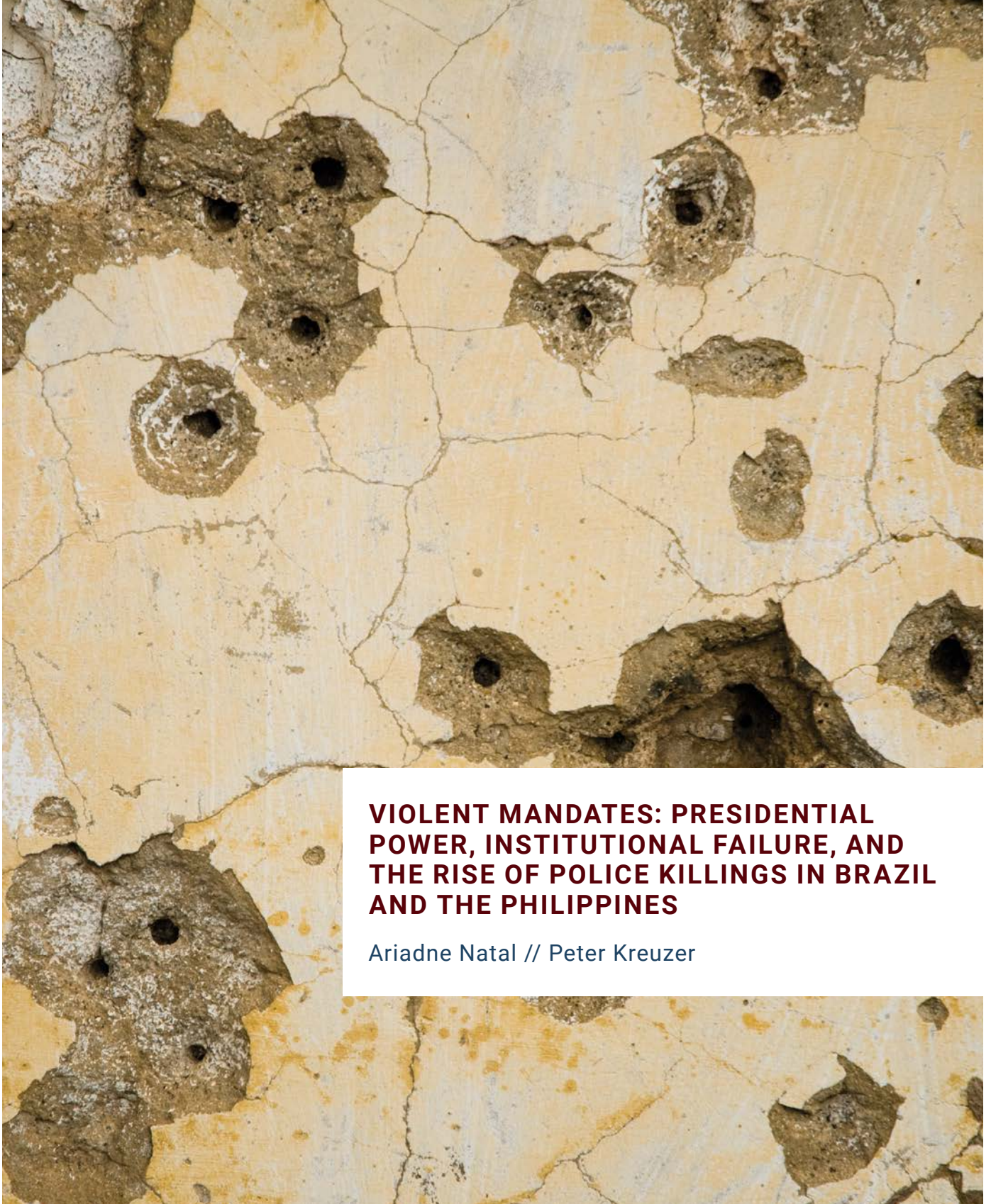




report



**VIOLENT MANDATES: PRESIDENTIAL
POWER, INSTITUTIONAL FAILURE, AND
THE RISE OF POLICE KILLINGS IN BRAZIL
AND THE PHILIPPINES**

Ariadne Natal // Peter Kreuzer

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The report examines the role of presidential influence and institutional failures in the rise of police killings in Brazil and the Philippines from 2016 to 2022. It focuses on the administrations of Michel Temer and Jair Bolsonaro in Brazil, and Rodrigo Duterte in the Philippines, analyzing how these leaders promoted aggressive law enforcement that resulted in increased extrajudicial killings. Both cases illustrate how democratic institutions failed to prevent a sharp rise in police use of lethal force, despite the formal frameworks designed to constrain executive overreach and regulate law enforcement practices.

Context and Objectives

A core promise of democracy is that executive power will be checked by the legislative and judicial branches, ensuring respect for due process and the rule of law. The central question driving this analysis is: why did democratic institutions in Brazil and the Philippines fail to prevent or control the rise of police killings, especially when formal mechanisms were in place to do so?

The report explores the interplay between formal and informal institutions and how this interaction resulted in police fatal actions. Formal institutions, regulated by laws and codified rules, are supposed to enforce human rights and limit the use of force by law enforcement. However, informal institutions – based on shared expectations, political alliances, and unwritten rules – played a significant role in undermining these formal controls. Presidents in both countries were able to leverage these informal mechanisms to bypass institutional restraints and push for a more violent approach to policing.

Brazil under Temer and Bolsonaro

The report delves into how both presidents used their formal powers and informal influence to promote police use of lethal force. Michel Temer (2016–2018) embraced a militarized public security strategy, marked by the use of federal military interventions. The most important initiative was the 2018 military intervention in Rio de Janeiro, which, despite leading to higher levels of violence, was hailed by Temer as a success. His administration's militarization of public security contributed to a 125% rise in police-related deaths. Jair Bolsonaro (2019–2022) took Temer's militaristic approach even further. He openly endorsed police violence, encouraging officers to use lethal force without fear of legal consequences. His proposed legislation sought to shield police from criminal liability, legitimizing their use of excessive force. Despite legislative setbacks, Bolsonaro's rhetoric emboldened state police forces, creating a culture of impunity. His informal influence over law enforcement and alignment with police ideologies made formal institutional constraints largely ineffective.

The Philippines under Duterte

In the Philippines, Duterte's War on Drugs led to a dramatic increase in police killings. Even before Duterte's presidency, police used excessive force, but the scale of fatal violence dramatically increased under his leadership. Within six months of taking office, Duterte's administration recorded more killings than in the previous decade. Duterte's rhetoric provided police carte blanche to carry

out extrajudicial killings, and his administration promised protection from legal repercussions. Given past experiences of impunity due to the failure of control institutions to investigate and punish excessive police use of deadly force this extralegal promise of a highly assertive president was credible. Despite the sudden and dramatic rise in police killings institutions designed to provide oversight, such as the Internal Affairs Service (IAS), the judiciary, and the legislative, failed to act, enabling police actions to continue.

