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Execution or Rehabilitation: A comparative analysis between the criminalization of drug use in the Philippines and Portugal

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ABSTRACT

On the 1st of July, 2016, The Philippines, a small Asian nation with a population of close to 103 million people, had shaken the world by democratically electing an unconventional man as their leader for the next five years. Rodrigo Duterte, his fellow countrymen, affectionately known as 'Rody.' As a mayor, Duterte sparked various controversies regarding his comments on rape and extrajudicial murders. His victory in the assembly elections had provided him with powers enough to fulfil his extremist promises to his voters. Duterte's "War on Drugs" had convinced his people that the only solution to the Philippines growing drug problem is through extrajudicial killings. This unjust and bloody response to drug abuse came into effect, further leading to a murder spree within the poverty-stricken slums of The Philippines. About 12,000 Kilometers away, a tiny European country changed the world by decriminalising all kinds of drugs. In July 2001, Portugal had analysed the growing concern of drug use in the country. About 50 per cent of HIV positive cases in the country were related to drugs and, the Portuguese legislature approved a drug policy that reduced drug use to an administrative offence. The state sponsored the accused with various forms of social rehabilitation required for such drug users to blend back into society as social assets. This paper provides a contrast between both these extreme systems that had enacted such drug responses to overcome the growing concern following drug dealing and drug use among various age groups. This paper will also discuss the statistics regarding drug usage in these countries before enacting such drug policies. This article will also conclude with an analysis on whether the criminalisation of drug use is a necessary strategy for reducing the rising cases of drug-related diseases and deaths.

Keywords: Philippines, Drug Policy, War, Duterte, Portugal, Rehabilitation, Human Rights, Extra Judicial Killing.

1. INTRODUCTION

The concept of drug legalization has gone through various socio-political incidents that continue to define the structure of the world. The responses adopted by nations to fight against the growing influence of drugs mirror these individual nations' economic and political stances. Countries like the Philippines and Portugal adopted the response systems to show the contrasting legal mechanisms that the governments use to fight the war against drugs. Rodrigo Duterte's presidential victory further evolved into radical changes that had legalized a brutal form of justice relying entirely on aspects of murder and execution to retaliate against the increasing drug use in the Philippines. The European model of drug response has taken a different perspective altogether to solve the rising use of drugs. The European model is most visible with Portugal's decriminalization of narcotic substances.

This article will begin with an analysis of the Philippine war on drugs and discussions on Duterte's rise to power and his dedication to extremist responses to drug dealing and consumption in the country. The article would further discuss the Portuguese model of decriminalizing drugs and the impact of such models in drug consumption statistics in the nation. The article would further conclude with a comparative analysis on drug response between Portugal and the Philippines.

2. THE PHILIPPINES

Comprehensive Dangerous Drugs Act, 2002

The Comprehensive Dangerous Drugs Act, 2002 is an intrinsic legal statute that covers various aspects of drug consumption and punishment in the Philippines. This act was formed in 2002 with an objective to radically reduce drug consumption in the country and to prevent the nation from gaining the status of a "narco state". This statute consists of 101 provisions that discuss

the dynamics of drug use. In the nation of the Philippines, this statute stood in the frontlines against the Philippine war against drugs. Penalties in this statute had ranged from strict imprisonment to death penalties. Article II Sec 4 of this act provides life imprisonment to death as punishments for the Importation of Dangerous Drugs¹. Article II Sec 6 of the act further punishes convicts with life imprisonment or death for managing and maintaining resorts orders that circulate the consumption of harmful drugs.²

Sec 2 of the act further states that “the government shall pursue an intensive and unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs, and projects.”³ Although death penalty was legal in the Philippines during the enactment of the Comprehensive Dangerous Drugs Act, 2002, death penalty in the Philippines was abolished on 2006. Article IX Section 77 of the act also provides the nations president with the power to implement his control over the Dangerous Drugs Board (DDB).⁴ The DDB further formed and enforcement arm known as the Philippine Drug Enforcement Agency (PDEA).

Although this act consists of provisions that highly regulate different arms of the government, what must also be noted is that the act also provides the government and the president with excessive powers to end the use of dangerous drugs.

Duterte’s “War on Drugs”

After president Rodrigo Duterte’s electoral victory, his speech on the 30th of June, 2016 insisted that citizens kill drug addicts and criminals. The police force in the Philippines was also provided with the freedom to shoot and kill any suspected drug dealers or drug addicts. The Philippine National Police claimed responsibility over the deaths of thirty people who were related to drug rackets and consumption. Duterte’s electoral win had raised grave concerns in the international community regarding the increasing number of extrajudicial killings.⁵ The CDDA provides the president and the legislature of the nation with the freedom of using extreme powers to retaliate against the increasing drug use in the nation.

Although, death penalty in the Philippines remains to be banned, the statutory powers given to Duterte and other Philippine authorities provides them with the freedom to sanction extrajudicial killings. Within his first year as the president of the nation, Duterte had began fulfilling his campaign promise of “fattening the fish on Manila Bay with the bodies of 100,000 criminals”.⁶ About 5,000 citizens were killed by the Philippine authorities with respect to various drug charges and without any proper trial before any court of law.

