INTERSECT QUICK FACTS

IS THE DEATH PENALTY THE ANSWER?

The restoration of the death penalty is one of the major legislative priorities of the Duterte administration.

In this issue of *Intersect Quick Facts*, we present a timeline of the death penalty in the Philippines, interrogate myths about it, proffer alternative strategies, and cite organizations promoting restorative justice.

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DEATH PENALTY IN THE PHILIPPINES: A TIMELINE

1097

The Philippines became the first nation in Asia to abolish the death penalty (or "capital punishment"). This was in view of the post-authoritarian 1987 constitution's commitment of the Philippine state to the defense of human rights and to the protection of life. Existing death penalty convictions were reduced to reclusion perpetua (life imprisonment).

"The State values the dignity of every human person and guarantees full respect for human rights."

1987 Philippine Constitution, Article II Section 11

2000

President Joseph Ejercito Estrada issued a moratorium on executions after heeding appeals of groups against the death penalty.

2006

The Philippines became the first nation in the world to abolish the death penalty, restore it, and reabolish it, through Republic Act 9346, which changed the punishment for existing death penalty convictions to reclusion perpetua.

2007

The Philippine government under President Gloria Macapagal Arroyo ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). This commits all State Parties not to execute anyone within their jurisdiction, and to take all necessary measures to abolish the death penalty, without reservation other than that for "a conviction for a most serious crime of a military nature committed during wartime."

1993

Republic Act 7659 made the death penalty mandatory for 21 heinous crimes. The method was changed from electrocution to lethal injection. 1999

The first execution in the Philippines in 23 years killed Leo Echegaray by lethal injection. Six more were subsequently put to death

By 1999, there were 915 people on death row.

2016

President Rodrigo Duterte put the reinstatement of the death penalty at the top of his administration's legislative priorities. The first bill filed in the House of Representatives under his administration was to restore the death penalty. Several similar bills were filed in the House of Representatives and in the Senate

2017

On March 7, the House of Representatives passed on third and final reading a bill to restore the death penalty. House Bill 4727 limits the death penalty to drug-related crimes. But once enacted, the law may be amended to include other crimes such as murder, homicide, rape, plunder, and treason.

DEATH PENALTY MYTHS DEBUNKED

MYTH

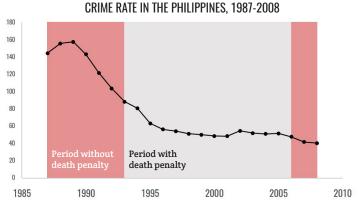
THE DEATH PENALTY WILL DETER CRIME.

FACT

CURRENT RESEARCH IS INCONCLUSIVE AS TO WHETHER THE DEATH PENALTY HAS ANY EFFECT ON THE CRIME RATE. WHAT HAS BEEN SHOWN TO DETER CRIME IS THE CERTAINTY OF BEING CAUGHT AND BEING PUNISHED.

THE DATA DOES NOT PROVE THAT THE DEATH PENALTY DETERS CRIME.

Data from the Philippine Statistical Authority (PSA) show that the crime rate was decreasing sharply before the death penalty was restored in 1992. The rate of decrease appears to have slowed down in the years when the death penalty was enforced.

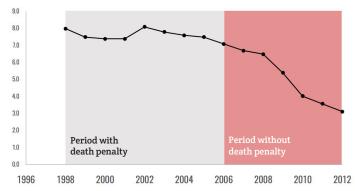


The crime rate is calculated by dividing the number of reported crimes by the total population and multiplying the result by 100,000.

SOURCE: PSA 2000, 2002, 2005, AND 2008

The rate of intentional homicide (defined by the United Nations Office on Drugs and Crime as "unlawful death purposefully inflicted on a person by another person") similarly decreased from 1998 through 2012, regardless of whether the death penalty was in force. It decreased most sharply starting in 2006, the same year the death penalty was last abolished.





The homicide rate is calculated by dividing the number of reported intentional homicides by the total population; the result is multiplied by 100,000.

SOURCE: UNITED NATIONS OFFICE ON DRUGS AND CRIME 2012

CERTAINTY OF APPREHENSION IS A GREATER DETERRENT THAN SEVERITY OF PUNISHMENT.

A 2010 study in the United States found that the certainty of being caught is a greater deterrent than inflicting heavier punishments (Wright 2010).

In a 2016 study of violent crimes in the National Capital Region (NCR), regression analysis showed that crime incidence increased as crime solution efficiency* decreased (Choi et. al. 2016).

