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The War on Drugs in Southeast Asia as 'State Vigilantism'

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Abstract:

This paper makes the case that existing typologies of political violence and state killing do not capture the character of extra-judicial killings seen in the Philippines' ongoing war on drugs, and its forerunner which took place in Thailand in 2003. It will argue that the thousands of murders witnessed in both campaigns represent a distinct form of targeted killing, which is state directed and biopolitical in form, in attempting to discipline vital aspects of human life. It is this disciplinary element which raises questions of vigilantism, which was historically an extra-legal form of social control. As a consequence, the paper responds to the lacuna in current targeted killing literature, which has neglected and as a consequence undertheorized how states utilise apparent vigilante violence for political ends in the context of the war on drugs. Comparing both Rodrigo Duterte and Thaksin Shinawatra's tactics in their respective wars on drugs, it will demonstrate that state vigilantism as a typological category refers to intense periods of extrajudicial killings, where the state seeks to dehumanise a target group while actively orchestrating vigilante style violence against it.

Keywords: extrajudicial killing, vigilantism, targeted killing, Philippines, Thailand

To date, as many as 27,000 people are estimated to have been killed in Philippine President Rodrigo Duterte's war on drugs (Regencia, 2018; Amnesty International, 2019). As has been noted by Atun et al (2019) and Lasco (2020), Duterte's campaign bears some striking similarities to a purge undertaken by Thai Prime Minister Thaksin Shinawatra in 2003, where as many as 2873 people were killed (Choonhavan, 2013). The Philippines mission to the UN (2017) has blamed 'vigilante elements' for such extrajudicial killings, but it is clear that in many cases they are orchestrated by the police, much as they were in 2003 in Thailand. Thus, the interest here will be to show how in both drugs wars, the state attempted to incite and justify what they presented as vigilante justice against drug users and dealers through biopolitical techniques of discipline and surveillance. Whilst the discourses and populist tropes used in the Thai and Philippine drug wars have been examined by Lasco (2020), at present no in-depth comparative analyses of the character of killings in both contexts have been undertaken. Consequently, this essay accounts for the question of why state vigilantism as a distinct typological category is necessary and how states utilise it as a means to achieve their policy aims as part of the war on drugs. Further, the two case studies will show how state vigilantism has manifested itself in anti-drugs campaigns in both countries.

In short, this essay will argue that state vigilantism exhibits five distinctive features relating to the type of violence, the role of state institutions, the modes of organisation and the ways in which targets are established. Collectively, these features set state vigilantism apart from other forms of extrajudicial killing. To demonstrate this argument, existing models of targeted killing will be considered to show how their attendant logics of risk are not applicable to the killings discussed here. Following this, the main features of state vigilantism will be explicated with reference to the drug wars in Thailand and the Philippines. From this, precedents for such state vigilantism will be traced historically within both countries. The extent of state involvement, and the patterns of this will then be demonstrated. Finally, two sections will give an overview of how state involvement was obscured and denied in both case studies.

Before proceeding, the biopolitical imperatives which underpin state vigilantism within the war on drugs merit examination. Here the war on drugs is taken as the militarised and enforcement led effort

to impose global prohibition, whilst giving little or no space for policies which incorporate frameworks of public health, which are often considered to be more effective (Collins, 2014). This approach is common throughout Southeast Asia, with the Association of Southeast Asian Nations agreeing in 1998 to ‘eradicate the production, traffic and use of illicit drugs in Southeast Asia by the year 2020’ (Pushpanathan, 1999). The interest in controlling drug use constitutes a form of biopolitics, which Grayson (2008, p.272) notes that at its most simple, is about the identification, classification and management of populations in order to ensure that their ‘dimensions of life’ are amenable to governance, cultural propensities, or what one may call ‘ways of life’. With particular relevance to drug policy, Dillon notes that ‘practices which are deemed inimical to life’ like drug use are ‘differentiated, corrected, punished and, if necessary, eliminated’ (Dillon, 2007, p.43). Surveillance thus remains an integral part of biopolitics, to allow the accumulation of behavioural data about populations, which informs decisions about who to punish or eliminate (Dillon and Lobo-Guerrero, 2008, p.267).

Whilst there is not space to discuss how drug use statistics were mobilised by Duterte and Thaksin here, it is clear that the majority of victims of both drug wars were the urban poor, who were often in precarious employment (Human Rights Watch, 2017, p.17; Amnesty, 2003). The informal means by which suspects were identified thus acted as a form of ‘uncertainty absorption’ (Kessler and Werner, 2008, p.290), as police were given carte blanche to kill probable suspects, as often they did not have the resources to investigate cases thoroughly. Often used with reference to counter terror operations, logics of uncertainty represent ‘informal determinations of responsibility, unchecked characterisations of immanent threats’ and an attempt to render the legal status of victims ambiguous by presenting killing as an act of war (Kessler and Werner, 2008, p.291). As Kessler and Werner (2008) highlight, this is based upon an understanding of ‘non-innocence’, or *nocentes* in Latin, literally translating as ‘those who are harmful’. As the drug trade is presented as a critical issue of security, which threatens ‘ways of life’, such calculations of ‘non-innocence’ are based upon biopolitical profiles, patterns and probabilities of targets over formal or legalistic procedures (Dillon and Lobo-Guerrero, 2008, p. 267).

