this December, by roughly two to one. A buy-bust is of its nature attributable. A particular group of policemen takes responsibility for a particular killing on grounds of self-defense, and though doubt may be cast on their story (which repeats and repeats the same formula) there is no mystery about the people involved. The people the police shoot "in self-defense" are classed as *nanlaban*, which means "fought" as in "he fought back." But Duterte himself, in a speech before Christmas, in a mixture of English and Tagalog, seemed to imply that the guns found at such crime scenes had been planted, and on his orders too:

I said, O sir, if they are there, destroy them also. Especially if they put up a good fight. O 'pag walang baril, walang—bigyan mo ng baril. [If they don't have a gun, give them a gun.] Here's a loaded gun, fight because the mayor said, let's fight.

The rules of the buy-bust may be a transparent fiction, but an EJK is an act of terrorism. Its anonymity is of the essence. Nobody knows who is organizing this program of killings, or who is carrying them out. Duterte's many remarks on the killings often contain some element of ambiguity. Referring to a particularly gruesome form of killing, in which the victims are found with their faces wrapped in plastic packing tape (presumably they died through asphyxiation), Duterte said:

We do not do that. It's a dirty job. It is unmanly to tie them up; wrap them—it's a form of torture.... That's not the work of the police or the soldier even. Why the trouble of wrapping them up if you can just kill 'em? We are not producing mummies.

What we hear, and what we can extract from the president's monotonously droning speeches, sounds like (and is meant to sound like) scraps of confidential instructions to the police: if the victim doesn't have a gun, give him one; don't waste the effort on torturing him—just kill him. But as soon as the president is taken up on such remarks, there is either an aide on hand to say that he was exaggerating when he said that, that his words are to be taken seriously but not literally, or the president himself is denouncing his critics in another speech, calling them any name that comes into his head. Meanwhile the message to the public at large is: whatever happens, Duterte's hand is in it; and there is no real distinction between a buy-bust and an EJK.

An EJK I covered went like this. It was the middle of the night and the family was asleep. Masked

men barged in. "Where is Fernando?" said an intruder. A woman answered: "There's no one called Fernando here." At this point, an eight-year-old girl woke up her father, Ernesto. As he awoke, Ernesto said, "Oh." He was shot immediately in the middle of the forehead. The intruders escaped.

They nearly always escape. At one such scene in the north of Manila, a man had been shot in a warren of a building, where the passageway was almost too narrow for two people to pass. And there was only one exit, a set of awkwardly constructed steps. I was examining these steps and thinking what confidence it showed on the part of the killers, to choose a place that was so difficult to get out of, for their planned murder. Then I was told what the neighbors had said. They had said: When the shooting began, we all closed our doors.

Of course you would. You would close your doors and wait. And the killers would know you were going to do that. And when we say "doors" here, you mustn't imagine anything more than an old piece of repurposed plywood, ill-fitting, no doubt. One such front door, in another poor home, had a gap on either side, through which the killer was able to fire into the house. The second shot found its intended victim. The first shot killed his six-year-old son.

You open your eyes. Your son is dead. Then you're dead next. This is an EJK.

At the wake of the victim and his son, the two open caskets were on display in the marketplace. Sympathizers came to sit with the family and (as is the custom) play cards—the men and women at separate tables. The faces of the dead were visible under panes of glass or clear plastic. On the child's coffin, newborn chickens had been placed, with a small supply of cornmeal. The tradition is that the chickens peck at the consciences of the killers. One stared down at the face of the child through a surface smeared with chicken shit. Below the coffins sat the pregnant mother with a baby in her lap—pale and sickly both of them. The chickens went on picking at the meal.

An EJK can be extremely swift. At one crime scene, the CCTV showed masked men breaking into a man's house at 01:58. When they came out again, having shot the man, it still showed 01:58. The timer on the CCTV was functioning. It had simply taken less than a minute for the killers to break in and do their work. And this, in part, would be because the house of the victim was—like many houses of the poor—nothing but a lean-to shack, in essence, occupying six feet or so of sidewalk, but probably no more than four feet deep.