*Crime solution efficiency is the percentage of solved cases out of the total number of crime incidents handled by law enforcement agencies in a given period of time.

ECONOMIC DEVELOPMENT IS A GREATER DETERRENT OF CRIMF THAN THE DEATH PENALTY.

A 2004 study of data from 1983 to 2000 showed that economic factors are the most robust determinants of crime rates in the Philippines (Gillado and Tan-Cruz 2004). The study concluded that:

- (1) The more stable the economy, the lesser the crime; and
- (2) Murder and homicide decrease as per capita gross domestic product, average urban and rural income, the consumer price index, and cohort survival rate in elementary education increase.

MYTH

THE DEATH PENALTY WILL DISPENSE JUSTICE.



EXECUTION BY DEATH PENALTY DOES NOT BRING CLOSURE TO FAMILIES OF VICTIMS. IT CAN ALSO BE A FORM OF INJUSTICE SINCE IT IS ERROR-PRONE AND ANTI-POOR.

THE DEATH PENALTY DOES NOT BRING CLOSURE.

A study (Vollum and Longmire 2007) in the United States of 150 cases of victims' loved ones found out that...

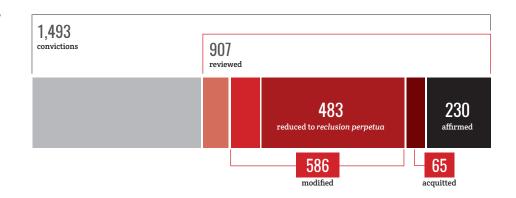
ONLY 2.5%

reported feeling a sense of closure after the execution of the convict

20%

explicitly said execution brought them neither closure nor healing

71.77% OR 651 CONVICTS WERE WRONGLY JUDGED.



THE DEATH PENALTY IS ANTI-POOR.

A survey conducted by the Free Legal Assistance Group (FLAG) (2004) found that death row inmates are "largely uneducated, largely underemployed, and generally living in poverty."



81.8%

MOST WERE WORKING IN LOW-INCOME JOBS (E.G., AS TRANSPORT WORKERS, CONSTRUCTION WORKERS, AGRICULTURAL WORKERS) BEFORE THEIR ARREST.



73.1%

MOST SAID THEY WERE EARNING LESS THAN ₱10,000 A MONTH AT THE TIME OF THEIR ARREST.



44.9%

ALMOST HALF DID NOT GO TO HIGH SCHOOL.

MYTH

THE DEATH PENALTY WILL SOLVE THE DRUG PROBLEM.

FACT

DATA FROM OTHER COUNTRIES IS INCONCLUSIVE AS TO WHETHER THE DEATH PENALTY DETERS DRUG-RELATED CRIMES.

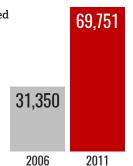
IN CHINA

The average execution rate for drug crimes between 2007 and 2011 was estimated at

510 PER YEAR. Yet drug crimes have continued to rise, more than doubling between 2006 and 2011.

The average increase in drug crimes from 2007 to 2011 was estimated at

15% PER YEAR (Tiezzi 2015).



The China National Narcotics Control Commission estimated that, by the end of 2014, there were

14 MILLION DRUG USERS IN CHINA

and that the drug industry was worth

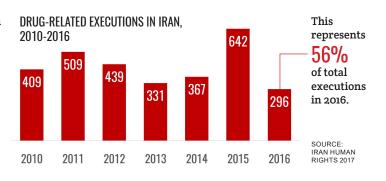
\$82 MILLION

SOURCE: XINHUA 2015

IN IRAN

The average execution rate for drug crimes between 2010 and 2015 was

449 PER YEAR.



Yet in 2015, Iran has

MORE THAN 2 MILLION DRUG USERS

or 2.75% of the country's 80 million population (Dareini 2015).

ALTERNATIVE STRATEGIES TO THE DEATH PENALTY

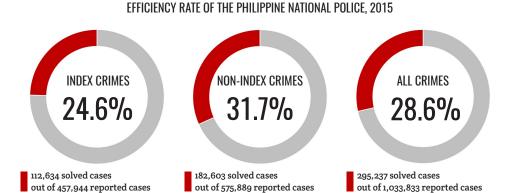
STRENGTHEN LAW ENFORCEMENT BY RECRUITING AND TRAINING MORE POLICE OFFICERS.

There is one police officer for every 669 Filipinos (PSA 2016).