Methods

Overall, this is a piece which addresses the indicated undertheorizing of notions of targeted killing, vigilantism and extrajudicial killing in the context of the war on drugs. In order to do this, the essay uses qualitative analysis of secondary literature as its method to identify how International Relations scholarship fails to account for the character of killings seen in both Thailand and the Philippines. The essay draws upon primary governmental and non-governmental sources, in addition to a small body of other secondary research to evidence the prevalence of state vigilantism in both contexts. Specifically, the concern is to develop a conceptual typology, which sits within overarching understandings of extrajudicial killing. As Collier et al (2012, p.217) note, typology building is useful as it allows concepts to be formed and refined, whilst ‘drawing out underlying dimensions’. The underlying dimensions of particular interest here are the key role of the state in inciting and orchestrating violence, and the broad social profiles of victims. At present there is no category within International Relations scholarship which would describe situations where the state has a role in orchestrating violence (which it denies) towards such broadly defined social groups, such as drug users or dealers. Although violence in the context of the war on drugs cannot be considered to be genocide, as the intent is not to destroy a ‘national, ethnical, racial or religious group’ (UN, 1948, p.1), it has been claimed by Gallagher et al (2019) that it may constitute a crime against humanity.

Existing models of state violence

Whilst there is a small corpus of work on the role of vigilantism in local politics (Tankebe, 2009; Telle, 2013; Sundar, 2010), there have been no real attempts to directly relate this to the strategies of the war on drugs. If vigilantism represents a bid to ‘control crime or other social infractions by offering assurances of security both to participants and to others’ (Johnson, 1996, p.220), little consideration is given to contexts where the threat victims pose is not altogether clear, as in the case of drug users in the Philippines and Thailand. Whilst Rosenbaum and Sederberg’s (1974, p.554) category of ‘official vigilantism’ may be closer to the strategies seen in both the Thai and Filipino wars on drugs, they define this as a situation where the state may give tacit approval or sympathy to vigilantism. However, here it will be shown that this does not capture the state orchestrated character

of extrajudicial killings. In order to make a case for ‘state vigilantism’ as a typological category of state violence, this paper will demonstrate the ‘planned selection, abstraction, combination and (sometimes) accentuation of a set of criteria’ in the Thai and Filipino contexts (Marsden and Schmid, 2011, p.158). Initially however, this section will demonstrate what the current literature on forms of state killing does not account for in the Thai and Filipino case studies discussed here.

Prior to the inauguration of the war on terror by the United States in 2001, the practice of targeted killing was largely confined to clandestine state assassinations in certain contexts, such as the conflicts in Palestine and Northern Ireland (Melzer, 2008, p.9; Statman, 2004, p.180). However, post 9/11, the United States has also acknowledged targeted killing operations in a wide range of countries, from Somalia to the Philippines (Kessler and Werner, 2008, p.290). As Grayson (2016, p.39) notes, targeted killing has often been justified as being a form of ‘anticipatory self-defence’, although whether it is legitimate to apply this reasoning to non-war contexts remains contested. Targeted killing in the war on terror is generally ‘judged on the laws of armed combat’, whereas ‘extra-judicial executions rely on law-enforcement models of legality’, which rest on international human rights law (Kretzmer, 2005, p.174). Whilst drugs have been related to funding streams for insurgents in Marawi (Clarke, 2018, p.28; Rose, 2018, p.13-14) and some violence associated with the trade in the Philippines, broader conditions are hardly comparable to those of war. Further, drug markets in Thailand remain relatively peaceful (Windle, 2016, p.10). The use of the language of war remains significant however; as Kessler and Werner (2008, p.304) argue, framing the fight against terrorism as war had the effect of introducing a logic of ‘radical uncertainty’, whereby political discretion allows a broader range of responses. Bigo (2006, p.6) labels this the ‘management of unease’ and notes how this has led to the ‘transformation, the criminalisation and the juridicialisation of the notion of war’. Similarly, the construction of ‘radical uncertainty’ and fostering a sense of ‘unease’ towards drug users and dealers in both the Thai and Filipino contexts were instrumental in legitimising extrajudicial killings. As Crick (2012) notes, this unease is further underpinned by global drugs conventions. For instance, the UN Single Convention on Narcotic Drugs clearly depicts the threat of drugs as ‘existential’ (Crick, 2012). This draws upon Buzan, Wæver and de Wilde’s (1998, p.21) securitisation

framework, which attempts to account for the ways in which issues are presented as existential security threats to certain prized referent objects, in order to justify ‘extraordinary measures’. Although there are weaknesses in the ways in which the securitisation framework conceives of processes of security outside of a liberal or Western setting, the relationship between ‘speech acts’ (Buzan et al, 1998, p.31) and ‘extraordinary measures’ in the form of extrajudicial vigilante style killings merits further examination.