Care had been lavished on this structure, which was formed partly out of the remains of what looked like an old picket fence, painted in alternate stripes of blue and white. A screen in a small window had been devised, using a child's plastic abacus, to establish a little privacy. It could have been a cheerful sight—many slum dwellings are colorful and cheerful, particularly with the Christmas decorations at this time of year—were it not for the corpse, and the SOCO, and the arriving undertakers, one of whom wore a T-shirt inscribed: Mother Teresa Crematory and Columbaries.

The police summon the undertakers (with whom, as mentioned, they seem to have an arrangement), and the hearts of the poor just sink at the thought of the cost. A thousand dollars at least will have to be found. It is not uncommon, when a woman is informed of her husband's death, for her very first reaction to be: We can't afford this! Don't take him away—we haven't the money. But the undertakers have their work to do.

There are mourners in the crowd. Beside me are two middle-aged men, one wearing the T-shirt of the barangay police, the other with his arms draped around his friend's neck. One might suppose them a couple, from the way they lean against each other for support. But I think that support is what this intimacy is about. One of the men has been weeping, and from time to time the tears return. It is an ugly face, and grief has made it uglier, as it often does. It is ugly and touching,

indifferent to the crowd, a face looking toward the house where the men from the Mother Teresa are working, in that narrow space, to get the body into the bag they have brought.

I cannot help noticing, when the reporters and photographers of the night shift arrive at the scene of a crime, and we step smartly along the slum alleyways, and the people in the doorways know exactly what it is we are about, how often the crowd will include cross-dressing or transgender onlookers, with wild hair dyed and styled by themselves (the beauty industry is one place they can find work). One half-expects them to be as aggressive as their fashion sense, but they hang back a little shyly at the edge of the scene.

Now, outside the picket-fence house, the daughter of the dead man tells the press that she does not believe this has anything to do with drugs. Her father was neither a user nor a pusher. But there had been a row over some money entrusted to him in connection with some construction project. And there had been death threats in some other connection. So, if what she was saying was true, this particular killing was a settling of scores, designed to mimic an EJK of the familiar kind. The drug war becomes a cover for other forms of revenge.

As G.K. Chesterton's hero Father Brown put it in one story: Where does a wise man hide a pebble? On a beach; and where does a wise man hide a corpse? On a battlefield. Many pebbles, it is believed, have been hidden on this particular beach. And you can imagine the variety of pretexts there would be for revenge—old insults, rivalries, a sense of injured merit, matters of love and sex. And then those kinds of fury that can come at you out of nowhere, when for instance a drinking session has gone on too long, or when, indeed, drugs have induced a bad trip.

A mystifying example of corpses hidden in plain sight: a series of bodies were found with the usual cardboard placard explaining their crime, only this time they were identified as "barkers." A barker is the man who calls the passengers to board a jeepney (the local form of small bus). There is nothing disreputable or antisocial about being a barker—indeed, it must be a very old profession, much older than the jeepney itself. One can only assume that a particular individual was done a particular injury by a particular barker, an injury so bad that he was moved to take vengeance on the profession.

On two occasions, during the short time that I was going out regularly on the night shift, we came to a scene where there appeared to be no mourning for the newly killed. Once, to the north of the city, where it seemed we were just on the edge of the countryside, we left our vehicles to walk down an unpaved road. There was birdsong, from caged birds. I had a strong sense of going back to the barrio, to rural life, after an absence of many years (I lived for a while in a remote part of Luzon).

