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International Criminal Court Jurisdiction Against Human Rights Violations by Philippine President After Withdrawal from Rome Statute

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ABSTRACT. Rodrigo Duterte who has ordered the police to execute drug addicts who do not want to be arrested. However, the assailant was still shot despite surrendering to arrest, the police on behalf of the anti-drug

unit went to people's homes and did so because of the policy of "who gets killed, the police get paid". The crime that has been committed by Rodrigo Duterte under ICC jurisdiction is giving orders. to the police and the public to carry out extrajudicial killings of individuals involved in narcotics and to protect those who carry out their orders, so that Rodrigo Duterte is judged guilty and responsible in accordance with Article 25 paragraph 3 (b), (c), (d) the Rome Statute Crimes against humanity are among the criminal jurisdictions of the ICC. Although the Philippines withdrew from the Rome Statute, it did not prevent the International Criminal Court (ICC) from reviewing the case involving Philippine President Rodrigo Duterte. The Rome Statute provides for withdrawals, in particular article 127, paragraphs (1) and (2) of the 1998 Rome Statute.

KEYWORDS. *Jurisdiction of International Criminal Court, Human Rights, Rome Statute*

I. INTRODUCTION

Human rights violations can be committed by any individual or group, both during peacetime and in times of conflict (ethnicity, religion, race, inter-group). Conflicts over human rights violations are carried out through physical, mental and spiritual violence, and cause great harm to the lives and property of others (Sulistia, 2017). Human rights in the first international perspective are contained in the *Universal Declaration of Human Rights* and ratified in Paris in 1948. Human rights are basic rights carried from birth, original human rights, without which man cannot live. Human rights do not depend on the consent of others, other societies, or

other nations, but are protected by their Creator, God Almighty and cannot be ignored.

Awareness of the importance of human rights protection has increased significantly, which has prompted the world to seek solutions so that extra *ordinary crimes* do not shy away from punishment. National and international efforts to promote sustainable development and human rights aimlessly to provide opportunities for all people to lead and shape their lives with dignity and solidarity with others. With a responsibility to protect human rights that cannot be managed by the national justice system, the ICC plays a role in strengthening the rule of law and victims' access to justice, which is the main goal of sustainable development (SDGs), namely how we reduce inequality and inequality between groups (Nusantara, 2021).

The establishment of the International Criminal Court (ICC) has made a major contribution to international law and International criminal law. The ICC is the embodiment of criminal efforts as well as rational upaya by the countries of the world in terms of jointly fighting the four main crimes included in the offense against *delicto jus gentium*. The ICC is an International criminal tribunal capable of investigating and prosecuting anyone accused of gross human rights violations. According to Mahmoud Cherif Bassiouni said that International criminal law is the result of a fusion of different disciplines and is formed and developed within the framework of each in order to complement each other and coexist. Both are criminal law aspects of international law and international law aspects of international criminal law (Diantha, 2004).

Law International is a law that regulates the principles and regulations on behavior towards countries that are bound and respect applicable regulations. International law aims to serve as a guideline for

the creation of cooperation and harmony between nations (Parthiana, 1990). Armed violence and relatively high insecurity have adverse effects on a country's development, economic growth, and often generate discontent in society that can last for years. Peace, stability, human rights and effective governance based on the rule of law are important paths to sustainable development. As with the Philippines, where the presence of drugs is alarming, Filipinos sometimes abuse drugs. Drug abuse has not been properly addressed by the Philippine government (Kenny & Holmes, 2020; Johnson & Fernquest, 2018; Lanfer, 2010; Lasco & Yu, 2021).

The Philippines is a Southeast Asian country with a high number of drug traffickers and illegal drugs. Statistics from the *Dangerous Drugs Commission* confirm that 1.8 million people are drug addicted to a total of 100.98 million Filipinos. During Rodrigo Duterte's tenure, he enacted the Philippine *War on Drugs*, which was an anti-drug policy and action, with the aim of eradicating drugs through the policies of the Philippine Government government under the Duterte administration. In this regard, Duterte also called on his people to exterminate criminals and drug addicts. However, his actions constituted extrajudicial executions in which thousands of people died in the Philippines during the war on drugs.