Risk and targeted killing

Drawing upon Aradau and Van Munster (2007), Kessler and Werner (2008, p.290) argue that practices of targeted killing flow from the ‘logic and precaution’ which moulds contemporary security policy. By being guided by a logic of ‘radical uncertainty’, states make recourse to semantics of ‘risk, danger and particular, precaution’ in the context of the war on terror (Kessler and Werner, 2008, p. 290). Significantly, this blurs the distinctions between political and legal categories of public and private, peace and war, thus restructuring the relationship between political responsibility, time and security (Kessler and Werner, 2008, p.290). Such uncertainty allows individuals to be ‘killed on the basis of informal determinations of responsibility, unchecked characterisations of imminent threats and disputed status under the laws of war’ (Kessler and Werner, 2008, p.191). However, in the case under consideration here, as mentioned above, the purported risks to society are altogether more nebulous. This, in addition to the relative paucity of data on the effects of drug trafficking and use in Thai and Filipino societies, allowed claims about the younger generation being destroyed cognitively (Villanueva, 2016) and the risk of the country becoming a ‘narco-state’ (Cayetano, 2018). As Kessler and Werner (2008, p.293) note, ‘risk is not a thing’ which exists independently of ‘human practices or social relations’, so must be constructed to justify the use of logics of radical uncertainty. Discussing wider health policy, Rose (2001, p.9) terms this acting ‘actuarially’ or ‘insurantly’ upon the population at large, utilising probabilistic and epidemiological knowledge to produce risk pools. However, rather than deploying this knowledge for the means of healthcare intervention, it is argued here that such probabilistic and epidemiological considerations, as well as calculations on supposed risks of individuals are utilised in the context of the war on drugs to justify extrajudicial killings. As

the actual guilt of drugs suspects cannot be determined categorically, such informal calculations replace the process of law in justifying extrajudicial killings. Whilst the state's intent is surely at least in part to punish, the apparent high level of error in killing those who either are not involved with drugs, or are simply poor low levels users, attests to the fact that disciplining of the poor and deviant is an essential element of the campaign strategy. As will be discussed later, if the intention was to eliminate organised crime entirely, one would expect to see a greater level of high-profile arrests, which have been rare in both the Thai and Filipino cases.

Although it is clear that many states kill their citizens through covert extrajudicial means, Johnson and Fernquest (2018, p.2) argue that the issue remains an understudied subject within punishment scholarship, and even more so in international relations. Further, they note that though extrajudicial killing is often referenced by scholars and the policymaking and NGO communities, little consideration is given to how extrajudicial killing functions as a form of social control in contexts that are not WEIRD- Western, educated, industrialised, rational or democratic (Johnson and Fernquest, 2018, p.2). With reference to the Philippines, this sentiment is echoed by Kreuzer (2016, p.1), who notes that 'extrajudicial police vigilantism involving killings by on-duty police officers that are masked as "legitimate encounters" with criminals' are a 'vastly under researched phenomenon'. Whilst such killings are not exclusive to the Philippines or Thailand, they have generally been analysed as part of the small body of literature on death squads. However, as will be shown, although such literature can offer some fruitful comparisons and lenses to analyse the cases here, it remains limited and does not capture some of the fundamental aspects of such killings in the context of the war on drugs.

State Vigilantism

As Abrahams (1998, p.3) argues, much of the allure of vigilantism lies in the notion that 'decent law-abiding citizens, anxious to live and work in peace' become tired with the inefficacy of the state and take measures into their own hands. Further, vigilantes often also lay claim to the state's own 'mantle of authority', which is viewed as ineffective or corrupt, even if only for a short time (Abrahams, 1998, p.9). Whilst Kreuzer (2016) refers to 'state initiated and sponsored vigilantism' in the context of the