People waited, pressing against the police tape. We looked toward a house, the property of a man whose habit it was, so the neighbors said, to get high on drugs, and then start shooting at random. Naturally the neighbors did not like this, and had been complaining for some time to the police. That night, finally, their calls had been answered. The police had arrived and, as they approached the house, the man shot at them, grazing the head of one of the officers (who thought at first he was a goner). According to the police, the enraged man had been sitting at home, with a bucket full of bullets at his side. They killed him and three of his companions. No one, as far as we could tell, was weeping.

Another night, we came to a scene where the policeman in charge was proud to announce a classic buy-bust operation. The dead man had been a dealer, a loner, and as we learned from the neighbors, a man with a sinister past who was said to have killed his son. He had defended himself, we were told, with a homemade shotgun. He was dead but in a place that it would be impossible for us to visit, up some unsafe steps. We settled down to wait for the body bag.

The part of town in which the dealer had lived was, at first sight, the same kind of shanty agglomeration as I had visited elsewhere on the night shift. On closer inspection, it turned out to be a cut above the rest. The houses were made of cinder blocks or real timber, and extended to two floors or sometimes more. Often they were well painted, and while it might be an exaggeration to call the place clean (or rat-free), it was kept tidy and well swept, and the more you looked, the more evidence you saw of the daily effort being undertaken to make life just that little bit better than you might expect. There were the Christmas lights, of course, along the narrow pedestrian main street. And there were pots of sampaguita, Philippine jasmine. The people were friendly and hospitable, and lent me an umbrella and a stool.

If, in what I had come across going out on the night shift, there was anything that had probably met the aspirations of those who had voted for Duterte as president in May, it was these two scenes. For Duterte was and is very popular, and his drug war is popular too, for the moment. People like the drug war, but they are not entirely at ease with it. They do not think that the victims of that war should die (although that is a defining characteristic of the war so far). On the other hand, when there is somebody particularly antisocial, as in the two cases above, they are prepared to say: "He deserved it."

In a survey by Social Weather Stations, 69 percent of those polled thought the incidence of EJKs was either very or somewhat serious. Only 3 percent thought it not serious at all. As to whether they believed that police were telling the truth that the suspects they killed in buy-bust operations had really resisted arrest, doubters and believers were evenly split, with 28 percent saying the police were definitely or probably telling the truth, and 29 percent saying they were definitely or probably not doing so. Overwhelmingly, however, 88 percent agreed, strongly or somewhat, that since Duterte became president, there has been a decrease in drug problems in their area. And that is the perception that appears to have trumped all others.

There's less of a drug problem. You can walk the streets at night, one is told. And yet the price paid is most striking. Asked how worried they were that they or someone they knew would become the victim of an EJK, 45 percent replied that they were very worried, and a further 33 percent that they were somewhat worried. That is to say, four out of five respondents were worried to a significant degree that they, or a friend of theirs, might end up bound and gagged in the gutter, or shot by a masked man on a passing bike, or woken in the small hours to receive a bullet in the head.

Are they right to worry? Statistically, the answer would seem to be no. If you are young, male, and poor, then, yes, you should worry. For Duterte's war seems very much to be a war against the poor. But the further you move up the social ladder, the less you are likely to be affected.

That kind of reasoning, however, rather ignores the pervasive effect of terrorism. The targeted killings have their message for the world of the drug users and dealers. The crazy and seemingly haphazard extrajudicial killings, the corpses suffocated with packing tape and dumped at the side of the road with sadistic jokes on cardboard signs (and one that, when turned over, revealed a smiley face) have a message for everyone: nobody is safe.

A student was shot in Manila the other day, by a typical "tandem" team of two men on a motorbike. As the shooter got back on the bike, he was heard to say: "It's not him."

Once again, it's the speed that's unnerving. The killer takes aim, but in the moment he shoots he knows he's made a mistake.

But these mistakes have their part in the whole grand plan: no one will be safe until many, many more have died.