Crimes against humanity are acts of violating human rights that cannot be tolerated by the international community. Violations of human rights have become a very hot issue with the rampant acts of violence that have claimed the lives of foreign civilians (Sulistia, 2017). The enforcement and prosecution of human rights violators in the ICC means that any person suspected of gross *violation of human rights* may be submitted to the International Criminal Court.

Based on the foregoing, acts committed by the President of the Philippines constitute crimes against humanity within the jurisdiction of

the International Criminal Court which has been regulated in the Rome Statute. Therefore, this study is intended to analyze concerning what form of policy does the President of the Philippines categorize as a violation of human rights and how is the ICC's Jurisdiction over human rights violations by the President of the Philippines following the withdrawal from the Rome Statute? 3. How does the ICC Contribute to Respect for Human Rights as an equitable sustainable development goal (SDGs)

This study aims to identify the policies of the President of the Philippines that are considered human rights violations and to find out the ICC's model of jurisdiction over human rights violations committed by the President of the Philippines after withdrawal from the Rome Statute and its relationship with the SDGs. This research was conducted using normative legal research, that research conducted with steps to find a rule of law or legal doctrine that answers the legal problems faced. The analysis used in this study is qualitative. This research approach includes the use of a *statute approach* and a conceptual approach. The research is based on primary and secondary legal documents. Legal documents are mainly laws, minutes, and decisions of judges. Secondary legal documents include books, legal dictionaries, and magazines. The data collection technique used in this study is literature research, which is a study in which data is obtained from books, documents, articles, journals, etc. The analysis in this study uses a deductive thinking pattern, which is to draw conclusions from general problems to specific problems related to legal regulations related to ICC jurisdiction and human rights violations.

II. CASES OF HUMAN RIGHTS VIOLATIONS BY THE PRESIDENT OF THE PHILIPPINES

On October 7, 2016, Rafendi Djamin, director of Southeast Asia and the Pacific at Amnesty International, said in less than 100 days that Rodrigo Duterte, who led a wave of extrajudicial/illegal executions as Philippine president that killed more than 3,000 people, was a human rights violation in the country. Police Chief of Philippines, Ronald Dela Rosa told senators that on September 20, more than 1,500 people were killed in drug raids by police, with more than 2,000 killed by unidentified assailants. At least 33 days into the presidency, Rodrigo Duterte is estimated to have killed more than 3,500 people. Since being elected, President Duterte has actively created an atmosphere where people can kill and kill under the pretext of a "*war on drugs*" ([Amnesty International, 2016](#)).

The existence of drugs in the Philippines is increasingly concerning, Filipinos regularly abuse these drugs, the efforts of the Philippine government have not yielded good results and have not been corrected. Rodrigo Duterte, who was elected President of the Philippines in 2016, when he was elected, immediately made his campaign promise to lead the eradication of drugs in the Philippines through the *War on Drugs*. Article 9 provides for penalties for drug users, ranging from life imprisonment to death, and fines ranging from P500,000 to P10 million.

Not only that, President Rodrigo Duterte also ordered the police to execute drug addicts who did not want to be arrested. However, the attacker was still shot despite surrendering to arrest, the police on behalf of the anti-drug unit went to people's homes and did so because of the policy of "*who is killed, the police are paid*", a salary of 300 dollars (three hundred dollars) by its leadership and no motive for arrest is then brought

to justice. The policy is believed to have killed at least more than 5,000 suspects in drug shootings and raids, resulting in a humanitarian crisis in the Philippines as President Duterte continues to carry out assassinations in the name of the "War on Drugs" ([Human Rights Watch, 2019](#)).

An act or act can be considered a crime against humanity if it meets the elements of a crime against humanity under the Rome Statute of 1998. Article 9 of the Rome Statute of 1998 asserts that with the application and interpretation Under the provisions governing crimes within its jurisdiction, the ICC will use the Elements of the Act document ([Siswanto, 2005](#)).