Institutional Failures

Both in Brazil and the Philippines, institutions tasked with regulating the use of force, such as the judiciary, internal oversight bodies, and legislatures, failed to prevent the escalation of police killings. These failures were largely due to the dominance of informal institutions and norms that aligned with the executive's aggressive law enforcement policies.

In Brazil, despite legal frameworks that regulated police use of force, both Temer and Bolsonaro used informal strategies to influence police behavior. For instance, Bolsonaro's public endorsement of violent tactics created an environment where police felt emboldened to act with impunity. Although Brazil's Congress and judiciary occasionally acted to curb Bolsonaro's more extreme proposals, the overall institutional response was weak, allowing the surge in police killings to persist.

In the Philippines, Duterte's control over law enforcement and political power made it difficult for institutions to resist his agenda. Oversight mechanisms, such as the IAS, remained passive, and public prosecutors often accepted police narratives without adequate scrutiny. The legislative branch also failed to act, as the majority of politicians aligned with Duterte's war on drugs.

Conclusion

The two cases presented in the report highlight how democratic institutions can become ineffective when informal norms support executive overreach. In both countries, radical presidents were able to bypass formal institutional constraints through a combination of legal powers, informal influence, and rhetoric that promoted violence. This led to the inefficiency of institutional controls designed to protect human rights and prevent police abuse.

The report emphasizes the importance of understanding the interplay between formal and informal institutions in shaping political behavior. The authors argue that for democratic resilience to be effective, institutions must be able to withstand not only formal attacks but also the more subtle, informal pressures that erode the rule of law. This is only possible if the informal "rules of the game" align with the formal ones as enshrined in national laws and regulations.

Frankfurt, November 30, 2024

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1. INTRODUCTION: RADICAL PRESIDENTS AND THE FAILURE OF INSTITUTIONAL CONTROL – LIMITS TO DEMOCRATIC RESILIENCE

Checks and balances do not have an agency of their own. A democracy is only as strong as the men and women who inhabit it. (Rogers 2018)

A core promise of democracy is to regulate the power of the executive body and to prevent its arbitrary use through the separation of powers between the executive, legislative, and judiciary. This division allows the legislative and judiciary to restrain any government that violates due process and the rule of law.

Our report¹ examines how institutions responded when presidents used their formal and informal powers to promote forms of law enforcement that violated national and international laws, including tolerance or encouragement of police use of excessive force and even targeted killings. The cases of Brazil and the Philippines illustrate how democracy operates under real-world conditions and in countries classified as democracies over the past 30 years, despite some deficits. The Economists have consistently rated both countries between 6.7 and 6.9, categorizing them as hybrid democracies (Economist Intelligence Unit 2006–2023). The Polity Project has rated both more positively, consistently assigning them a score of 8 on a scale from -10 to 10 since the 1980s (Worldbank 2024). Thus, in both indices, they belong to the category of flawed democracies.

From 2016 to 2022, presidents in both countries explicitly signaled impunity for officers involved in extralegal killings, resulting in a rise in police use of deadly force. This surge was stronger in the Philippines, where police kill rates rose from 0.3 to 2.57 per 100,000 inhabitants - an increase of approximately 2,000 percent. This dramatic escalation set the Philippines apart from its Southeast Asian neighbors Indonesia and Malaysia, where the use of lethal force is low.² A significant increase in the number of police-related deaths also occurred in Brazil during the same period, where the rate of deaths due to police intervention rose from 1.08 to 3.17 per 100,000 inhabitants – an increase of nearly 200%. This places Brazil's rate 10 times higher than that of other Latin American countries, such as Colombia and Mexico, which report approximately 0.3 police killings per 100,000 inhabitants (Pérez et al. 2019). The numbers are outstanding when compared to countries like the United States, which reports a rate of approximately 0.3 per 100,000 inhabitants,³ and even more so when contrast-

1 Many thanks to our colleagues Farnaz Dezfouli Asl, Thorsten Gromes, and Jonas Wolff for their critical remarks, comments, and suggestions on an earlier version of this text. Of course, the responsibility for any shortcomings lies with the authors.

2 Official data exist for neither country, but unofficial data suggest the use of excessive force in both countries, however, with use of fatal force being a rare occurrence (Baker and Nasrudin 2024, Human Rights Watch 2014, Amnesty International 2005).

3 The Washington Post. Police shootings database 2015-2024 (<https://ogy.de/yvcg>).

ed with European nations, where annual rates are as low as 0.004 in England and Wales⁴, 0.012 in Germany, and 0.04 in France⁵.

Given that both Brazil and the Philippines have strong control institutions in place, these developments should have been curtailed by resistance from institutions responsible for overseeing government actions and law enforcement. Our central question is why institutions failed to prevent or curb the surge in police killings. We analyze mechanisms such as national laws regulating the police use of force, internal and external oversight on such use of force, and the role of legislative bodies tasked with limiting executive power. Alongside these external controls, we also examine the role of formal limits to executive power. While some failures stem from institutional flaws, we argue that the dominance of informal institutions and practices, which often undermine formal norms, played a larger role in making formal institutions ineffective.

The report assesses how both formal and informal institutions shaped the executive-led campaigns in Brazil and the Philippines. It begins by examining the formal powers that enable and constrain the presidents, analyzing how institutions tasked with controlling the presidency responded to the push for hardline policing, including targeted killings.

By focusing on institutions that supervise the executive power, this paper explores a crucial aspect of democratic resilience in times of crisis when the rule of law and human rights are threatened. It concludes by discussing the broader implications for democratic resilience.

The report is structured as follows: We begin with a brief introduction to the concepts of formal and informal institutions and their interactions. The main section of the report presents two case studies of presidential initiatives aimed at expanding the scope of hardline policing beyond the boundaries set by formal institutions, such as the Constitution and state laws.

Each study includes a short overview of shifts in fatal police actions and an introduction to the formal oversight institutions and their powers. The primary focus, however, is on presidential actions and the responses of the oversight institutions. We have chosen different structures for each case: In Brazil, President Bolsonaro attempted to change the formal rules themselves, making it essential to explore the interplay between presidential initiatives and legislative resistance. In contrast, in the Philippines, the president began with extensive formal powers, making rule changes unnecessary. As a result, reactions to the war on drugs did not directly link to specific presidential actions and are therefore presented independently.

4 Independent Office For Police Conduct no year. Annual deaths during or following police contact statistics – Time Series Tables -2022/23 (<https://ogy.de/soee>); and author's Freedom of Information Request Bundesministerium des Inneren, für Bau und Heimat.

5 Du Roy, Ivan 2023. Le Nombre de Morts Liées à une Intervention (<https://ogy.de/84hu>).

2. THE INTERPLAY OF FORMAL AND INFORMAL INSTITUTIONS

Before analyzing the two cases, a brief theoretical overview of the interplay between formal and informal institutions is needed. Institutions are defined as “rules and procedures shaping social interaction by limiting and enabling individual actions and behavior of subjects and individuals” (Horak and Restel 2016: 527). In politics, they represent the rules of the game or regularized patterns of interaction between actors.