**James Fenton**

\* *The New York Review of Books*. FEBRUARY 9, 2017 ISSUE:

<http://www.nybooks.com/articles/2017/02/09/murderous-manila-on-the-night-shift/>

*This is the first of two articles.*

---

## **Duterte's Last Hurrah: On the Road to Martial Law**

Landing last December at Ninoy Aquino International Airport in Manila brought back memories of Ninoy Aquino himself arriving from the US in 1983 on the tarmac that was to be christened with his blood. He was the leading figure in the opposition to the dictatorship of Ferdinand Marcos, president of the Philippines from 1965 until 1986. Aquino had been imprisoned by Marcos for seven years and seven months. His health had suffered; he had been on a hunger strike until his family pleaded with him to stop, had gone to the United States for treatment for a heart condition, and now, hearing that Marcos was seriously ill, and sensing that this was the moment he must act, he was coming back out of self-imposed exile, bearing a false passport under the name Marcial Bonifacio.

This return is made most vivid by a TV report, which can be found on YouTube. Ninoy knew that his best chance would be to be placed under house arrest. Next best: back to solitary confinement. The worst option: to be shot then and there. A number of press people accompanied him, and the hope was that their presence might guarantee his immediate safety.

The plane lands. A group of soldiers comes on board and asks Ninoy to accompany them. He gets up out of his seat in a manner that for all the world might seem to indicate resignation to some tedious task ahead. The soldiers escort him off the plane. The press moves forward, trying to follow. Nine seconds later there is gunfire, and four seconds after that there is another longer burst. The first shots are the ones that kill Ninoy. The second are aimed at Rolando Galman, a supposed assassin who would take the posthumous blame for Ninoy's death.

In the first nine seconds, the soldiers take Ninoy onto the jet bridge and then down a service stair. On one recording you can hear a soldier saying: "I'll do it. I'll do it." The bullet enters the top of the back of Ninoy's head and exits through his nose. Its downward trajectory indicates that the killer shot Ninoy from above, that is, while the group was still on the service stair. And as soon as Ninoy was dead, someone else turned and shot the patsy Galman.

It seemed a crude piece of theater at the time. You had to be a die-hard Marcos loyalist to be remotely convinced by it. And the killing indeed marked the beginning of the end of the dictatorship, even though that last act took another three years to play out.

Looked at now, however, in the era of a thousand killings a month, the murder of Ninoy seems to belong to a society in some respects more refined than that ushered in by the election of Rodrigo Duterte as president in 2016. Martial law under Marcos lasted from 1972 to 1981. Over three thousand people were killed, many of them cases of "salvagings"—bodies found tortured and mutilated, dumped at the roadside, much like the victims of today's EJKs—extrajudicial killings—only far fewer of them, of course. Indeed, twice as many have been killed during Duterte's first six months, starting last June, as in the decade of martial law.

Still, in the case of Ninoy, a certain lip service was paid to due process. An alibi was carefully prepared. Ninoy was warned against returning to the Philippines—warned by one of Marcos’s top men that he faced the risk of assassination. And an assassin was found and sacrificed, as it were, at the scene of the crime. When the postmortem contradicted the official story, an alternative postmortem was sought and found. There was some sense lingering in Marcos’s circle of what a respectable outcome would look like, even if respectability was not achieved.

Today by contrast the pretense of due process is impossible, because the man at the top simply blows it away. One of Duterte’s chief selling points as a leader is that he doesn’t give a shit. So, when he gets in front of any crowd, he will say whatever he thinks will make an impact at that very moment, and it is striking that most of the most shocking things we have learned about Duterte have come from his own mouth. For instance, it was Duterte who compared himself to Hitler:

*“Hitler massacred three million Jews. Now there is three million, what is it, three million drug addicts [in the Philippines] there are. I’d be happy to slaughter them. At least if Germany had Hitler, the Philippines would have [me]. You know my victims. I would like them to be all criminals, to finish the problem of my country and save the next generation from perdition.”*

It was Duterte who revealed that he had been abusing fentanyl, the synthetic opioid—the drug involved in the deaths of both Michael Jackson and Prince, which is supposed to be a hundred times more powerful than morphine. He needs painkillers to combat both his daily migraines and the pain from a motorcycle accident, which damaged his spine. However, when he saw the reaction to this revelation, he thought again. “Fools,” he said, “I just made up that story and you believed it.”

