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A DISCOURSE ANALYSIS OF THE POLITICS OF IMPUNITY: EXTRAJUDICIAL KILLINGS, HUMAN RIGHTS, AND THE DUTERTE ADMINISTRATION

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ABSTRACT

This study examines the discourse surrounding extrajudicial killings (EJKs) during the administration of former Philippine President Rodrigo Duterte, analyzing how language, rhetoric, and institutional narratives have shaped public perception, justice mechanisms, and international legal responses. Using discourse analysis, the research focuses on the competing narratives from government officials, human rights organizations, the International Criminal Court (ICC), and the media. The findings highlight the implications of political rhetoric on due process, rule of law, and human rights. This study contributes to a broader understanding of justice, human rights violations, and the role of international judicial institutions in holding political figures accountable.

KEYWORDS: Discourse Analysis, Extrajudicial Killings, Human Rights, Duterte Administration, International Criminal Court, Legal Language.

1. INTRODUCTION

The administration of former Philippine President Rodrigo Duterte was marked by an aggressive war on drugs, resulting in thousands of extrajudicial killings (EJKs). This study explores how discourse surrounding these killings has influenced justice mechanisms, human rights advocacy, and international legal interventions. The research investigates the framing of EJKs by state and non-state actors, highlighting the power of language in shaping public opinion and institutional responses.

The Duterte administration justified its war on drugs as a necessary measure to protect public security and eradicate criminality. However, human rights organizations, international institutions, and various legal bodies have criticized the approach for violating fundamental rights and undermining due process. The Philippine government's response to these criticisms has often included nationalist rhetoric, accusations of foreign intervention, and a rejection of international accountability mechanisms such as the International Criminal Court (ICC). These competing narratives shape not only domestic public perception but also the global discourse on state-sponsored violence and human rights violations.

Given this context, discourse analysis serves as a valuable framework for examining how language, power, and ideology intersect in the justification or condemnation of extrajudicial killings. By analyzing political speeches, media reports, and legal documents, this study aims to uncover the discursive strategies that influence legal processes and policy decisions. Moreover, understanding these narratives is crucial for assessing the effectiveness of justice mechanisms, particularly in relation to international interventions and human rights advocacy.

This research contributes to the broader discourse on justice, process, and human rights by critically evaluating how state narratives can either uphold or undermine legal and ethical standards. It further explores the implications of the ICC's involvement in the Philippine case, particularly in the context of state sovereignty and the pursuit of accountability. Through this study, we seek to provide a nuanced understanding of the role of discourse in shaping both legal and social responses to human rights violations.

Research Objectives

1. To analyze the discourse strategies used by Duterte and government officials in justifying extrajudicial killings.
2. To examine how international bodies, such as the ICC and human rights organizations, construct counter-discourses against state narratives.

3. To explore the impact of political and legal discourse on justice mechanisms and human rights protections in the Philippines.

2. LITERATURE REVIEW

Existing studies on extrajudicial killings in the Philippines have focused on legal, sociopolitical, and human rights dimensions. Previous research emphasizes the role of populist rhetoric in legitimizing violence and undermining due process. The theoretical landscape includes Foucault's concept of discourse and power, Fairclough's critical discourse analysis (CDA), and theories on state violence and human rights accountability.

2.1. Extrajudicial Killings and State Violence

Extrajudicial killings (EJKs) have been widely studied in the context of state violence and authoritarian governance. Scholars argue that EJKs are manifestations of state control that bypass legal frameworks, often justified through national security rhetoric (Buchanan, 2020; Davis, 2019). In the Philippines, Duterte's war on drugs intensified these practices, with law enforcement agencies and vigilante groups engaging in targeted assassinations of suspected drug offenders (Curato, 2017). Studies highlight the weakening of institutional checks and the normalization of state-sponsored violence as a governance strategy (Heydarian, 2018).

2.2. Populist Rhetoric and Legitimization of Violence

Populism, particularly the strongman model exemplified by Duterte, has played a crucial role in shaping public perceptions of EJKs. Populist leaders construct a binary between "good citizens" and "criminals," using emotionally charged rhetoric to justify extreme measures (Moffitt, 2016). Fairclough's (1995) Critical Discourse Analysis (CDA) has been applied to Duterte's speeches, revealing how linguistic choices frame violence as a necessary response to social decay (Reyes, 2020). The systematic repetition of war metaphors ("battle," "war on drugs") fosters public desensitization to human rights violations (Thompson, 2021).

2.3. International Human Rights and Legal Accountability

The Philippine government's anti-drug campaign has drawn global condemnation, particularly from the United Nations and the International Criminal Court (ICC). International legal scholars emphasize the role of the ICC in addressing human rights violations when national legal systems fail (Sikkink,

2011). The Philippines' withdrawal from the ICC in 2019 further complicated accountability efforts, raising questions about sovereignty and international intervention (Villegas, 2022). Studies also explore the role of transnational advocacy networks in pressuring governments to uphold human rights norms (Keck & Sikkink, 1998).