Philippines, here it will be argued that ‘state vigilantism’ captures the character of the Thai and Filipino wars on drugs more accurately. This is because state vigilantism captures situations where violence is state sponsored and initiated but is also often given the appearance of pure vigilantism. State vigilantism thus serves a dual purpose, both internally and externally. Internally, the reality of police killings is intended to be disciplinary to those on the margins of society who make up the vast majority of those targeted in the drug wars discussed here. For instance, killings in the Philippines were concentrated in informal urban settlements and almost all of the victims investigated by a Human Rights Watch (2017, p.17) report were unemployed or employed in menial jobs, such as rickshaw drivers or porters. Similar patterns were also discernible in Thailand, albeit with a more marked emphasis on tribal ethnic minorities, who are often associated with drug trafficking in border areas (Amnesty, 2003). Externally, the outright rejection of the notion that such killings are state orchestrated allows the state to conduct relations with other generally liberal and Western states as usual (Gallagher et al, 2019). The internal or domestic role of extrajudicial killings draws upon a similar logic to that which Grayson (2012, p.125) suggests targeted killings do, in that they represent a ‘symbolic communication that attempts to alter the behaviour of populations in ways that will make them more amenable to governance’. Whilst Grayson (2012, p.125) argues that the methods of targeted killing in the context of Western global counter-insurgency campaigns to convey omnipotence and omniscience reflects weakness, similarly such drugs killings represent how powerless states are in regulating behaviour. Therefore, radical measures which bypass formal judicial sanctions are often celebrated, even if this is at the cost of the rule of law and human rights protections. It will be shown that by undertaking such killings ‘extermination evokes the spectacle of sovereign punishment’ and thus compels ‘conformity of the disciplinary norm’ (Grayson, 2012, p.121).

It is argued here that state vigilantism as applied to the Thai and Filipino case exhibits the following five features. Firstly, state vigilantism refers to intense periods of violence where several thousand victims are killed; whilst the campaign in Thailand lasted around a year, the Philippines has been ongoing since Rodrigo Duterte’s election in 2016. Secondly, this violence is facilitated by a political

climate which seeks to undermine at best, and at worst dehumanise the target group, whilst simultaneously emphasizing their risk to society. This political climate is fostered by the central state in a way which encourages violence towards drug users by ordinary citizens, even if they do not ultimately go on to commit extrajudicial killings. Thirdly, and perhaps most importantly, in cases of state vigilantism there is strong evidence to suggest that killings are orchestrated and condoned by the state. Fourth, a crucial element of such state involvement is denial. The killings are presented by the state as being a result of legitimate encounters with police, vigilante led violence, or gangs seeking to clear up potential witnesses. Finally, like pure vigilantism the aim is to make killings as visible as possible in order to underline their disciplinary function, although space does not allow a detailed discussion of this here. Overall, this article defines state vigilantism as intense periods of extrajudicial killing which are presented as being the acts of autonomous vigilantes, but are in fact orchestrated, justified, and condoned by state actors.

Precedents for State Vigilantism in Thailand and the Philippines

It would be a mistake to assume that forms of state vigilantism are an entirely new development in either Thailand or the Philippines. This is significant, as cultural practices are instituted historically and influence knowledge and belief about certain phenomena (Fraser, 1981, p.19). This to Foucault is the ‘politics of a discursive regime’ (Fraser, 1981, p.19). As a result, it will be suggested here that prior experiences of state killing have produced complex relationships with such violence in Thai and Filipino societies. In both the Thai and Filipino contexts, high levels of public support for the campaigns are often highlighted by the media (Phongpaichit and Baker, 2004, p.166; Fonbuena, 2017) without consideration of how this interacts with fear. As Fonbuena (2017) in the Philippines and Regilme Jr (2017, p.85) in the Thai case note, support for the wars on drugs was also bound up with fear about being framed by the police, or a family member being killed. Consequently, the ‘othering’ of drug users, who often represent the socially and economically marginalised in society merits further scrutiny.

Vigilante style killings committed by the New People’s Army (NPA) or the *Alsa Masa* (Masses Arise) from the early 1980s exhibited patterns of state sponsorship which have become familiar in the

contemporary war on drugs (See Hedman, 2002; McCoy, 2017; Oude Breuil and Rozema, 2009; Kowalewski, 1990). It is also significant that much of this violence took place in the city of Davao in Southern Mindanao, as it was in this context in which Rodrigo Duterte cut his teeth as a mayoral candidate in 1988. The city that Duterte took charge of faced a number of severe challenges, with large slums housing a million people, capital flight, routine kidnappings and ongoing violence between the NPA's sparrow units and the *Alsa Masa* (McCoy, 2017, p.37). Added to this, Southern Mindanao also bore host to a number of Islamist separatist groups, who had been fighting against the state since the 1970s, ultimately culminating with an attack on San Pedro Cathedral in 1993 (Oude Breuil and Rozema, 2009, p.405). Whilst attempting to boost business in the city, Duterte also made extensive use of violence to restore at least some form of order (McCoy, 2017, p.37). Subsequently, and significantly in the run up to the 2016 Presidential election, Davao was presented by the media as an 'enclave of relative peace and prosperity' and as a blueprint for the rest of the country (Johnson and Ferquest, 2018, p.11). Although the evidence that Davao is indeed safer is widely questioned (ABS-CBN, 2016; Johnson and Fernquest, 2018, p.12), this manipulation of Duterte's legacy ultimately lent legitimacy to his argument for a national campaign modelled on Davao.