Addicted or not, he has, on his own admission, four concurrent illnesses: acute bronchitis, regular migraines, Barrett’s esophagus, and Buerger’s disease. But as he is careful to point out, not cancer. His mortality, however, does seem to weigh upon him and he often alludes to it. Speaking to members of the Filipino community in Cambodia in December, he said: “This is my last hurrah. After this, 77. I am not sure if I will still be around by the end of my term.”

So far, Duterte’s war has been largely against the softest of targets—drug users and small-time pushers, pedicab drivers and the like, whose families are too poor to hit back in any way. None of them can afford to sue the police, or to mount any kind of campaign on behalf of the victims. It is out of the question.

Of course a campaign that is largely a war on the poor is going to be short on credibility, so Duterte has recently been raising his sights a little, and increasing his attacks on the mayors who are said to be involved in the “shabu,” or crystal meth, trade. In January this year he was quoted as saying: “As long as I’m president, these big ‘shabu’ dealers will die and the next batch would really be these mayors. I will call them and lock them up.” He has a thick dossier that he regularly displays during such speeches. “I will talk to them,” he said. “With the thick document I showed you, I will tell them, ‘Look for your name there, you son of a bitch. If your name is there, you have a problem. I will really kill you.’”

One mayor who has indeed been killed is Rolando Espinosa, of Albuera, on an island some 350 miles from Manila. Duterte said on this same occasion, “He was killed in a very [questionable way], but I don’t care. The policemen said he resisted arrest. Then I will stick with the story of the police because [they are] under me.” (Espinosa was shot in a police cell, early in the morning. He was already in detention.) Duterte continued: “I might go down in history as the butcher. It’s up to you.” And then: “Since I have nothing to show, I just use extrajudicial killing. [That’s because] I have no credentials to boast about.”

The meaning of the last two sentences may be a little opaque, but the essential implication is quite clear—clear enough for Duterte’s spokesman, Ernesto Abella (whose job it is to go on air and say: This never happened, he never said what you heard him say), to remind the public that this kind of violent rhetoric is merely a reflection of the president’s sincerity in his efforts to wipe out the drug menace. Abella said:

*“It is...a matter of the leadership style and the messaging style of the President.... This is his messaging style to underline his intention. He is serious about it.... However, it’s just meant to underline his seriousness in making sure that nobody is corrupt and involved in criminality.”*

Well, yes, it is Duterte’s messaging style that is at issue here, if you like, but the message he is putting over is that if the police say a man resisted arrest, he, Duterte, is going to believe them, even in the face of contrary evidence from the National Bureau of Investigation, and even if the case they make is “questionable.” As far as the crucial issues of life and death are concerned, you are living in a police state.

It doesn’t always feel like a police state. People talk freely and there is a vocal, critical press. There is an opposition, although it seems as yet ineffective. One’s instinct (remembering the forces that eventually combined to overthrow Marcos in 1986) is to wonder, where are all the clergy, where are the nuns? Where is the left? The answer seems to be that, for as long as Duterte’s extraordinary popularity holds up, there is a feeling that “now is not the time,” but that the time will come. Meanwhile, Duterte operates with such impunity that he doesn’t seem to need the full trappings of a police state.

Take the case of Mayor Espinosa, who was said to be one of the narco-mayors and was being held in the subprovincial jail in Baybay, Leyte. At around 3:00 AM on November 5 last year, eighteen members of the police Criminal Investigation and Detection Group (CIDG) came ostensibly to search his cell for drugs and guns. To acquire their search warrant, one of them claimed to have seen Espinosa holding a gun, sitting on his bed in jail, while an inmate, Raul Yap, was repacking shabu in another cell. On the morning of the search there was—they said—an exchange of gunfire, at the end of which Espinosa and Yap lay dead.