2.4. Theoretical Approaches: Discourse, Power, and Justice

Foucault's (1977) theory of discourse and power provides a foundational lens for analyzing how language shapes social realities. Discourses of law and order, often manipulated by political elites, create narratives that justify state violence (Hall, 2013). Fairclough's CDA framework enables a detailed examination of media representation and policy discourse on EJKs, revealing implicit biases and ideological constructs (Machin & Mayr, 2012). The intersection of these theories with human rights frameworks offers critical insights into how justice is framed and contested in authoritarian regimes (Comaroff & Comaroff, 2006).

2.5. Media Representation and Public Perception

Media plays a pivotal role in shaping public discourse on EJKs. Studies show that mainstream media often reflect government narratives, reinforcing dominant frames that justify state actions (Chua, 2019). Alternative media and international reporting, however, have countered these narratives by amplifying voices of victims and human rights advocates (Teehankee, 2020). Social media further complicates discourse, as disinformation campaigns have been strategically used to delegitimize opposition and human rights watchdogs (Ong & Cabañes, 2019).

3. THEORETICAL CONSIDERATIONS

Language plays a crucial role in shaping governance, justice, and public perception through discourse and power dynamics. Foucault (1980) argues that discourse is not merely a means of communication but a tool for constructing and maintaining power, as seen in how governments justify policies and marginalize dissenting voices. Fairclough's (1995) Critical Discourse Analysis (CDA) further examines how political speech influences legal structures and public opinion, particularly through ideological language that legitimizes state actions. In the context of authoritarian or populist governance, rhetoric can reinforce dominant narratives while suppressing

counter-discourses from human rights advocates. Meanwhile, legal discourse determines the enforceability of human rights by shaping international accountability measures (Douzinas, 2000). The International Criminal Court (ICC), for instance, relies on legal narratives to classify state actions as crimes against humanity, highlighting tensions between sovereignty and global justice. These theoretical perspectives collectively reveal how language shapes power, law, and human rights enforcement.

Understanding the intersection of state rhetoric, human rights counter-discourses, and international legal implications requires a theoretical framework that critically examines how language, power, and legal narratives shape governance and justice. Three key theoretical considerations provide insights into these dynamics: Discourse and Power (Foucault), Critical Discourse Analysis (Fairclough), and Human Rights and Legal Discourse.

3.1. Discourse and Power (Foucault)

Michel Foucault's theory of discourse and power explores how language is not merely a tool for communication but a mechanism for constructing and maintaining power structures (Foucault, 1980). In the context of governance and justice, discourse dictates what is considered "truth" and legitimizes certain policies and actions while marginalizing opposing viewpoints. In the case of Duterte's administration, the framing of extrajudicial killings (EJKs) as a "necessary evil" exemplifies how state rhetoric can shape public perception and normalize authoritarian practices. By presenting the war on drugs as a battle for national security and public safety, the government wielded discourse as a tool to reinforce its authority, silence dissent, and justify actions that might otherwise be deemed unlawful or unethical (Curato, 2017).

Foucault also highlights how power operates through institutions, legal frameworks, and media, reinforcing dominant narratives that serve the ruling elite (Foucault, 1991). The state's control over public discourse, including the suppression of alternative perspectives from human rights organizations and critical journalists, demonstrates how language can be weaponized to sustain political dominance. This theoretical lens helps explain why state-led narratives on crime and punishment often gain widespread acceptance despite their contradictions with democratic and human rights principles (Reyes, 2016).

3.2. Critical Discourse Analysis (Fairclough)

Norman Fairclough's Critical Discourse Analysis (CDA) provides a methodological approach to examining how political speech influences public perception and legal structures (Fairclough, 1995). CDA posits that language is inherently ideological and plays a crucial role in shaping social realities, particularly through media, political statements, and legal rhetoric. In the Philippine context, Duterte's populist rhetoric—characterized by direct, emotionally charged language and appeals to public frustration—created a narrative that justified extrajudicial measures as an effective response to crime (Pleyers, 2018).

Fairclough's framework is particularly useful in analyzing how state rhetoric interacts with institutional and legal discourses. For instance, political speeches and public addresses often depict drug users as threats to society, reinforcing punitive legal measures while downplaying human rights concerns (David, Atun, & Agbulos, 2019). This constructed narrative influences legislative decisions, judicial interpretations, and public policies, demonstrating how discourse actively shapes legal structures. Additionally, CDA sheds light on how counter-discourses—such as those from human rights organizations—attempt to dismantle state narratives by appealing to principles of justice, legality, and international accountability (Kusaka, 2017).