Of particular significance was Duterte's use of the so-called Davao Death Squad, which was tasked with eliminating a vast array of 'undesirables' from the city (Breuil and Rozema, 2009, p.415). This is notable here, as Feldman (2004, p. 334) argues that such 'campaigns of public safety require both the politicisation of the military and the militarisation of the police'. Whilst it is clear that the military was already politicised by their support for anti-communist vigilante groups, in Davao the police were militarised and de-identified by being presented as vigilantes. Further, Feldman (2004, p.334) notes that such urban policing 'is increasingly focused on the eradication or management of 'quality of life' crimes', which generally originate in 'minoritized economic immiseration zones' where 'impoverished communities' are forced to involve themselves in 'informal black economies'. Accordingly, the Davao Death Squad emerged in 1993 in theory to rid the city of those engaged in such informal economies, as well as occasionally Duterte's political rivals (Breuil and Rozema, 2009, p.415).

Like the Philippines, Thailand has an extensive history of politically motivated murders, which is driven by a thriving ‘gun for hire’ industry. However, excepting anti-communist paramilitary organisations such as the Village Scouts, *Krathing Daeng* and *Nawaphon* (Haberhorn, 2018, p.137), vigilante mobilisation was not as common in Thailand as the Philippines. Most of the academic work concerning extrajudicial killings in Thailand relates to the violence in the deep south of the country, where government forces have made some use of the practice (McCargo, 2006). There have also been rare occurrences of Buddhist vigilantism which have resulted in the murder of Malay Muslims, but this has subsided since an attack on the Al-Furqan mosque in Narathiwat in 2009, where six gunmen opened fire on worshippers at evening prayers, killing seven people (Abuza, 2011, p.14). Though the attack was linked by some to the Royal Thai Army, the army quickly detained the suspects, leading to a decline in the cycle of retaliatory Buddhist vigilantism in the region (Abuza, 2011, p.14). However, outside of the deep south of the country, as in the Philippines, many of those in the gun for hire industry in Thailand had been enrolled in the CIA sponsored paramilitary units, which were demobilised when the US money ran out (Anderson, 1990, p.38). Well trained and often left with remnant CIA arms, their skills began to come into demand in the 1970s (Anderson, 1990, p.33). The patterns of killings in Thailand also mirrored those in the Philippines, with peasant leaders, trade unionists and journalists making up a large proportion of targets, along with rival landowners, businessmen and corrupt headmen (Anderson, 1990, p.42). Some so called ‘mafia police or military’ officers operated such activities whilst serving the state- the most notable being Lieutenant Colonel “T”, who became infamous during the 1980s for his business which engaged in debt collecting, smuggling, evicting protestors and most significantly, murder (Kongkirati, 2017). Lieutenant T’s activities were finally exposed after the murder of the provincial governor of Yasothon in 2001 (Kongkirati, 2017).

Patterns of targeted killing were also observable during the Thai state’s counterinsurgency campaign against hill tribes in the north of the country, many of which cultivated opium. As Morton and Baird (2019, p.12) note, from the 1950s onwards, the Thai state began to present hill tribes as a threat to national security owing to their involvement in the opium trade and supposed support for communist

insurgents. The pejoratively labelled Red Meo revolt (Lee, 2007) of May 1967 initially resulted from Thai officials attempting to collect payoffs from opium harvests from Hmong villages (McCoy, 2003, p.362). In response to the revolt, the police burnt down several villages, and from early 1968, under the justification of 'communist suppression operations', the army began to napalm villages and herd inhabitants into relocation centres (McCoy, 2003, p.362). By January 1969, as many as 100 Hmong 'dissident' villages had been destroyed by the Thai army, as they had refused to stop farming opium and be relocated (Gua, 1975, p.70). Although such violence did not necessarily aim to kill opium farmers, and later gave way to more development-oriented measures, it did represent a clear strategy to inculcate particular biopolitical 'ways of life' (Grayson, 2008, p.272) amongst marginalised groups. The logic of punishment being meted out to a broad group without formal determinations of guilt or wrongdoing is thus comparable to state vigilantism.

This section has situated the wars on drugs in Thailand and the Philippines in the context of a long history of extrajudicial killing in both countries. Whilst such killings have become accepted practice in neither context, there is a need to acknowledge that extrajudicial killings which the state had some level of involvement in is not new in Thailand or the Philippines. What is new however, is that both drug wars targeted people based upon the social infraction of involvement in the drug trade, whereas previously the victims of extrajudicial killings were usually seen as representing a political threat. Although the Thai state was certainly concerned about the growth of opium among hill tribes, this also interacted with broader anti-communist counterinsurgency priorities.