A month later, the National Bureau of Investigation (NBI), a civilian body that answers to the Department of Justice, announced its findings. The police story had fallen to pieces on examination. The officer who claimed to have seen the gun and the drugs had not been to the prison on the day he claimed. The forensic evidence and the testimony of other inmates in the cells at the time told a different story. Espinosa, on the arrival of the police in his cell, had first welcomed them, then pleaded for his life and told them not to plant anything on him. The prisoners in the same cell as Yap were ordered to get out, leaving Yap alone. After two bursts of gunfire, a policeman wearing gloves and carrying a gun was observed entering Espinosa’s cell. When he came out again he no longer had the gun. It was, said the NBI, a rubout, not a shootout.

The eighteen members of the CIDG group who killed Espinosa and Yap were charged with multiple murder and (some of them) with perjury. Six other officers were also charged. The group had been accompanied by the prison superintendent, Marvin Marcos, who had previously been removed from office after being associated with the drug trade. But he had been reinstated, according to the director general of the Philippine National Police, Ronald dela Rosa, at the request of “a friend.” This friend turned out to be Duterte himself.

As soon as the NBI announced that it was bringing charges against the policemen, Duterte publicly rose to their defense. “I will not allow these guys to go to prison,” he said, “even if the NBI says it was murder. After all, the NBI is under me, the Department of Justice is under me.” As usual,



though, there was an element of ambiguity, for he went on: “But to tell you, I do not interfere. They have findings, good. File the case but I won’t leave the policemen implicated in the killing.”

This kind of *carte blanche* must be comforting for the police to receive. Duterte said: “Whatever the police say, that’s the truth for me. The NBI said it was murder. The police said, ‘Sir, he fought back.’ I believe the police. Why would I sacrifice the police for that?”

Once again, a highly placed figure was on hand to explain that the president’s words did not mean what they appeared to mean. The Department of Justice secretary, Vitaliano Aguirre II, said that Duterte’s remarks were mere “exaggerations” and “hyperbole” in the exercise of his “right to freedom of expression.” He said that “the president has not and will not interfere in the preliminary investigation to be conducted by the Department of Justice. He does not micro-manage any department. As a matter of fact he has not even for once [given me orders on what to do].”

The crucial, ominous subject on which Duterte has expressed his discontent is the constitution of 1987 and its provisions for the declaration of martial law. The government of Cory Aquino, Ninoy’s widow, came to power through the revolution of 1986, and found the Marcos constitution so compromised that it would have to be replaced. So for her first year Cory was a revolutionary, but the constitution that she introduced was designed to prevent a repetition of one-man rule. In particular, the new constitution reinstated single six-year terms for the office of president and stipulated that, in case of rebellion or invasion, when the public safety required it, the president might, for a period of sixty days, suspend habeas corpus or place the country, or any part of it, under martial law.

But there was this restraint. The president was and is obliged to submit a report to Congress within forty-eight hours of declaring martial law, in person or in writing. Congress can revoke martial law or the suspension of habeas corpus. Furthermore, the Supreme Court must review a petition filed by any citizen of the Philippines questioning the factual basis for either the suspension of habeas corpus or the introduction of martial law. And the Court is obliged to make a decision within thirty days of the filing of the petition.

You can see why Duterte doesn’t like these provisions. What he argued just before Christmas was that the safeguards are an “almost reckless reaction” to the rule of Ferdinand Marcos. Only the president should be directing the show. “If I declare martial law and there is an invasion or war, I cannot proceed on and on, especially if there is trouble. I have to go to Congress, I have to go to the Supreme Court if anybody would file a complaint to look at the factual [basis of the declaration].”