Following the total death count of more than 7,000 within Duterte’s first year as President, his approval rates have increased drastically and his bizarre methods to end drug use in the Philippines is hailed by the Filipino population. His objective of disciplining the population has resulted in the death of various innocent citizens. The present condition of the Philippine justice system with the aim of preventing its conversion to a narco state directly puts it on a road to being a tyrannical state with a relentless tyrant holding its reigns. Nationalist ideologies glorified in the nation of Philippines puts itself far from its aim for progress and the cold-blooded deaths of people without their right to receive a fair trial.

The Office of the Prosecutor in the International Court of Justice on 2021, officially opened an investigation against Duterte’s violent campaign against drug use in the Philippines.

The chief prosecutor of the International Court of Justice, Fatou Bensouda, communicated concern over the killings in the Philippines on October 13, 2016. In her assertion, Bensouda said that the high authorities of the nation "appear to condone such killings and further appear to energize State forces and civilians the same to continue focusing on these people with deadly force." She likewise warned that any person in the country who incites "or takes part in demonstrations of mass violence by ordering, mentioning, empowering or contributing, and in some other way, to the commission of crimes inside the jurisdiction of ICC" will be arraigned under the steady gaze of the court.]

In February 2018, the ICC reported a fundamental examination into killings connected to the Philippine government's war on drugs. Examiner Bensouda said the court would break down crimes purportedly carried out in [the Philippines] since July 1 2016. Duterte's representative Harry Roque excused the ICC's decision to misuse the courts time and assets. In March, Duterte reported his intention to pull out the Philippines from the ICC court, which is an interaction that requires a year.

In August 2018, activists and eight groups of survivors of the medication war documented a second petition with the ICC, blaming Duterte for murder and crimes against humanity and requiring his prosecution for the massive number of extrajudicial killings, which as per the 50-page protest, included "bold" executions by police acting without risk of punishment. Neri Colmenares, a legal advisor representing the gathering said that "Duterte is personally responsible for ordering state police to attempt mass killings." Duterte took steps to capture the ICC examiner Bensouda.⁷

3. PORTUGAL

Decriminalization of Drug use in Portugal

Drug use is an expanding issue in Portugal. In response, following the guidance of a select board of trustees, the Portuguese government has recently given various laws carrying out strong mischief reductionistic orientation. The leader of these laws is the decriminalization of the utilization and possession for utilization of drugs. Use and possession are currently only managerial offences; no distinction is made between various sorts of drugs (hard versus delicate drugs) or regardless of whether consumption is private or out in the open. Although many people favour decriminalization on a fundamental

level, questions have been communicated about how the law will be carried out because the law only sets a structure for those networks that wish to attempt such exercises, it is an empowering law. This has prompted a considerable absence of lucidity and expands the danger of implementation difference in various regions.

Portugal on the 1st of July 2001. It decriminalized all drugs, including heroin and cocaine and Marijuana. By decriminalization, we imply that utilization and possession for use are dependent upon authoritative sanctions rather than criminal procedures; with regards to international settlements and the training in different nations, Portugal is not ready to legitimize drugs. The decriminalization strategy is the leader of a revolutionary change in Portuguese drug strategy, one of various mischief reduction measures.⁸

This revolutionary advance started with forming a first-class master commission to consider what was generally viewed as an expanding drug use issue. The Commission for a National Drug Strategy (CNDS) created a report (Comissao para an Estrategia Nacional de Combate a Droga 1998) suggesting a significant change in Portuguese drug strategy in the direction of mischief reduction, including decriminalization. This shift was the coherent improvement of an unequivocal arrangement of fundamental standards for strategy created by the commission and did not consider the encounters of Spain or different nations (individuals from the CNDS, personal communications, March 1998 through November 2001).

CNDS Drug Strategy

The CNDS had provided a 13-point drug strategy which is as following –

1. to reinforce international cooperation and to promote active participation of Portugal in the definition and evaluation of the strategies and policies of the international community and the EU;
2. to decriminalize the use of drugs, prohibiting them as a breach of administrative regulations;
3. to redirect the focus to primary prevention;
4. to extend and improve the quality and response capacity of the health care network for drug addicts, so as to ensure access to treatment for all drug addicts who seek treatment;
5. to extend harm reduction policies, namely, through syringe and needle exchange programs and the low-threshold administration of substitution drugs as well as the establishment of special information and motivation centres;
6. to promote and encourage the implementation of initiatives to support social and professional reintegration of drug addicts;
7. to guarantee conditions for access to treatment for imprisoned drug addicts and to extend harm reduction policies to prison establishments;
8. to guarantee the necessary mechanisms to allow the enforcement by competent bodies of measures such as voluntary treatment of drug addicts as an alternative to prison sentences;
9. to increase scientific research and the training of human resources in the field of drugs and drug addiction;
10. to establish methodologies and procedures for evaluation of public and private initiatives in the field of drugs and drug addiction;
11. to adopt a simplified model of interdepartmental political coordination for the development of the national drug strategy (IPDT replaces Projecto Vida);
12. to reinforce the combat against drug trafficking and money laundering and to improve the articulation between the different national and international authorities; and 13. to double public investment to 160 million euros (at the rhythm of 10 percent a year) during the next five years, so as to finance the implementation of the national drug strategy.”⁹