State Vigilantism in the War on Drugs

Although patterns of state orchestrated vigilante style violence were perceptible in both contexts, the scale and political emphasis placed on the drug wars discussed here also mark them out. As Kreuzer (2016, p.3) notes, Duterte has 'nationalized' the previously localised patterns of killing, thus altering the dynamics of such killings from being relatively isolated, to systematic and widespread. His study demonstrates that as well as so called vigilante killings, on-duty police officers were responsible for nearly 60% of all killings seen in the Filipino war on drugs, up to 2016 (Kreuzer, 2016, p.8). Partly as a result of this, a case can be made that both the wars on drugs in Thailand and the Philippines

represent crimes against humanity. Whilst the case has been made for the Philippines in the form of a referral to the International Criminal Court by Filipino lawyers and Gallagher et al. (2019), Thailand's case has seen less scrutiny by academics. The only investigation into the 2003 war on drugs conducted by an independent commission in 2007 admitted an 'unusually high number of widespread and systematic murder cases during policy implementation period', but ruled that it was not conclusive whether the government 'intended for such acts to be committed' (Official Report of the Independent Commission For Examination, Study and Analysis of the Formation And Implementation of the Drug Suppression Policy, 2011, p.37).

There is therefore a need to examine how states in both cases responded to accusations of involvement in killings. The Philippines government introduced the category of 'deaths under investigation' in July 2016 in response to the claim that extrajudicial killings were taking place in the context of the drug war (Rappler, 2017). Although extrajudicial killings do not have a specific and internationally agreed definition, former Special Rapporteur on extrajudicial execution Philip Alston's (2009) definition is instructive here, as he suggests it 'encompasses any killing by Government forces as well as killings by any other groups or individuals which the Government fails to investigate, prosecute and punish when it is in a position to do so'. Whilst other definitions recognise the need for 'absolute necessity and proportionality' on behalf of security forces, this is often when combatants rather than civilians are being dealt with (OHCHR, p.7). Accordingly, the Philippine Commission on Human Rights (PCHR) utilise Alston's characterisation of extrajudicial killing as their working definition (PCHR, 2017). However, the Philippines government have sought to reject the label of extrajudicial killing with reference to the drug war, with interior department assistant Secretary Epimaco Densing arguing:

"EJK (extrajudicial killing) does not exist in the Philippines...It's not just semantics because the use of the word EJK has an emotional meaning. If you go to the Western countries.... it agitates them...The terminology is very critical to us. I have already encouraged all government agencies never to use EJK in all their media and all their communications."

(Rappler, 2017)

This demonstrates how conscious the Philippines government are of their international image, with Denning appearing to suggest that simply acknowledging the term extrajudicial killings would bring further scrutiny. Further, the Philippines government's rejection of the term extrajudicial killing is rooted in a less comprehensive definition, as they only consider it to be so when state agents are directly responsible. However, as will be shown here, it is clear that the government bears responsibility for such killings, and has sought to protect non-state employees from prosecution for murder, consequently satisfying both types of extrajudicial killing outlined in Alston's definition.

Tactics of state vigilantism

This section will serve to demonstrate that both wars on drugs in the Philippines and formerly in Thailand utilise strikingly similar tactics and methods of organisation. Such tactics have a dual purpose- both to organise the anti-drugs campaigns along national lines, whilst simultaneously obfuscating the reality of extrajudicial killing and the role that the state plays in this. Perhaps the most compelling evidence which indicates state orchestration in both cases is the compilation of regional lists of drugs suspects. In the Thai case, every district in the country was instructed to compile lists of suspected drug dealers by the Thaksin administration, from which many disappeared or were murdered (McCargo, 2011, p.298). Whilst the Thaksin government was not responsible for the individuals on such lists, local and provincial officials were required to meet quotas in reducing the so-called blacklists (Amnesty International, 2003, p.4). The ministry of the Interior warned provincial governors that the number of people on such lists should be reduced by at least 75%, or they risked being transferred (Amnesty, 2003, p.4). The methods of this 75% reduction were outlined by the National Center for Combating Drugs, a sub-department of the Interior Ministry, as being 'arrest, extrajudicial execution or death (for whatever reason)' (Connors, 2009, p.9). Similarly, in the Philippines, a national 'watch list' was compiled with anything from 600,000 to 1 million names on it (Johnson and Fernquest, 2018, p.6). Unlike that in Thailand however, the list itself was drawn up by the Philippine Drug Enforcement Agency (PDEA), based on information supplied by elected city and village officials, as well as police (Reyes, 2016, p.119). The list would then be used as a basis for police to visit the houses of suspects, known in Cebuano as "Tokhang", literally "knock and plead"

(Reyes, 2016, p.119, Johnson and Fernquest, 2018, p.6). Although such visits generally acted as a warning to suspects, often suspects were killed in or around their homes after allegedly opening fire on police officers, a narrative which has been shown to be untrue in many cases (Tabalong, 2017). Likewise, in the Thai case a large proportion of suspects were killed on the way back from the police precinct after responding to a summons (Mydans, 2003). The official document released by the Philippine government for 'Operation Tokhang' suggested that the primary role of the police was to conduct 'visitations to persuade suspected illegal drug personalities to stop their illegal drug activities' (National Police Commission, 2016, p.3).