Formal institutions, in the forms of laws and regulations define how institutions, such as the executive, legislature, and judiciary, should function. They provide the formal rules of the game, sanctioning violations through official channels (Lauth 2000; Helmke and Levitsky 2004). In a democracy, human rights, due process, the rule of law, and the separation of powers are expected to guard the citizens against the arbitrary use of power. In a country governed by rules of law, violations should be prevented or curtailed by institutions operating according to their official rules. Thus, institutions like the executive or judiciary are formal to the extent that they operate according to laws and regulations. They are formal institutions to the extent that their personnel work according to the books.

However, institutional practices are always a combination of formal and informal rules, as formal rules alone cannot fully determine all practical aspects of institutional practice. Moreover, laws and regulations are abstract and require interpretation, providing much leeway for variation influenced by informal rules and procedures. Such informal institutions provide expectations about behavior and rule enforcement shared by those persons occupying institutional positions (Helmke and Levitsky 2004). Unlike formal institutions, informal institutional are not enforced by an official authority (Barbalet 2022) and operate outside official channels.

Informal institutions can complement, accommodate, substitute for, or compete with formal institutions. Complementary informal institutions fill gaps in formal rules and support compliance. Accommodating institutions modify formal rules without breaking them, helping to maintain stability. Substitutive institutions address enforcement gaps, achieving outcomes aligned with formal goals. Competing institutions, however, contradict formal rules, creating conflicts. As Helmke and Levitsky note, „To follow one rule, actors must violate another“ (Helmke and Levitsky 2004: 729).

	Effective formal institutions	Ineffective formal institutions
Convergent outcomes	Complementary	Substitutive
Divergent outcomes	Divergent outcomes	Competing

Source: Helmke and Levitsky 2004.

An example of an informal institution oscillating between accommodating and competing with a formal institution is party discipline, which requires members of parliament to vote along party lines. This practice collides with the principle of freedom of conscience in liberal democracies, as seen in the constitutions of Germany, Spain, Portugal, Italy, and Poland.

Given similar formal bureaucratic rules, a meritocratic mindset held by the bureaucrats establishes fundamentally different bureaucratic practices compared to a clientelist mindset. Whereas the former complements formal rules, the latter competes with and undermines them.

In a wider sense in any country, the practice of the rule of law is to a significant extent determined by the informal institutions of predominant legal and professional cultures. One extreme case of an informal institution competing with formal institutions is blood-feuding still prevalent in some regions of the Philippines, which, from a formal legal perspective constitutes a series of murders. These, however, are neither reported to the police by the aggrieved party nor dealt with under the formal legal system, but resolved by informal semi-traditional means, most often with the active participation of state representatives and the payment of blood-money (Torres 2014, Kreuzer 2005, Ateneo de Zamboanga 2005). Typically, local politicians, sometimes also military commanders participate in resolution, even though murder constitutes a public offense that must be prosecuted, as “there is no such thing as an amicable settlement in a murder case” (Supreme Court 1994). Here joint understandings held by all parties make sure that the laws of the land are ignored in favor of a competing informal institution.

The same holds for the generalized presumption of regularity in the performance of police officers in operations and the passive role-perception of prosecutors in cases of police use of deadly force. The Philippine Supreme Court ruled that there is no presumption of regularity in the killing of suspects by police officers, as justifying circumstances cannot be presumed “and the burden of proving the existence of such circumstance shifts to the accused” (Supreme Court 2013). Yet, the argument of presumed regularity was the crucial determinant in the squashing of almost all cases against police officers, signaling that this shared framing of fatal police operations informed the assessments of prosecutors. Thus, prosecution practice may differ sharply from formal institutional requirements, legitimated by an assumption shared by prosecutors that successfully competes with formal requirements.

These examples illustrate that formal institutions exist in principle on paper as laws and regulations. How they play out in institutional practice is determined to a significant extent by the strength of the various types of informal institutions, which can either reinforce or undermine formal ones.

The fourfold typology places institutional practices on a spectrum from functional to dysfunctional, depending on the strength of formal institutions and their alignment with informal institutions. When formal institutions are effective, they constrain political actors and produce consistent results. When they are ineffective, informal practices become more influential, either aligning with or undermining formal rules (Helmke and Levitsky 2004).

Any failure of formal institutions to function according to their formal principles results from a combination of lacking effectiveness and strong informal institutions, which conflict with the principles and norms of the formal institutions in essential areas. Put simply, the void established by the lack of effectiveness is filled by competing or substitutive informal institutions. This complexity un-

derscores the importance of understanding informal institutions as they often reveal the “real rules of the game” that shape political behavior and outcomes, beyond what is officially recorded.

3. BRAZIL: THE POLITICS OF POLICE KILLINGS UNDER TEMER AND BOLSONARO

In August 2016 Michel Temer assumed the presidency and introduced a militarized and repressive approach to public security. His administration’s federal military interventions, including the 2018 Rio de Janeiro operation, marked a sharp rise in police-related deaths and expanded impunity for law enforcement agents. This approach laid the groundwork for Jair Bolsonaro, whose presidency (2019–2022) amplified these trends. Bolsonaro explicitly endorsed police violence, framing it as essential in a „war against crime,“ and pursued a legislative agenda to shield law enforcement from accountability (Rennó, 2022; Lino and Duarte, 2024).

This section examines how the formal and informal powers of the Brazilian presidency under Temer and Bolsonaro facilitated the rise of militarized policing and excessive use of force. It explores the relations between legal frameworks, presidential influence, and the broader political context in enabling these policies, while assessing the role of institutional mechanisms in regulating or failing to control police excesses. To provide context, the discussion begins with an overview of deadly force trends by Brazilian police during these administrations.

3.1 POLICE USE OF DEADLY FORCE ON A RISING

Brazilian police forces have long been associated with high levels of brutality (Machado and Noronha, 2002; Caldeira, 2002; Huggins et al. 2006; Souza et al. 2020). As shown in the chart below⁶, over the past 12 years, Brazilian police have been responsible for nearly 50,000 deaths⁷. Brazil has long faced high crime rates, yet a contrasting trend has emerged in recent years. Although the overall homicide rate among the general population has significantly declined since 2018, police-related killings have remained at persistently high levels. This divergence raises critical questions about the factors driving the continued use of lethal force by police, even as broader societal violence decreases.

How did Brazil reach these figures, and what was happening in the country during this period? The chart reveals that the lowest number of police killings occurred during Dilma Rousseff’s presidency with an average rate of 1.23 police killings per 100,000 inhabitants, a peak of 3,009 deaths in 2014 and a low of 2,077 in 2011.

6 The chart displays annual police intervention deaths in Brazil from 2011 to 2022, including corresponding death rates per 100,000 inhabitants. Vertical bars represent total deaths each year, while the overlaid line graph shows the death rate. Bar colors highlight the presidencies in office during each period.