The thirteen key choices have shaped the reason for enactment and activity designs that expect to set the legal framework for the technique and its itemized execution in a first stage somewhere in the range of 2001 and 2004. During the beyond a while, laws and activity plans have been given for avoidance, decriminalization, harm reduction, reintegration, and the battle against drug dealing and money laundering. Besides, treatment limit has expanded to have the option to react to the normal increment of treatment interest as a result of the decriminalization law. Counteraction exercises are to zero in on essential avoidance, in schools, families, and the local area overall. Harm reduction measures (in the restricted feeling of the term) incorporate needle and needle trade, shooting rooms, data and inspiration focuses, and replacement programs. Decriminalization, as the lead of the procedure as far as its consideration in the public eye and the intricacy of its execution, will be portrayed here more meticulously.

Starting around 2002, the CDTs have started around 6,000 authoritative cycles against drug clients each year, with the number moving upwards to 6,543 cycles in 2008 (Instituto da Droga e da Toxicodependencia 2009). In light of appraisals of current interest (see last option segments), this addresses roughly 2.5 per cent of drug clients in Portugal. Most of the alluded drug clients are male (94%) and between the ages of 16-24 (47 per cent) and 25-34 (31 per cent). The number of cycles that have been settled on or ‘finished’ diminished somewhere in the range of 2003 and 2006, which implied there was a general decrease in the extent of cases wherein drug clients got an authoritative approval from the CDTs (from 75% in 2003 to 48 per cent in 2006). While this pattern has been switched late, it has diminished the ability to authorize or allude drug clients to treatment. The decrease in concluded cycles was connected to reducing functional CDTs (Instituto da Droga e da Toxicodependencia 2009). As of mid-2008, all CDTs, except for Vila Real, were back in inactivity. Starting around 2001, most cases have involved the use procurement or ownership of weed or heroin. Alternately, the extent including marijuana in 2001 to 70 per cent in 2006, diminishing to 64 per cent in 2008. These reflect patterns in drug use, significantly a decrease in heroin use (see underneath). The significant approval utilized by the CDTs has been the temporary suspension of procedures for people who are considered non-subject to illegal drugs. These have been utilized in 59-68 per cent of cases each year. Maybe because of the decrease in wrongdoers being seen for heroin, the utilization of temporary authorizations with treatment (for subordinate people) has diminished since the entire primary year of activity (31% in 2002) and made up just 18% of approvals in 2008. Then again,

the utilization of corrective endorses like alerts, prohibition on going to assigned spots or necessities to visit the CDTs have expanded (from 3% in 2002 to 15 per cent in 2008). This has been credited partially to Portugal's absence of suitable treatment choices to allude to non-heroin subordinate medication clients. As indicated by the partners that we met, the CDTs gave various benefits, including prior intercession for drug clients by an expert board of specialists; the arrangement of more extensive scope of reactions; expanded accentuation on avoidance for periodic clients; and expanded arrangement of treatment and harm-reduction administrations for experienced and subordinate clients. While these benefits were frequently subject to the conjoint expansion in cooperation and development of treatment places, decriminalization was considered to have assumed a fundamental part. Be that as it may, because of the issues referred to above, particularly the absence of entire staff in all CDTs and the absence of formal mediations to which to allude youthful and infrequent medication clients, partners said the maximum capacity of the change had not been reached.

There is not much information on which to survey the drawn-out effects of the CDT interaction. For instance, while it is realized that the main 5-6 per cent of wrongdoers have alluded to a CDT twice in any year, figures have not yet been gathered on earlier or ensuing culpable and medication use among those alluded through the CDTs. The IDT detailed in September 2009 that it currently plans to begin gathering such information. Different information can be utilized to test wellbeing, criminal equity and social effects on the vaster populace.

4. CONCLUSION

The war against drugs has remained to be an undecipherable problem in our world. Various nations had adopted varying perspectives on such issues and each of these nations unfortunately have not found a permanent solution to this problem. The debate between criminalization and decriminalization of drugs prevails. Although the Portuguese model brings forward various positive aspects of dealing with the drug problem through decriminalization and rehabilitation, the applicability of such an approach in the third world is not practical. The radical perspective taken by the Philippines on the other hand is highly radical, such an approach is harmful to the spirit of democracy and the spark that will eventually lead to tyranny. Therefore, the apt solution for the increasing consumption of drugs is taking a rehabilitative approach on consumers and to criminalize drug trade with the due process of law.

5. REFERENCES

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