The role of the police

The police are omnipresent in anti-drugs purges in both the Philippines and Thailand. As state institutions, both are largely distrusted as corrupt by wider society and were utilised as political tools by Thaksin and Duterte. *Asian Barometer* surveys carried out between 2010 and 2012 showed that only 54 and 57% of respondents had 'somewhat or a great deal of trust' in the police in the Philippines and Thailand respectively (Wang, 2013, p.27). Added to this, Thai police officers occasionally supplement relatively meagre wages by moonlighting as gunmen, with many senior officers operating 'hunter-killer units' (Phongpaichit and Baker, 2004, p.162). Turton (1984, in Phongpaichit and Baker, 2004, p.162) has noted that the tactics of such units are reminiscent of earlier campaigns of targeted killing which sought to root out communists and sympathisers. Similar trends drawing on the history of the anti-communist campaigns have also been observed in the Philippines (Oude Breuil and Rozema, 2009, p.408).

Whilst formerly such activities undertaken by police were ad-hoc and localised, the patterns of incentives for police in both drug wars hint at national strategies. Reuters (Magoto and Baldwin, 2017) have found evidence for cash reward scales for drugs killings in the Philippines, whilst Amnesty international (2017, p.29) have also indicated that 'additional benefits' were paid to police officers. This is a continuation of Duterte's rhetoric on the 2016 presidential campaign trail, where he claimed that his unspent canvassing funds would be used to pay for such killings. At a thanksgiving party held for him at Davao's crocodile park, Duterte outlined how "pitsi-pitsi" or small-time dealers

would earn a bounty of 50,000 pesos, whilst a drug distributor captured alive would bring 2.999 million pesos, and a dead one 3 million (Mangahas and Ilagan, 2016). Likewise, in Thailand, Cheeseman (2003, p.30, in Connors, 2009, p.8) noted how financial incentives for the capture of drugs suspects included entitlements to a proportion of seized property, even if the suspect was killed. Like Duterte, Thaksin made the incentives for public agencies involved in the campaign very visible by presenting them with cash awards during a war on drugs 'victory' ceremony held in December 2003 (Human Rights Watch, 2003). Further gifts of 50,000 baht and 100,000 baht respectively were also offered to those who had been injured during the campaign, and the children of those killed (Human Rights Watch, 2003).

Whilst in the Philippines, the murder of Korean businessman Jee Ick Joo by police was shocking in itself, it was the aftermath which was instructive (Jensen and Hapal, 2018, p.52; Lema and Petty, 2017). Such was the diplomatic fallout, Duterte handed drug enforcement to the far smaller Philippine Drug Enforcement agency rather than the national police between January and February 2017 (Lema and Petty, 2017). Significantly, in this period where the police were not involved in the drug war, the intensity of killings subsided (Morallo, 2018). When the police were reinstated on March 6th, ten people were killed the following day (Morallo, 2018). This further suggests that at the very least, the government had some level of control over such killings in dictating which agencies carry out their anti-drugs campaign. Whilst direct orchestration by the government may not be able to be conclusively proved beyond all doubt, as argued by the author elsewhere in Gallagher et al (2019), the rhetoric of Duterte and Thaksin was significant in inciting violence.

Crime Scene Manipulation

The manipulation of crime scenes by police is another factor which indicates at the likely top down instruction of killings. This phenomenon is not exclusive to the cases discussed here. As Duschinski (2010, p.111) notes, in Kashmiri extrajudicial 'encounter killings', the image of guilt of the victim is important in legitimising the actions of security forces. Often bodies are presented alongside an 'array of weapons, ammunitions and other evidence of guilt' in order to demonstrate the legitimacy of the killing (Duschinski, 2010, p.111). In both the Thai and Philippine contexts, similar tactics were

employed. Significantly, packets of *yaba* or *shabu* (methamphetamine) pills were planted on victims after killings, usually along with a firearm in order to give weight to the suggestion that the police were acting in self-defence after being fired upon (Phongpaichit and Baker, 2004, p.162; HRW, 2017, p.46). In the Thai case, Dr Pornthip Rojanasunan, acting director of the Forensic Science Institute noted that in more than half of the cases she encountered, packets of drugs were clearly planted on victims' bodies owing to the unnatural angle they were jammed into their pockets (Connors, 2009, p.10).