According to Article 7 paragraph 1 of the Rome Statute of 1998, crimes against humanity are defined as widespread and systematic attacks in which the attacks take the form of actions against civilians: (1) Murder, (2) Destruction, (3) Slavery, (4) Deportation or Forced Removal of Residents, (5) Deprivation, (6) Torture, (7) Rape, Sex Slavery, Forced Prostitution, Forced Pregnancy or Forced Sterilization, (8) Torture of groups based on politics, race, nationality, ethnicity or other conduct under the jurisdiction of criminal courts, (9) Enforced disappearances, (10) Crime of apartheid, and (11) Inhumane acts that intentionally cause severe pain or serious injury ([Prasatya, 2013](#)).

Article 7 of the Rome Statute describes 11 acts that are considered crimes against humanity, and there are factors that distinguish from actions in general which are also known as prologues of crimes against humanity, namely:

1. An action is an attack on any civilian (*attack against any civil*)
2. Measure carried out as part of a widespread or coordinated attack; and
3. The perpetrator knows or intends his actions to be part of a widespread or systematic attack on a civilian knows (*knowledge that the conduct was*

part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population)

Since July 1, 2016, under the Rodrigo Duterte administration, it has conducted the first inquest conducted by the ICC, which is an investigation into a case of crimes against humanity related to the execution of an extrajudicial murderer against a person involved in drugs. People involved in the reception of narcotics outside the court (vigilante groups) ([International Criminal Court, 2002](#)).

Based on the above testimony, *extrajudicial* executions carried out in the Philippines constitute crimes against humanity, which fall under the jurisdiction of the International Criminal Court (ICC) under the Rome Statute of 1998 on possible crimes against humanity. President Duterte's repeated calls to kill drug dealers and users demonstrate the government's policy of targeting some civilians. The continuous and repetitive nature of police violence reflects systematic attacks. Killings committed by police when they learn of such a policy or scheme, high-ranking officials can be held accountable. Moreover, there is no evidence that President Duterte took any action to prevent or punish those responsible for the killings.

III. INTERNATIONAL CRIMINAL COURT JURISDICTION AGAINST HUMAN RIGHTS VIOLATIONS BY THE PRESIDENT OF THE PHILIPPINES FOLLOWING WITHDRAWAL FROM THE ROME STATUTE

Jurisdiction is generally defined as a legal entity over certain persons, bodies or events with certain territorial boundaries and certain facts.

Jurisdiction comes from the English language, i.e., *Jurisdiction*. which is an adopted word from the Latin *jurisdictio*. The International Court of Justice, which has a position in The Hague, Netherlands, was established under the Rome Statute of 1998. Although both are based in The Hague, it has nothing to do with the International Court of Justice. The ICJ was founded with the founding of the United Nations in 1945. The ICC is an independent organization, with its own organizational structure outside the United Nations, with funding based on contributions from participating countries in the 1998 Rome Statute ([Art 4 \(1\) of the Rome Statute, 1998](#)).

Based on the basic principle of the Rome Statute, the ICC is a complement to national criminal jurisdiction (article 1), namely that the Court must give priority to the national system, unless the current national system is completely incapable (*unable*) and unwilling (*unwilling*) to conduct investigations or prosecute not the crimes that have occurred, it will be taken over under the jurisdiction of the Court (Article 17). The jurisdiction or jurisdiction of the ICC is limited by a number of articles, in particular the subject of law tried or matters under its jurisdiction (*rationae personae*), including government officials, only military and civilian commands (Ufran, 2019). Furthermore, the jurisdiction of the ICC includes crimes that are the most serious crimes in the eyes of the international community, as provided in Article 58 of the Rome Statute of 1988, including Genocide, Crime against humanit, War crimes, and Aggression ([Sefriani, 2007](#)).

The offences committed by the President of the Philippines to date must be followed by the International Court of Justice, the legitimacy of the ICC's jurisdiction in investigating serious crimes against human rights ThePresident of the Philippines committed crimes against humanity for

drug abuse and was abducted by several civilians on behalf of an anti-drug unit before being shot. Among the victims of kidnappings by civilians, many of the victims were not actually drug related. This is because the policy has been used for personal gain by some people. For innocent victims wear necklaces that read "*I am a drug user*" and wear methamphetamine or other methamphetamine so that their death is not suspected of being a murder other than a drug extermination operation (Sarlina, 2022).