1#: 669 **#**

Under Republic Act 6975, the average staffing levels of the Philippine National Police (PNP) should ideally be one police officer for every 500.

This deficiency affects efficiency. In 2015, the PNP's efficiency rate (solved cases over reported crimes) was a mere 28.6% (PSA 2016). This means police were able to conclude investigations for less than 3 of every 10 reported crimes.



Index crimes are defined as crimes which are serious in nature and which occur with sufficient frequency and regularity such that they can serve as an index to the crime situation. Murder, homicide, physical injury (serious and less serious), carnapping, cattle rustling, robbery, theft, and rapes are index crimes. Non-index crimes, on the other hand, are violations of special laws such as illegal logging or local ordinances.

SOURCE: PSA 2016

IMPROVE THE DELIVERY OF JUSTICE BY FILLING UP THE VACANCIES FOR JUDGES AND PROSECUTORS.

The World Justice Project (2016) identifies our criminal and civil justice systems as the worst aspects of the rule of law in the Philippines.

The Philippines ranked

70TH

worldwide (113 countries), with a score of

0.51 OUT OF 1

in the factor that measures the criminal justice system's effectivity, impartiality, and absence of corruption.

Delay of cases was the most significant barrier to achieving justice in our criminal courts. This is at least partly because of the dearth of judges and the number of cases for each judge.

4,221 CASES

average caseload per working day in the lower courts from 2005 to 2010 (Albert 2013)

644 CASES

annual caseload (or three per working day) of each judge in the lower courts for the years 2006 to 2009 (Albert 2013)

24.3%

annual vacancy rate (number of vacant judicial positions divided by total number of judicial positions) from 2006 to 2009. (Albert 2013)

In US federal district courts, a 10% vacancy rate is considered a judicial crisis (Carpio 2012).

EXPLORE VIABLE NONVIOLENT ALTERNATIVES TO SOLVING THE DRUG PROBLEM.

One alternative that many nations in the world are exploring is the harm reduction approach, also referred to as "risk reduction" and "harm minimization". Harm reduction refers to policies and programmes that put emphasis on the prevention of harms brought by using drugs rather than on the use of drugs per se [Hunt et. al 2003]. It treats drug use as a health issue. Harm reduction policies may involve the decriminalization of drug use; 25 to 30 countries have already done so [Rosmarin and Eastwood 2012].

Other medical harm reduction approaches include needle and syringe programs (NSP), opioid substitution therapy (OST), heroin prescribing, safer injecting, and utilization of drug consumption rooms (DCR).

Harm reduction is often criticized as encouraging drug use, but has decreased drug use in some countries. One success story is Portugal, which has decriminalized drug use alongside harm reduction policies.

GOOD RESULTS

- · Levels of drug use below the European average
- Decline in drug use among those aged 15- 24, the population most at risk of initiating drug use
- Decrease in rates of past-year and past-month drug use among the general population (considered the best indicators of evolving drug use trends)
- Decrease of problematic drug use and injecting drug use between 2000 and 2005
- Decrease in drug use among adolescents decreased for several years following decriminalization
- Decrease in rates of continuation of drug use (the proportion of the population that have ever used an illicit drug and continue to do so)
- Decrease in deaths due to drug use (from 80 in 2001 to 16 in 2012)
- Decrease in proportion of drug-related offenders in prison, from 44% in 1999 to 21% in 2012

AMBIVALENT RESULTS

- A slight increase in lifetime drug use among the general population (considered the least accurate measure of a country's current drug use situation)
- After a decrease of drug use in the first few years of decriminalization, a return to 2003 levels
- Homicides increased 40% betweem 2001 to 2006; but there is no data about how many homicides are drug-related

SOURCE: MURKIN 2014

STRENGTHEN THE IMPLEMENTATION OF LAWS CONSISTENT WITH RESTORATIVE JUSTICE.

Restorative justice provides healing for the victims, offenders, and their community. It focuses on the rehabilitation of the offender and allows him or her to make amends to the victim and/or the victim's family members.

Restorative justice recognizes that a crime harms the victims, the communities, and the offenders themselves. These engage in a process that seeks to repair the harm. Success is measured by the extent to which the harm has been repaired rather than by the degree of punishment.

The Philippines has three existing laws that are consistent with the principles of restorative justice (PhilRights 2006):



REPUBLIC ACT 9344

JUVENILE JUSTICE AND WELFARE ACT OF 2006

clearly defines restorative justice and offers it as a framework for laws, policies, and programs pertinent to children in conflict with the law.