7 Source: Data from 2011–2014 was collected from Anuário do Fórum Nacional de Segurança Pública (<https://ogy.de/wxr2>). Data from 2015–2023 was collected from Ministério da Justiça, SINESP, Painel de Dados Estatísticos, Mortes por Intervenção Policial (<https://ogy.de/w0mn>).

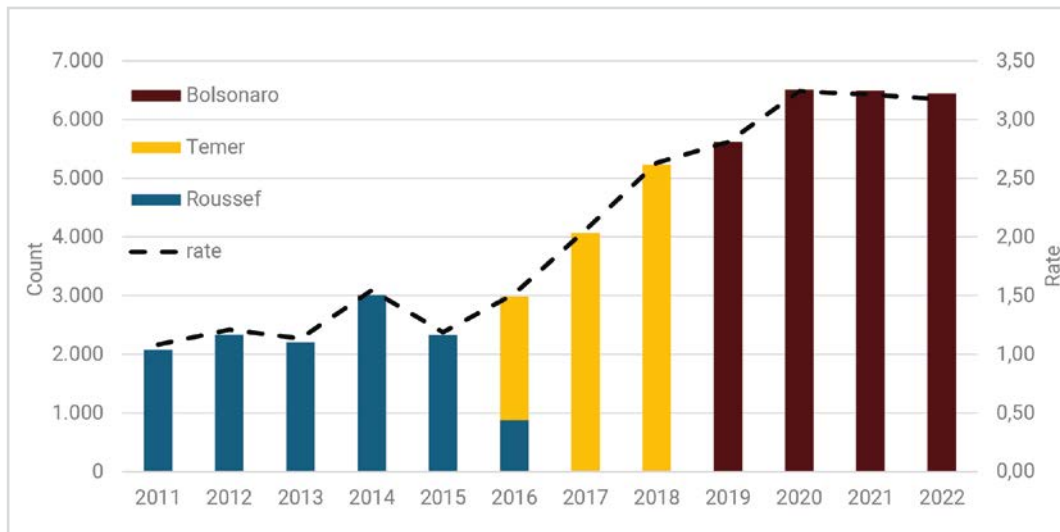


Fig. 1: People killed by police officers (total and rate), Brazil (2011–2022).

Under Michel Temer's presidency (2016-2018), there was a dramatic rise in police lethality – around 125% – with deaths reaching 5,233 or a rate of 2,63 police killings per 100,000 inhabitants in 2018. Temer's approach to public security marked a departure from Rousseff's, as he pursued a more aggressive federal involvement and embraced the militarization of public security.

During Jair Bolsonaro's presidency (2019-2022), police killings continued to rise, peaking at 6,511 in 2020 or a rate of 3,24 per 100,000 inhabitants, a 25% increase, and stabilizing at over 6,000 deaths per year. Bolsonaro's administration was characterized by a strong pro-police rhetoric, promoting policies to give law enforcement carte blanche to kill without accountability, as we explored further in the following sections.

3.2 LEGAL AND INSTITUTIONAL CONTROLS: REGULATING POLICE USE OF FORCE

The use of force is central to police work, distinguishing law enforcement from the rights of ordinary citizens and enabling the police to maintain public order. However, this power must be constrained by legal and ethical standards to prevent abuse and ensure accountability. In democratic societies, a robust framework is essential to balance the need for decisive action in public safety with safeguards against overreach and misconduct.

Despite the vast majority of police forces being state-based and regulated, in Brazil, the regulation and oversight of police use of force involves multiple branches of government at the national level,

each with distinct roles⁸. This framework relies on the principle of separation of powers, allowing the Legislative, Executive, and Judiciary to operate independently while maintaining checks and balances. These institutions are responsible for establishing standards to ensure that police conduct aligns with legal norms and that any misuse of force is investigated and prosecuted by authorities.

The Brazilian legal framework, including the Code of Criminal Procedure and Penal Code, defines the use of force, including deadly force, as permissible in cases of resistance, self-defense, or legal duty (Brasil 1940, Art. 23; Brasil 1941, Art. 284). Police may use force only when strictly necessary, such as during resistance or escape attempts. Excessive force renders officers criminally liable. However, the framework remains vague, lacking clear definitions of „excessive force“ or proportionality in various policing scenarios.

The Executive Branch influences policing practices through policies, regulations, and funding. For example, in 2010 the Ministry of Justice issued guidelines to regulate public security forces, emphasizing legality and restraint in using deadly force (Brasil 2010). While these guidelines are mandatory for federal forces, they do not automatically apply to state police. The federal government can also indirectly influence the use of force through public security funding mechanisms, such as the National Public Security Fund (FNSP), which can incentivize state-level reforms by tying funding to specific commitments like reducing police lethality.

The Public Prosecutor's Office (MP) plays a critical role in external oversight, monitoring police investigations, and ensuring law enforcement practices follow legal standards. The public prosecutor can request further investigations or conduct its own, placing it at the forefront of police accountability. The Conselho Nacional do Ministério Público provides guidelines, data, and guidance to support the work of prosecutors on the ground. This should ensure that abuses of power, such as excessive violence or unlawful killings, are properly addressed. Finally, the Judiciary should ensure that police actions comply with constitutional rights, reviewing cases of excessive or unlawful force and holding officers accountable when legal standards are violated.

3.3 PRESIDENTIAL INFLUENCE ON POLICING: CARTE BLANCHE TO KILL

Public security in Brazil continues to be shaped by the legacy of the military dictatorship (1964–1985), as the 1988 Federal Constitution preserved the militarized policing model, which influences police identity, rhetoric, and use of force (Soares 2019). However, while the military regime was characterized by a highly centralized control over law enforcement, the democratization process that followed decentralized power, granted individual states greater autonomy in managing their police

8 Although policing in Brazil is primarily a state-level responsibility, this article focuses on the national legal and institutional framework. It examines the broader regulatory and oversight mechanisms established by federal authorities—Legislative, Executive, Judiciary, and Public Prosecutor's Office—essential for setting guidelines and standards that influence police conduct nationwide.

forces. The Constitution designates the State Military Police for street patrols and the State Civil Police for investigations, both under the authority of state governors⁹.

This institutional framework grants states considerable discretion in the management of public security, enabling them to either align with or diverge from federal guidelines based on their political priorities. This flexibility results in significant variations in regulations and practices across the country.

In contrast, the President's role is theoretically confined to establishing national guidelines, allocating funding, and fostering intergovernmental cooperation, with limited direct authority over state security administration, except under exceptional circumstances. However, as this analysis will demonstrate, in certain instances, presidents have attempted to exceed these formal limitations, seeking to exert direct influence over police forces and police use of force, often motivated by a repressive ideological agenda. This section examines two cases: the presidencies of Michel Temer and Jair Bolsonaro, exploring how both leaders sought to expand the federal government's role in public security toward more repressive and violent policing.