But the “factual basis” of what he has done so far is, to say the least, wobbly. And if, as would appear, the key to Duterte’s fanatical persecution of drug addicts and dealers is that these unfortunates are the modern equivalent of Communist rebels, the new “enemy within,” then it is up to Duterte’s fantasy to decide when the state is in danger. Facts hardly come into it. The framers of the Cory constitution made an attempt to envisage what might justify martial law: an invasion, they said, or a rebellion. Well, there’s no invasion, and as for rebellions there has hardly been a time since World War II when there hasn’t been some sort of rebellion bubbling away somewhere in the country.

In January of this year Duterte returned to the subject. “If I wanted to,” he said, “and if it will deteriorate into something really very virulent, I will declare martial law.... No one can stop me. My country transcends everything else, even the limitations.” In other words, his feelings for his country will override the constitution. He said: “The sixty-day limit will be gone.” That is, martial law will last as long as he wants it to. “And I’ll tell you now, if I have to declare martial law, I will declare it—not about invasion, insurrection, not about danger. I will declare martial law to preserve my

nation—period.” That is, he has already declared the 1987 constitution null and void.

But here’s how Salvador Panela, the presidential chief legal counsel, defended Duterte:

*“The President’s statement that he would declare martial law should the problem in the illegal drug trade become virulent—effectively threatening the institutions of the Republic and putting in grave peril the integrity and survival of the nation—is but a dramatic and graphic presentation of an exercise of presidential power and duty imposed on him by the constitution.”*

This is precisely the opposite of what has happened. Duterte is saying that he will defy the “duty imposed on him by the constitution.”

There is evidence that not everyone in the police force relishes working under Duterte. Here is Francisco S. Tatad, writing in *The Manila Times* on December 9:

*“The sense of moral revulsion and outrage from the community and even from the police has grown and is growing. Among the young policemen there is some deep questioning about the morality of killing. This is especially so among those who have tried to bring in as many drug users as possible for detention and rehabilitation, only to be told that the chief implementor of the drug war would like to see more dead bodies, not merely useless users.”*

Because of this, more and more young policemen have applied for schooling in order not to get involved in the killings. Police sources say there are more policemen applying for schooling than at any other time before, and those who are already there are in no rush to complete their schooling.

Their effort to find a “crevice in the rock,” as it were, where they could hide their heads while the storm blows, appears to find encouragement and support in their elders, usually retired policemen who happen to be their fathers or friends of their fathers.

Things will get worse this year if Duterte has his way. The death penalty, abolished a decade ago, will be restored, and the age of criminal liability will be lowered from fifteen to nine. After that, Duterte has said, he envisages executing five or six criminals a day.

At the police Christmas party, Ronald dela Rosa, the director general of the National Police, addressed the Almighty in rueful terms. “Sorry Lord, forgive us, but all I can say is we’re doing this not for ourselves or for whatever purpose—not for our personal gain, but for the future of our nation.” He said that policemen who kill drug suspects also need prayers. “The Christmas gift we’re wishing for policemen is prayer for the Lord’s forgiveness. Even if those who have died are bad, they are still people, they are still human beings and they still deserve to live and we have no right to take their lives—but things happen because we don’t have complete control of the situation.”

Having got that off his chest, he went on to pose for “groupies” in a floppy and adorable four-star Santa hat.

## **James Fenton**

\* *The New York Review of Books*. FEBRUARY 23, 2017 ISSUE:

<http://www.nybooks.com/articles/2017/02/23/duterte-philippines-road-to-martial-law/>

—This is the second part of a two-part article. Research was supported by the Pulitzer Center on Crisis Reporting.

---

## **P.S.**

\* Research for these articles was supported by the Pulitzer Center on Crisis Reporting.

\* <http://www.nybooks.com/articles/2017/02/23/duterte-philippines-road-to-martial-law/>

---

## **Footnotes**

[1] A barangay is the smallest unit of local government administration in the Philippines. Each barangay has a captain and a group of councillors.