In both contexts, the bodies of the deceased were often also either removed from the crime scene or destroyed so that a thorough autopsy could not be performed. In the Philippines, this was generally done by sending the clearly dead bodies of victims to hospital by pedicab in order for them to be pronounced dead on arrival (Baldwin and Marshall, 2017). In the Thai drug war, forensic examination of crime scenes was often simply resisted by police (Phongpaichit and Baker, 2004, p.162). Doctors in the Philippines who have received victims dead on arrival have also noted that many have very close range gunshots to the head and heart, indicating execution style killings that would be impossible during the type of shootouts police are claiming to have taken place (Baldwin and Marshall, 2017). Police rejected accusations of execution style killings, but several episodes significantly undermined the legitimacy of their argument within the first year of the campaign. The killing of teenager Kian Delos Santos became emblematic of the wider police abuses, with the police being proved to have murdered him without any cause before planting a gun and *shabu* tablets on his body (Cahiles, 2017; Torres-Tupas, 2017; Buan, 2018).

Police Killings as 'Self-Defence'

As noted previously, in both Thailand and Philippines, police have justified extrajudicial killings as a necessary form of self-defence. Although the Philippines does not have the death penalty, this is an important justification as the UN Legal Briefing on Extrajudicial, Summary or Arbitrary executions (Hannah and Melkonyan, 2015, p.11) notes that lethal force 'may be required...to secure innocent lives'. However, the same legal framework also lays out that 'states must demonstrate at all stages of planning and execution that measures taken were intended to reduce risk to life' (2015, p.11). The

actual risk to police life in the cases discussed here were also significantly overstated by the Thai and Filipino states. A Reuters investigation also noted that the kill ratio of Filipino police is far higher than that seen elsewhere- they recorded that in 50 separate incidents, 100 suspects were killed, whilst only 3 were wounded (Baldwin, Marshall and Sagolj, 2016). By contrast, in police operations in Rio de Janeiro between 2013 and 2015, for every five people killed, they wounded one (Baldwin, Marshall and Sagolj, 2016). This indicates that often Filipino policemen engage suspects with the primary intention to kill, before occasionally planting a weapon to simulate a gun battle, thus rendering the exchange a *nanlaban* killing, literally meaning that the suspect ‘fought it out’ (Berehulak, 2016). Whilst certainly some engagements with police by suspects are genuine, the very low death toll for police further suggests that those killed are often unarmed. As a result, this presentation of ‘self-defence’ conveniently blurs the distinction between an encounter which poses a risk to ‘innocent lives’ and a clear extrajudicial killing. Similar patterns were also evident in Thailand, with police acknowledging only 46 deaths, all of which were apparently in self-defence (Mydans, 2003). As in the Philippines, Thaksin made the argument that the majority of deaths were the result of shootouts between “tough guys” attempting to silence fellow gang employees, although this started to fall away when reports of the killing of children began to surface (Spillius, 2003a). Initially Thaksin had also suggested that deaths resulted from ‘bandits killing bandits’ (Spillius, 2003b). Although the Thai government refrained from defining such killings as vigilante activities, the engagement of private gunmen in a vigilante capacity was clear. Conversely, the Philippines attempted to present a high proportion of drugs killings as pure vigilantism. A statement of the Philippine Mission to the UN (2017) in Geneva argued that:

‘The spike in the statistics on killings, while in part coming from data on casualties from legitimate police operations against drug criminals, arose from killings carried out by vigilante elements or purges within the drug syndicates, which are being investigated as murders’

However, despite the government’s attempt to present killings as a result of autonomous citizens taking the law into their own hands, this neglects the role that Duterte has had in instigating such killings personally. For instance, April 2017 Duterte told a group of returning overseas Filipinos that

if they lost their job he ‘would give you one. Kill all the drug addicts’ (Kine, 2017). This incitement to kill those involved in the drug trade, along with a campaign of dehumanisation facilitated an environment of impunity (Gallagher et al, 2019).

Conclusion

This paper has made the case that existing models of state killing do not adequately capture the nuances of extrajudicial killings in the context of the wars on drugs in Thailand and the Philippines. As a result of this, an alternative model, here dubbed state vigilantism has been proposed, which seeks to address this lacuna in the current literature. It has been argued that state vigilantism can be said to have five defining features relating to the intensity of violence, the dehumanisation of the target group, the involvement of the state apparatus in killings, the denial of involvement of the state and the vigilante form of the killings themselves. Whilst the cases here are drawn from Southeast Asia, this model of state vigilantism could be applied to various other contexts where vigilante forces blur the line between state and autonomous citizens, such as with Nigeria’s Civilian Joint Task Force (Agbibo, 2020) and death squads in the Brazilian context (Scheper-Hughes, 2015). This paper has also demonstrated that whilst the intent of state vigilantism is to give the impression of autonomous citizens reacting to crime within society, there is a significant body of evidence to show that the state is complicit in such activities. Whilst it has been shown that in both the Thai and Philippine cases, there was some precedent for vigilante style killings, the scale and intensity of such drug wars render them worthy of further scrutiny. This is significant, as the current typology of extrajudicial killings is vague and thus serves to obscure the reality of state orchestrated violence towards marginalised social groups, something which in itself could represent crimes against humanity.

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