3.3.1 MICHEL TEMER: A MILITARIZED PUBLIC SECURITY (2016–2018)

Brazil's political and institutional crisis over the past decade has triggered a significant ideological shift to the right. Fueled by political scandals, mass protests, and anti-corruption rhetoric, this transformation eroded public trust in democratic institutions and traditional politicians. In this climate of disillusionment, right-wing groups gained momentum, fostering support for radical measures to „restore“ stability and moral integrity (Cruz et al. 2015; Goldstein 2019; Marques 2019).

Between 2013 and 2016, trust in the president and democratic governance eroded, leading to a crisis that resulted in President Dilma Rousseff's impeachment and the rise of her vice president, Michel Temer. Amid a legitimacy crisis, institutions like the police and armed forces were increasingly seen as symbols of order and discipline (see figure on p. 9). Temer capitalized on this perception, aligning with the military to bolster his government's credibility and appealing to conservatives who viewed the armed forces as moral guardians during a period of institutional distrust (Viana 2021).

Although elected as Rousseff's Vice President, Temer distanced himself politically and played a central role in her removal, sparking controversy and questions about his government's legitimacy. Amid this instability, his administration implemented neoliberal reforms that reduced state investment in social programs while adopting a repressive, militarized approach to public security and increasing federal involvement in security matters.

⁹ Brazil has 86 police forces at federal and state levels, totaling 682,927 officers (Fórum Brasileiro de Segurança, 2022). At the state level, the Military Police (406,384 officers) handles ostensive policing and public order, the Civil Police (91,926 officers) investigates state-level crimes, and the State Penal Police (92,216 officers) ensures prison security. Federally, the Federal Police (11,615 officers) focuses on Union interests, including corruption, drug trafficking, and border control, while the Federal Highway Police (12,324 officers) oversees highway patrol and safety.

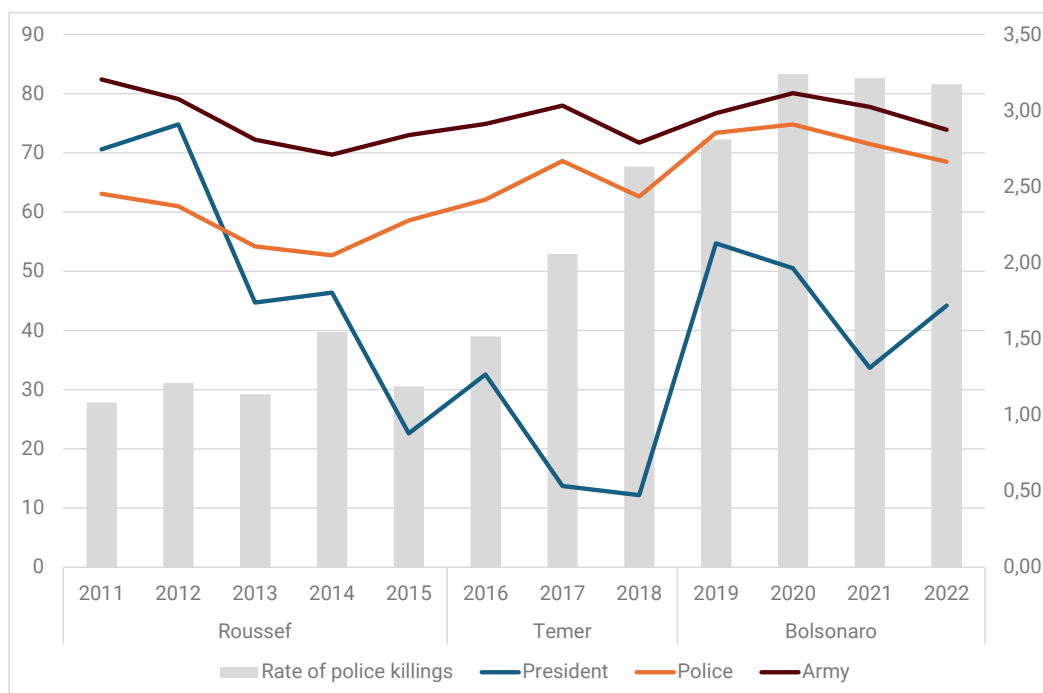


Fig. 2: Institutional Trust and Rates of Police Killings, Brazil, 2011–2022.

While some institutional improvements, such as the creation of the Unified Public Security System (SUSP), expanded federal responsibility in public security, Temer's administration primarily focused on the Armed Forces. It significantly increased the military's presence in civilian roles within the Executive branch and reinforced a repressive public security strategy. Temer's government passed laws enhancing military autonomy, increasing the defense budget, and allowing military personnel accused of crimes during operations to be tried in military courts, shielding them from accountability and advancing a more militarized, less transparent security policy.

During Temer's government, Guarantee of Law and Order (GLO)¹⁰ operations, which temporarily granted military personnel police powers, were frequently employed to combat crime and suppress protests. The military became the guarantors of his interim government, used not only to address crime but also to repress movements questioning his administration's legitimacy. This reliance on military forces solidified the militarization of public security, aimed at ensuring political survival amid social unrest and declining popularity (Souza and Soares 2019; Viana 2021).

10 The Guarantee of Law and Order (GLO) is a military operation authorized by the Federal Constitution, allowing the Armed Forces to temporarily act with police powers when traditional security forces are overwhelmed, aiming to restore public order in cases of serious disturbances. These operations require express authorization from the President of the Republic by decree.

The federal military intervention in Rio de Janeiro in 2018 was the most symbolic initiative of this period. Under the justification of restoring public order due to a public security and financial crisis, a general was appointed as the intervener and took over the governor's position and the command of the police forces. In his speech during the signing of the intervention, President Temer made clear his expectation of how the military troops should act:

"Organized crime almost took over the state of Rio de Janeiro. It's a metastasis that is spreading across the country and threatening the peace of our people. That's why we have just decreed the federal intervention in the area of public security in Rio de Janeiro. [...] I'm taking this extreme measure because the circumstances demand it. The government will respond firmly, decisively, and will adopt all necessary measures to face and defeat organized crime and the gangs" (Mazui et al. 2018).

The instrumentalization of a 'war' discourse to justify the use of lethal force against the population – particularly in the favelas – is evident in the statements made by then-Minister of Justice Torquato Jardim:

"In Rio, anyone could be the enemy. You don't know what weapon will come or how many will come. [...] 1.1 million people are living in favelas, in dangerous areas. Out of that 1.1 million, how do you know who is on your side and who is against you? You don't. You see a cute 12-year-old kid going into a public school, but you don't know what they will do after school. [...] At some point, unfortunately, there will be deaths. There is no war without lethal outcomes. [...] Our legislation is not fully adequate for this. The military is pushing hard for more safeguards, including protection from future prosecutions". (Dubeux et al. 2018)

The Minister acknowledged that deaths were expected and mentioned pressure from the Armed Forces for guarantees against legal consequences. This concern was directly raised with President Temer by the Army commander, who sought assurances to „act without the risk of another Truth Commission,“ referencing investigations into abuses that occurred during the military dictatorship (Lobo 2018). This safeguards against future accountability led to a security policy characterized by military impunity and excessive force. The government passed a law allowing crimes committed by Armed Forces personnel during civil operations to be tried in military rather than civilian courts (Aquino 2017). Instead of enhancing safety, the military's presence escalated violence, leaving communities besieged and fatalities rising.