REPUBLIC ACT 8371
INDIGENOUS PEOPLE'S RIGHTS ACT OF 1997

upholds the right of indigenous peoples to use their traditional systems, conflict resolution institutions, and peace building processes consistent with the constitution.



REPUBLIC ACT 9285
ALTERNATIVE DISPUTE RESOLUTION ACT OF 2004

allows parties to settle their disputes amicably outside of the courts system.



POPE FRANCIS ON RESTORATIVE JUSTICE

In our communities, we tend to think that crimes are resolved when the criminal is caught and condemned, directly in relation to the damage that he caused, or without paying enough attention to the situation in which the victim is left. However, it would be error to model compensation only on punishment, to confuse justice with revenge, which would contribute only to increasing violence, even if it is institutionalized. Experience tells us that enhancing and enforcing penalties often fails to resolve social problems, nor do they result in reducing the crime rate. Moreover this method can create serious problems for the community, such as overcrowded prisons and people held without [valid] convictions.... In many cases the offender fulfills his punishment objectively, serving his sentence but without changing inside or healing his wounded heart."

Letter to the 19th International Conference of the International Association of Penal Law and the Third Congress of the Latin American Association of Penal Law and Criminology, May 2014

'Rendering justice' does not mean seeking punishment for its own sake, but ensuring that the basic purpose of all punishment is the rehabilitation of the offender. The question must be dealt with within the larger framework of a system of penal justice open to the possibility of the guilty party's reinsertion in society. There is no fitting punishment without hope! Punishment for its own sake, without room for hope, is a form of torture, not of punishment."

Message to the Sixth World Conference Against Death Penalty, June 2016

ORGANIZATIONS PROMOTING RESTORATIVE JUSTICE



CATHOLIC BISHOPS' CONFERENCE OF THE PHILIPPINES-EPISCOPAL COMMISSION ON PRISON PASTORAL CARE (CBCP-ECPPC)

In 1975, the CBCP received a letter-petition from the New Bilibid Prison (NBP) inmates stating their difficult condition inside and appealing to help them improve their prison environment, as well as the situation of their fellow prisoners throughout the country, and of their families. ECPPC was established as a response.

The ECPPC promotes and organizes Volunteers In Prison Service (VIPS) and restorative justice advocates in different archdioceses and dioceses to implement integrated pastoral programs for rehabilitation of members of prison society; maintains networking partnerships and linkages with organizations such as the Coalition Against Death Penalty (CADP), Philippine Action for Youth Offenders (PAYO), and the Integrated Correctional Association of the Philippines (ICAP); sustains programs for the ECPPC staff and volunteers to deepen their understanding of and commitment to the prison ministry; and provides direct services such as paralegal assistance for prisoners and educational assistance for children of ex-prisoners and prisoners.



COALITION AGAINST DEATH PENALTY (CADP)

CADP is a network of organizations and individuals opposing the death penalty and working toward "Justice that Heals". The coalition was established in 1994, the year after the reinstatement of the death penalty. After the reabolition of the death penalty in 2006, CADP has continued working

for reforms in the justice system. CADP works in partnership with organizations working for restorative justice through the observance of Prison Awareness Week, conferences on restorative education, seminars on restorative justice, and workshops on nonviolent communication.

KILL THE

HOW YOU CAN HELP STOP THE DEATH PENALTY

- Write, tweet, or call your legislators and ask them not to support the restoration of the death penalty.
- Sign petitions, such as the "1 Million Petition Against Death Penalty" at veritas846.ph/chooselife, and share them with your friends.
- Post your own or others' opinion pieces against the death penalty. Use the hashtag #NoToDeathPenalty on Facebook and Twitter.
- Stay informed. Like the following on Facebook:
 - FLAG (Free Legal Assistance Group) Anti-Death Penalty Task Force
 - Coalition Against Death Penalty (CADP)
 - Commission on Human Rights of the Philippines (CHR)

- Ask your church or school to put up a tarpaulin saying "No to the death penalty."
- Organize discussions on the death penalty in your school, parish, organization, or neighborhood.
- Join mobilizations against the death penalty.
- Join or set up an organization that advocates against the death penalty, or mobilize parish groups, school groups, or community groups to advocate against the death penalty.
- Share this publication in social media to your friends and family. Use the hashtaq #NoToDeathPenalty on Facebook and Twitter.

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