3.3. Human Rights and Legal Discourse

The study of human rights and legal discourse investigates how legal narratives influence international accountability measures and the enforcement of human rights laws (Douzinas, 2000). Legal discourse operates within a framework of international treaties, domestic laws, and judicial precedents that define acceptable state conduct. The International Criminal Court's (ICC) involvement in investigating EJKs in the Philippines exemplifies how legal discourse functions as both a mechanism for justice and a battleground for political contestation (Villegas, 2021).

This theoretical perspective examines the ways in which legal language is used to either uphold or challenge human rights violations. Governments often employ legal justifications to defend controversial policies, such as framing anti-drug operations as lawful enforcement measures (Tigno, 2018). Conversely, human rights organizations utilize legal discourse to highlight breaches of international obligations, advocating for accountability through established legal

mechanisms. The tension between national sovereignty and international intervention is a critical issue within this discourse, as states often resist external legal scrutiny by asserting their autonomy in law enforcement and governance (Cloatre & Cowan, 2019).

Furthermore, legal discourse plays a crucial role in shaping international responses to human rights violations. The framing of cases, the selection of legal terminology, and the interpretation of international statutes determine whether actions are classified as crimes against humanity, violations of due process, or legitimate law enforcement efforts (Robertson, 2012). This theoretical lens underscores the importance of legal narratives in influencing global justice mechanisms and the protection of human rights.

These three theoretical considerations—Discourse and Power (Foucault), Critical Discourse Analysis (Fairclough), and Human Rights and Legal Discourse—offer a comprehensive framework for analyzing the interplay between state justifications, human rights counter-discourses, and international legal challenges. By examining how language constructs power, shapes public and legal perceptions, and influences international accountability, these perspectives provide valuable insights into the broader implications of governance, justice, and human rights enforcement.

4. METHODOLOGY

This study employs Critical Discourse Analysis (CDA) to examine how language, rhetoric, and legal framing construct and legitimize narratives surrounding former Philippine President Rodrigo Duterte's war on drugs. Specifically, the study draws on the analytical framework of Norman Fairclough, which conceptualizes discourse across three dimensions: (1) textual analysis (linguistic features and rhetorical strategies), (2) discursive practice (production and circulation of texts), and (3) social practice (broader socio-political context).

A qualitative research design is adopted, focusing on identifying recurring patterns in language use, framing strategies, and representations of legality, violence, and accountability.

4.1. Data Sources and Corpus Construction

The study analyzes a purposively selected corpus of texts produced between 2016–2022, consisting of:

Political Speeches and Official Statements

Transcripts of public addresses, press briefings, and official statements delivered by Duterte and key government officials. These were obtained from

official government websites (e.g., Presidential Communications Operations Office) and verified archives. Selection criteria include relevance to the war on drugs, frequency of reference to violence or legality, and public visibility.

4.2. Media Texts

Articles and opinion pieces from major Philippine and international news outlets. Articles were selected based on keywords such as “war on drugs,” “extrajudicial killings,” and “ICC investigation.” The dataset includes both straight reporting and editorial commentary to capture variation in framing.

International Legal and Institutional Documents

Reports, statements, and legal analyses from the International Criminal Court, as well as publications from human rights organizations such as Human Rights Watch and Amnesty International. These documents were selected for their direct engagement with allegations of crimes against humanity and legal accountability.

4.3. Analytical Procedure

The analysis proceeds in three stages:

4.3.1. Textual Analysis

Close reading of texts to identify key lexical choices, metaphors, modality (e.g., expressions of certainty or obligation), and rhetorical devices (e.g., demonization, securitization, moral justification).

Discursive Practice Analysis

Examination of how these texts are produced, circulated, and consumed, including intertextuality (how media and legal texts reference or reinterpret political statements).

4.3.2. Social Practice Analysis

Interpretation of findings in relation to broader socio-political structures, including state power, populism, and international human rights norms.

To enhance rigor and transparency, the study documents coding categories, provides sample excerpts, and applies consistent inclusion criteria across all data sources.

4.4. Results And Discussion

The Duterte administration justified extrajudicial killings (EJKs) as a necessary measure to eradicate drug-related crime, employing fear-based and populist narratives to garner public support. By framing these actions as essential for maintaining order and security, the government reinforced a rhetoric that prioritized swift justice over due process. This state justification, however, faced

strong opposition from human rights organizations and international bodies. Human rights groups, along with the International Criminal Court (ICC), countered this narrative by emphasizing the fundamental violations of due process, the rule of law, and international legal obligations. They challenged the government’s approach, arguing that such measures undermined democratic principles and eroded the protection of human rights. Their discourse sought to reframe the issue, highlighting the need for accountability and adherence to legal frameworks that safeguard individual freedoms. The ICC’s investigation into the Philippine drug war further underscored the tensions between national sovereignty and international justice. This legal scrutiny raised critical questions about the enforceability of human rights laws and the extent to which global institutions can intervene in domestic affairs. The situation exemplifies the broader challenge of balancing state autonomy with international accountability, shaping ongoing debates on the role of global governance in addressing human rights violations.