The 2018 intervention in Rio de Janeiro stands as the most emblematic example of Temer's militarized public security strategy. Over 10 months, 18,000 soldiers were deployed to address a local crisis, but the operation escalated violence, resulting in a 56% increase in shootings, a 35% rise in police-related deaths, and mounting reports of abuse and torture (Ramos 2019; Viana 2021).

Despite these outcomes, Temer hailed the intervention as an extraordinary success: “In these three to four months, the crime-fighting numbers are extraordinary. [...] We, at the federal level, are very satisfied with the fact that we decreed this partial intervention” (Lisboa 2018).

The National Congress, rather than acting as a counterbalance to the President’s ambitions, adopted a largely supportive and complacent stance. Temer cultivated an effective relationship with Congress by building a cohesive coalition with low ideological diversity and strategically distributing power and resources, favoring allied parties. This pragmatic approach aligned with Congressional and elite preferences, enabling him to pass significant, often unpopular reforms despite his low public approval. With allies in key Congressional positions, Temer maintained legislative efficiency and consolidated support for his agenda (Pereira 2017).

This synergy with Congress was evident in the Federal Intervention in Rio de Janeiro, which needed the consent of the Legislative and was approved by 82% of federal deputies (Câmara dos Deputados 2018a). The support for Iron Fist operations can be illustrated by the speech of Congressman Arolde de Oliveira in the congressional plenary:

“Fellow Parliamentarians, we must provide all the necessary support so that the Armed Forces can fulfill their mission [...] Do not be mistaken! There will be confrontations, and in these confrontations, we will face crises of legal interpretation. It is the Judiciary that must support these actions of the Army” (Câmara dos Deputados 2018b).

This specific case is an illustrative example of a broader tendency of Parliamentarians to avoid legislating against police excesses and not exercising effective control over the executive, due to the close relationship between the Congress and the President. Moreover, Temer never framed military action as an ideological solution; instead, he portrayed it as a pragmatic necessity to address public security challenges.

Although state police forces are not under presidential command, Temer’s administration’s militarized „war on crime” strategy contributed to a sharp rise in police-related deaths nationwide. Data from 2015 to 2018 show a significant increase of 125% of people killed by police across the country, reflecting the national impact of this war-like approach to public security, extending well beyond Rio de Janeiro.

Temer not only reinforced the use of the Armed Forces to maintain public order through GLO operations but also expanded their presence in key civilian positions within the Executive, giving the Army unprecedented political prominence since Brazil’s re-democratization (Schmidt 2022). As Nozaki (2021) argues, this increasing presence of military personnel in civilian positions reflects a strategic effort by the Armed Forces to assert control over crucial government sectors, securing their political relevance during periods of crisis. This had two key consequences: the politicization of the Armed Forces, allowing direct influence over political decisions, and the militarization of civilian power, weakening the balance between civilian oversight and military authority.

This shift was reinforced by a broader conservative movement, with segments of society increasingly viewing the Armed Forces as moral guardians of national values. This alignment between the executive and military was crucial for sustaining Temer's legitimacy-challenged government and set the stage for a political-military alliance in the subsequent election. It also created a platform for militarism-aligned candidates, including Jair Bolsonaro, to rise by advocating for police violence (Morelato and Pereira Reid dos Santos 2020).

3.3.2 JAIR BOLSONARO: PUBLIC SECURITY AS WAR (2019–2022)

Jair Bolsonaro, a former Army captain, won the 2018 presidential election with a conservative platform that emphasized public security, adopting a militaristic, pro-gun stance and a zero-tolerance approach to crime. His government program (Bolsonaro 2018) combined economic neoliberalism, authoritarianism, and religious conservatism, employing a „war against crime“ rhetoric to justify the use of lethal force by law enforcement agents.

Building on trends initiated under Temer, Bolsonaro significantly expanded the militarization of the federal government, increasing military leadership roles by 66%, with a 230% rise in military personnel in the Ministry of Justice and Public Security between 2018 and 2021 (Schmidt 2022). This militarization extended beyond appointments, embedding military doctrines into governance, framing challenges as battles, opponents as enemies, and legitimizing violence as a solution. This approach heightened the authoritarianism and violence defining his administration (Rodrigues and Kalil 2022).

Bolsonaro explicitly defended police use of excessive force, framing deaths resulting from police actions as necessary in this “battle”. To further this agenda, he proposed the *excludente de ilicitude* (justifiable defense exemption), which would shield police officers from criminal liability when using lethal force on duty, allowing them to act without fear of legal repercussions. He reinforced this commitment in his inaugural address to the National Congress:

“We will honor and value those who sacrifice their lives in the name of our security and the safety of our families. We count on the support of the National Congress to provide the legal backing for police officers to do their work. They deserve and must be respected!”
(Bolsonaro 2019)

In his first year in office, Bolsonaro introduced the „Anti-Crime Package“ to Congress, seeking to toughen criminal laws. The proposal included greater protections for police officers, harsher sentences for organized crime, reduced parole opportunities, faster convictions, and relaxed gun control laws. Its most contentious element was the *excludente de ilicitude*, which allowed police officers who exceeded legitimate force to have their sentences reduced or annulled if they acted under “justifiable fear, surprise, or violent emotion” (Agência Câmara 2019). It also permitted lethal force in situations of „imminent armed conflict“ without requiring proof of self-defense. Critics argued these measures

would escalate police violence and impunity, effectively granting *carte blanche* to kill – a goal Bolsonaro openly endorsed, stating:

“With the *excludente de ilicitude*, violence will drop dramatically; these guys will die like cockroaches. And that’s how it should be”. (Poder360 2019)

“Can you imagine a police officer being convicted for firing more than two shots in a gun-fight? That’s absurd! If a police officer has 20 confronts [on his record], he should have 50! That’s a sign he works.”¹¹

Bolsonaro’s efforts to pass this legislation were more symbolic than practical. Although the existing laws limit the circumstances under which police can use lethal force, accountability for these cases remains rare. Internal affairs units (Corregedorias) often display leniency, and police investigations are frequently inadequate. The Public Prosecutor’s Office (Ministério Público) further legitimizes police actions by criminalizing victims and accepting claims of self-defense or resistance without adequate scrutiny, particularly in cases involving lethal force. This results in routine case dismissals, perpetuating a culture of impunity where officers involved in violent incidents face little to no legal consequences (Misse et al. 2015; Zaccone 2015; Human Rights Watch 2016; Gloeckner and Gonçalves 2017; Godoi et al. 2020). In states like Rio de Janeiro and São Paulo, over 90% of police intervention death cases are dismissed at the request of the Public Prosecutor’s Office (Nunes 2023; Martins and Ferreira 2021; Higídio and Taira 2024)¹².