Crimes against humanity are among the criminal jurisdictions of the ICC. The ICC judge's assessment of the documents filed by prosecutors is that Duterte's anti-narcotics campaign cannot be seen as a legitimate law enforcement activity, but rather leads to a system of attacks on civilians. The birth of the International Criminal Court (ICC) is one of the important milestones in the development of the application of criminal law International. In February 2018, the International Criminal Court conducted a preliminary examination of allegations of crimes against humanity committed in the Philippines. However, the announcement of the preliminary examination caused a fairly strong reaction from the President of the Philippines, Duterte repeatedly mocking and even threatening to imprison the ICC prosecutor for claiming the preliminary examination with the Philippines led to his resignation from ICC membership.

Although the Philippines withdrew from the Rome Statute, it did not discourage the International Criminal Court (ICC) from conducting a review of the case involving Philippine President Rodrigo Duterte. The Rome Statute provides for withdrawals, in particular article 127, paragraphs (1) and (2) of the Rome Statute of 1998:

1. A State Party shall, in writing, notify the Secretary-General of the United Nations of these rules. Revocation is effective one year after the date of receipt of the notice, unless the notice specifies a date.
2. A state is not excluded by reason of withdrawal from any obligations arising out of these Rules so long as that country remains a party to these Rules, including any financial obligations that may arise from these Rules. His resignation in no way affected cooperation with the Court in the context of criminal investigations and prosecutions involving him. The withdrawn former state shall have an obligation to cooperate from before the effective date of the withdrawal or shall not be detrimental in any way on any matter considered by the Court prior to the effective date of the withdrawal.

However, in order to leave the ICC in accordance with this proclamation by thinternationalf the Philippines, withdrawal from the ICC appears to require the approval of the Philippine Senate, which passed a resolution stating that withdrawal from the provisions of the International treaty will come into force if approved by the Senate, as reported by the Philippine media, but the Philippine Constitution provides that the implementation of international agreements cannot be revoked without the approval of the Philippines, the support of the President and the Senate. The ICC statement was based on the fact that the Philippines was one of the countries that ratified the 1998 Rome Statute. The Philippines ratified the Rome Statute on August 30, 2011. Thus, if extrajudicial executions in the Philippines qualify for crimes against humanity, then the jurisdiction of the ICC may apply ([News Indonesia, 2019](#)).

The events perpetrated by the President of the Philippines have angered the Filipino people and the international community for the human rights violations committedfor human rights justice in thecurrent

era of globalization. With the ease of communication and collection of information, is the crystallization of value. From a similar reaction of International peoples from different parts of the world which is then translated into international opinion (*international public opinion*) can easily occur. International opinion is an expression of humanity, a sense of law and a sense of justice for people, regardless of gender, religion or creed, political knowledge, ethnicity, language, or other similar differences. All unite to face and react and give the same reaction to such events (Parthiana, 2010).

IV. ICC's CONTRIBUTION TO RESPECT HUMAN RIGHTS AS AN EQUITABLE SUSTAINABLE DEVELOPMENT GOAL (SDGs)

Just as the Sustainable Development directive on the importance of respecting human rights in achieving the Sustainable Development Goals, as highlighted in the 2030 Agenda document states that the 17 Sustainable Development Goals and 169 targets of the Sustainable Development Goals "seek to make human rights a reality for all" and the 2030 Agenda "based on the Universal Declaration of Human Rights." international human rights treaties. The work of the UN to provide guarantees of legal justice in the world is point 16 of the SDGs, namely "Peace, justice and strong institutions". The agenda raises issues of peace, law enforcement and strong government institutions. The main objective of this program is "*Promote peaceful and inclusive societies for sustainable development, provide*

access to justice for all and build effective, accountable and inclusive institutions at all levels”.