Discourse Strategies Used by Duterte and Government Officials in Justifying Extrajudicial Killings

4.5. Populist and Authoritarian Rhetoric

Duterte’s administration employed populist discourse to justify the war on drugs. His speeches often framed drug users and dealers as “enemies of the state” and “beyond redemption.” Studies on populist rhetoric highlight the dichotomous framing of society into “good citizens” versus “criminals” (Moffitt, 2016). Duterte’s frequent use of violent metaphors, such as “I will kill you” and “slaughter them all” (Curato, 2017), reinforced the narrative that EJKs were necessary for national security.

Delegitimization of Human Rights Advocacy

A recurring theme in Duterte’s discourse was the portrayal of human rights organizations as obstacles to law and order. Government officials labeled human rights defenders as protectors of criminals, an argument that eroded public trust in these institutions (Heydarian, 2018). By branding critics as “destabilizers” or “traitors,” the administration effectively diminished opposition and justified its aggressive approach.

4.6. Strategic Ambiguity and Legal Evasion

The government strategically blurred the line between legality and extralegal actions. Duterte himself oscillated between direct orders for violence and statements that seemed to retract or downplay

his previous comments. This ambiguity created plausible deniability, making it difficult for legal institutions to hold state actors accountable (Thompson, 2020).

4.7. Counter-Discourses by International Bodies

The ICC's Narrative on Crimes Against Humanity
The International Criminal Court (ICC) constructed its counter-discourse by framing the Philippine drug war as a violation of international human rights laws. The ICC's preliminary examination in 2018 categorized EJKs as possible crimes against humanity (ICC, 2021). This narrative positioned Duterte's policies within the broader context of state-led violence and impunity, emphasizing the need for international intervention.

Human Rights Organizations and Media Framing
International human rights organizations, such as Amnesty International and Human Rights Watch, played a critical role in shaping global perceptions of the drug war. Reports from these organizations provided empirical data contradicting government claims of lawful operations. Media outlets also constructed counter-narratives by documenting personal stories of victims, thereby humanizing the statistics and reinforcing the urgency for justice (Rafael, 2020).

4.8. Diplomatic and Economic Repercussions

The counter-discourse against Duterte's drug war had tangible effects on the Philippines' diplomatic standing. The European Union and the United Nations Human Rights Council issued resolutions condemning the killings. Economic implications followed, with some countries reconsidering trade agreements due to human rights concerns (Gomez, 2019).

The Impact of Political and Legal Discourse on Justice Mechanisms and Human Rights Protections Weakening of the Rule of Law

Duterte's discourse had a direct impact on justice mechanisms. By normalizing extrajudicial measures, the administration undermined judicial independence. Legal institutions, including the Philippine judiciary and law enforcement agencies, faced pressure to align with the administration's rhetoric, weakening due process protections (Teehankee, 2019).

DISCLAIMER: The views expressed in this research are those of the researchers and do not necessarily reflect the official positions of the affiliated institutions or any other organizations.

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Public Perception and Legal Accountability

Public support for the war on drugs, fueled by government narratives, created a challenge for legal advocacy groups. Surveys showed that a significant portion of the population viewed EJKs as an effective crime deterrent (Pulse Asia, 2020). This perception complicated efforts to pursue legal accountability, as courts and lawmakers faced public backlash for opposing state policies.

4.9. Evolving Human Rights Framework in the Philippines

Despite these challenges, counter-discourses have influenced recent legal developments. The Supreme Court ruled on cases that set precedents for human rights protections, and advocacy groups have strengthened documentation efforts to support future legal action (Magcamit, 2021). Furthermore, the election of a new administration has opened discussions on revisiting justice mechanisms and re-engaging with international human rights institutions.

5. CONCLUSION

The discourse surrounding Duterte's war on drugs has significantly influenced legal and human rights debates. Political rhetoric has shaped public perception, reinforcing state narratives that justify extrajudicial actions. Conversely, international legal discourse and human rights advocacy have challenged these narratives, emphasizing accountability and justice. The study underscores the critical role of language in shaping justice mechanisms and international human rights enforcement.

5.1. Practical And Social Implications Of The Study

This research contributes to discussions on legal accountability, media influence, and the role of international institutions in human rights protection. It provides insights for policymakers, human rights advocates, and legal scholars on addressing political rhetoric that undermines justice and due process. The study also informs future efforts to strengthen legal frameworks for human rights protection at both national and international levels.

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