Despite Bolsonaro’s strong advocacy, the *excludente de ilicitude* was ultimately removed from the final legislation, marking a significant defeat in Congress. While Congress was more conservative during his term, Bolsonaro’s relationship with legislators was fraught with tension and dysfunction. Governing as a minority leader, he relied on costly ad hoc alliances with the centrist bloc, but his extreme ideological positions alienated moderates, and his confrontational style undermined coalition-based presidentialism. Although he achieved limited economic measures under external pressure, his reliance on decrees and antagonistic approaches triggered institutional crises, judicial challenges, and legislative pushback, consistently blocking his attempts to loosen police oversight. These efforts gained support only from his most loyal base, further weakening his ability to advance his broader ideological agenda (Abranches 2021).

Another attempt to increase federal government influence on the state-based police forces was a proposal for a new Organic Law of Police Forces in Congress that aimed to increase the autonomy of both military and civil police while diminishing governors’ political control over them. Key provi-

11 Bolsonaro lança Campanha Publicitária do Pacote Anticrime, 03/10/2019 (<https://ogy.de/039g>).

12 The Federal Prosecutor’s Office (MPF) has recently intensified efforts to enhance oversight of police activities, promoting transparency and accountability for abuses. Initiatives include creating complaint channels, publishing guidelines for prosecutors, and developing a database to track deaths from police interventions, marking initial steps toward addressing these issues.

sions included fixed terms for police commanders, a militarized restructuring that introduced general ranks, and the creation of a National Council of Police Commanders directly linked to the federal government (Frazão 2021).

These changes would have weakened governors' oversight, detaching police actions from state policies and undermining civilian and democratic control. The proposal also threatened the federal pact by boosting police autonomy and increasing federal influence. Amid rising police brutality and radicalizing rhetoric, this risked fostering more repressive policies. Congress moderated Bolsonaro's aims, and the most controversial elements were revised. The final version, enacted in December 2023 under a new administration, introduced national standards for human resources, training, legal frameworks, planning, and reporting (Carvalho 2023). While preserving governors' control, it established federal guidelines for consistency, diverging from Bolsonaro's push for expanded police autonomy and federal power over state-level forces.

However, where he could act without congressional approval, he implemented changes, such as issuing annual presidential pardons for police officers, military personnel, and security agents convicted of negligent excess, both on and off duty. He also attempted to exclude data on deaths from police actions from the national database (Motta and Macedo 2021), however, this measure was legally challenged by an opposition party and ultimately overturned by the Supreme Court, marking another symbolic defeat for his administration (Mendes 2023). Bolsonaro's strategy to promote his ideological and conservative agenda employed strategies that Câmara and Almeida (2023) describe as authoritarian infralegalism, which involves the extensive use of decrees, ordinances, and other normative acts that do not require Congressional approval. This tactic allowed the president to bypass the challenges of legislative negotiation, leveraging the „power of the pen“ to implement changes that align with his base's values while eroding institutional checks and balances. Although this approach advanced some aspects of his ideological goals, its reliance on unilateral action has often led to legal challenges and limited the sustainability of these changes.

Bolsonaro's presidency (2019–2022) illustrates how a leader can influence policing practices through informal means, shaping law enforcement practices without direct legal authority. His rhetoric framed law enforcement as a war, casting criminals as enemies to be defeated rather than individuals to be apprehended within the rule of law. By signaling impunity for police excesses, Bolsonaro emboldened state police forces to use lethal force. This informal influence – through speeches, symbolic gestures, and alignment with police ideologies – enabled him to shape law enforcement practices in ways that bypass formal legal constraints.

His close relationship with the military and police sectors reinforced a militarized approach to crime control, rooted in Brazil's dictatorship-era policing. He portrayed the police as soldiers in a war on crime, openly praising violent tactics, including extra-judicial killings. This rhetoric resonated particularly with the military police, who increasingly saw lethal force as a necessary tool, legitimized by the president's support.

Bolsonaro's political mobilization flourished on digital networks like WhatsApp, where pro-Bolsonaro propaganda among police officers fueled anti-democratic sentiments and support for aggressive policing. A 2021 study by Fórum Brasileiro de Segurança found that 48% of military police officers engaged with Bolsonaro-related content, with 27% interacting specifically with radical-right profiles. While open networks revealed this activity, closed messaging groups, as noted by Sinhoretto et al. (2024), intensified radicalization through unfiltered exchanges, spreading extreme content, anti-democratic rhetoric, and glorifications of violence, further aligning police forces with bolsonarista principles.

Under Temer, the militarization of law enforcement fueled rising police-related deaths, but Bolsonaro's administration introduced an ideological narrative that legitimized and sustained these practices, maintaining high levels of lethal force despite legislative setbacks in Congress. This persistent violence highlights the significant role of informal institutions and networks in shaping policing practices, revealing a disconnect between formal controls and law enforcement realities. This underscores the importance of understanding how informal signals and cultural alignment between political leaders and police can undermine democratic oversight, enabling presidents to influence state security dynamics even without direct constitutional authority.

3.4 SUMMING UP: BRAZIL

Both Michel Temer and Jair Bolsonaro exemplify how Brazilian presidents, despite limited authority over state policing, exerted considerable influence on law enforcement through a combination of informal strategies and selective use of their formal powers.

Temer adopted a low-key anti-crime rhetoric but extensively used his formal powers, supported by Congress, to pursue a heavily militarized approach marked by Armed Forces deployments and Guarantee of Law-and-Order operations. This strategy escalated federal intervention in public security and sharply increased police-related deaths. Oversight institutions largely ignored the killings, and Congress overwhelmingly supported the interventions, signaling broad institutional backing. Temer's administration also significantly increased the appointment of former high-ranking military officials to civilian roles, further entrenching militarized governance. The alignment between the military and Temer's administration, alongside congressional support for his militarized public security agenda, reflects complementary relations between formal and informal institutions, as per Helmke and Levitsky's framework (2004). Informal norms reinforced Temer's formal agenda by legitimizing militarized, violent approaches without facing direct legal challenges.

Bolsonaro deepened militaristic and authoritarian ideologies in public security, using rhetoric and symbolic gestures to embolden police forces toward greater violence and impunity. Unlike Temer, he actively tried to expand police and presidential powers, proposing laws to shield officers using lethal force and weaken state governors' control over police. However, most efforts were blocked by Congress. He also attempted to exclude data on police killings from official records, but this was overturned by the courts.

Unable to advance his agenda through formal institutional channels, Bolsonaro relied on informal influence over police forces, endorsing violent tactics and legitimizing excessive force. This clash between formal and informal institutions aligns with Helmke and Levitsky's typology and can be categorized as a competing relationship, where informal norms actively undermine formal rules. Bolsonaro's direct appeals to law enforcement and use of digital networks to endorse police violence exemplify substitutive informal institutions bypassing oversight mechanisms and weakening legal frameworks regulating police conduct.