Sustainable Development Goals (SDGs), the United Nations launched a sustainable development program to replace the previous program that was completed in 2015, the Millennium Development Goals (MDGs). The MDGs program does not have basic human rights standards, the MDGs are also seen as failing to equalize justice in terms of discrimination and protection against human rights violations, while the SDGs are viewed as supporting better human rights principles. John Locke explained that human rights are rights granted directly by God the Creator as natural rights and therefore cannot be revoked by any force on earth ([Salsabila, 2019](#)).

The program was established because the UN considers that peace and legal issues are emergencies that need to be treated seriously. The need for special attention on isu-issues against human rights violations in order to achieve a sense of equitable justice. Governments, civil society and non-governmental societies should work together to implement solutions in the implementation of injustice, violence, corruption and to ensure the participation of all such rounds in seeking law in all UN member states. Prevention of the crime of genocide, conflict and other crimes to promotesustainable development. Accordingto the UN International President, where the ICC in its investigation surveys violations, crimes against humanity and invasion crimes is essential to help the country bring peace and justice and build a strong organization.

These goals are at the core of the Sustainable Development Goals (SDGs), one of the goals agreed upon by countries around the world to eliminate poverty and build a more just and peaceful world, as well as respect human rights. The ICC has a very important value for

socioeconomic development to prevent armed conflict and atrocities. The role of the ICC in supporting the SDG program is to tackle international crimes so that it can no longer tolerate heinous crimes committed with impunity, the ICC also contributes to reducing violence and death in accordance with the objectives of the SDGs. ICC continues to strengthen the rule of law and provide victims with access to justice where the Sustainable Development Goals recognize that conflict, Insecurity, weak institutions, and limited access to justice remain significant threats to sustainable development.

Protection of human rights is one of the main pillars of any democracy, the global agenda embodied by the SDGs program in the Sustainable Development goals, especially the 16 goals owned by the SDGs, namely "Peace, Justice and strong Institutions". The expectation of the need for special attention to the fulfillment of access to justice for all people in an effective and accountable way in implementing the goals and building inclusive institutions at all levels. The SDGs also have a concrete goal to promote the rule of law at the National and International levels as well as the legal certainty of equal access to justice for society.

The strength of the SDGs lies in the mobilization of global political will through a set of targets and benchmarks whereas the strength of International human rights law lies in its accountability. The synergy between these two regimes opens up exciting potential to refine and innovate international human rights and development policies ([Campbell 2018](#)).

V. CONCLUSION

The results of the study showed that the Policy carried out by President Rodrigo Duterte which has ordered the police to execute drug addicts who do not want to be arrested. However, the attacker was still shot despite surrendering to arrest, the police on behalf of the anti-drug unit went to people's homes and did so because of the policy of "who is killed, the police are paid", a salary of 300 dollars (three hundred dollars) by its leadership and no motive for arrest is then brought to justice. The policy is believed to have killed at least more than 5,000 suspects in drug shootings and raids, resulting in a humanitarian crisis in the Philippines as President Duterte continues to carry out assassinations in the name of the "*War on Drugs*".

The crimes of the President of the Philippines are considered crimes against humanity under the Rome Statute of 1998 because they meet the criteria for crimes against humanity under Article 7 of the Rome Statute of 1998. The crimes that have been committed by Rodrigo Duterte under the jurisdiction of the ICC ordered the police and the public to carry out extrajudicial killings against those involved in drugs and carried out the order so that Rodrigo Duterte was found guilty and responsible under the rules of the Rome Statute to protect those who committed it. Crimes against humanity are among the criminal jurisdictions of the ICC. The ICC judge's assessment of the documents filed by prosecutors is that Duterte's anti-narcotics campaign cannot be seen as a legitimate law enforcement activity, but rather leads to a system of attacks on civilians. The United Nations Member States' Sustainable Development Goals of 2015 (the Sustainable Development Goals, SDGs) have provided a boost to more comprehensive global sustainable development cooperation. It has a specific goal to end poverty and inequality and stop climate change by

2030. Under the overarching principle of leaving no one behind, the SDGs emphasize the importance of rights, respect and dignity. The SDGs have a strong focus on human rights and support a political and right-to-development approach that places human interests at their proper level.

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