Both presidencies highlight the impact of formal mechanisms, such as GLO operations, and informal ones, like rhetoric and ideological alignment, in shaping police behavior and public security policies. While formal institutions like Congress and the judiciary failed to curb military force during Temer's term, they blocked some of Bolsonaro's extreme proposals, though these efforts were often undermined by the alignment between the executive and law enforcement. The sustained rise in police use of lethal force underscores the limitations of Brazil's institutional checks on executive power in public security, where authoritarian and militarized policing traditions remain deeply rooted. Addressing these dynamics is vital to ensuring democratic oversight and regulation of law enforcement in Brazil.

4. PHILIPPINES: FORMAL AND INFORMAL INSTITUTIONS ENABLING A VIOLENT WAR ON DRUGS

In May 2016, Rodrigo Duterte was elected President of the Philippines, assuming office on June 30. The following day, he appointed Ronald Dela Rosa as chief of the Philippine National Police (PNP). On that same day, the national operational plan for a comprehensive war on illegal drugs, known as Oplan Double Barrel, was introduced. This plan had two components: targeting low-level drug offenders, such as street-level pushers and users, and focusing on so-called High-Value Targets (HVTs).

In the decade before Duterte's presidency, police increasingly used fatal force, often implying excessive or targeted killings of suspects. Under Duterte, police were given carte blanche, leading to a surge in killings, typically justified by claims of suspects resisting arrest.

This analysis will explore how the president's formal powers, combined with established informal institutions, enabled such a severe police response and why the mechanisms designed to prevent, control, or penalize these actions failed, allowing the campaign to continue unchecked.

Before delving into the factors that enabled the campaign and the failure of institutions tasked with preventing or addressing such violence, this chapter will first provide an overview of police use of deadly force, covering the period before and during Duterte's presidency, extending into the first year of President Marcos' administration (since July 2022).

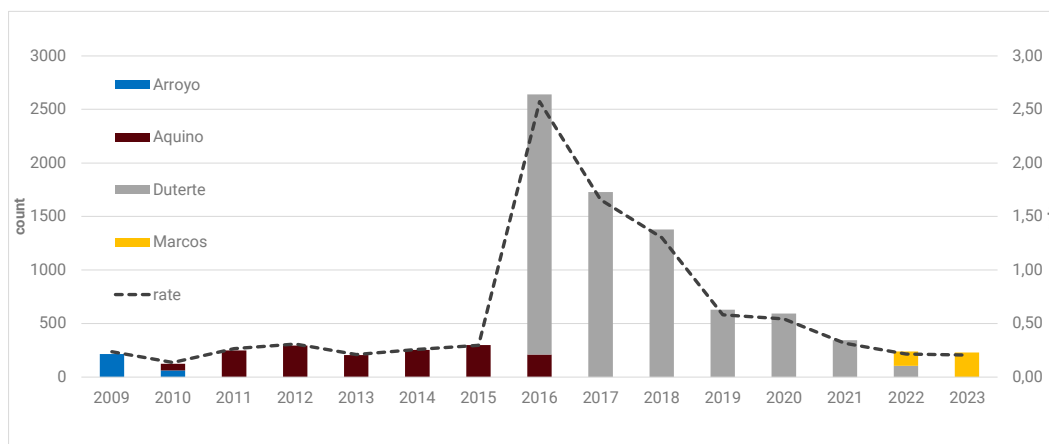


Fig. 3: Suspects killed by PNP per Year and President (totals and rate), Philippines (2009–2024).

Source: own data, PNP data (see footnote 13).

4.1 POLICE USE OF DEADLY FORCE BEFORE AND DURING THE DUTERTE PRESIDENCY

In the decade leading up to Duterte's presidency, the PNP killed at least 220 suspects per year, totaling 2,397 suspects. However, during the first six months of Duterte's term, the PNP killed at least 2,429 suspects, representing a 20-fold increase in fatalities.¹³

It is important to note, though, that characterizing the Duterte years as a consistently violent war on drugs is inaccurate. While the rhetoric remained largely unchanged, the levels of violence decreased over time, with the figures for 2021 and 2022 aligning closely with pre-Duterte levels.

Indicators suggest that deadly force to eliminate suspects was already a practice in the Philippines before Duterte's presidency, albeit on a smaller scale. A key metric is the killed-to-wounded ratio, which should typically be well below one if police were not shooting to kill (Osse and Cano 2017). Yet, pre-Duterte data shows the number of killed suspects exceeded wounded by thousands of percent.

13 This is based on the author's dataset on pre-Duterte killings established via coding of media reports. The dataset records killed and wounded on both sides in on-duty shootings, but also assassination attempts at police officers. Data for the Duterte years. These data were used to document the years 2007 to mid-2016. As this dataset relies on newspaper reporting, there is some underreporting.

Data on police killing during the Duterte years combine official data reported by the National Police that sum up the suspects killed in the context of the war on drugs, as reported in the "#RealNumbersPH" (<https://ogy.de/6u4a>), annual police reports and the author's data on police use of deadly force in other contexts, for example robberies, car- or motorcycle theft. While not allowing for more detailed subnational analysis, the #RealNumbersPH data are the most comprehensive ones for documentation of police killings, encompassing significantly more victims than the more detailed reports established by ABS-CBN, that rely on newspaper reporting.

A stark example lies in operations where four or more suspects were killed with no survivors. From 2007 to 2015, the author's dataset records 93 such operations, with 458 suspects killed and only one wounded. Most cases were reported as shootouts involving robbers, thieves, or criminal groups.

In smaller operations involving fewer than four suspects, 1,600 were killed while only 76 were wounded. This strikingly high kill rate suggests these actions were not purely defensive but aimed at eliminating groups entirely. While not definitive proof of premeditated killings, it indicates a clear intent to neutralize suspects completely.

These findings underscore a key difference: in Brazil, police use of lethal force was already extreme before escalating under Temer, while such incidents were less common in the pre-Duterte Philippines. However, the near-total fatality rate reveals a tendency for Philippine police to shoot to kill in specific scenarios. This pattern likely served as a precursor, easily intensified during Duterte's war on drugs.

4.2 FORMAL INSTITUTIONS IMPACTING LAW ENFORCEMENT IN THE PHILIPPINES

The intense reaction to the President's promise to eradicate drug crime within three to six months, along with the persistent high levels of police use of deadly force, needs explanation, as this occurred in a democracy with formal institutions meant to prevent excessive police violence and to punish those responsible.

Political mechanisms also exist to restrain or remove a radical president if necessary. These include laws on police use of force, internal disciplinary bodies like the Internal Affairs Service (IAS), the judiciary, and both houses of parliament.

The President's authority over the police derives from the fact that the Philippine National Police (PNP) operates as a national organization under the National Police Commission (Napolcom), which is part of the Department of the Interior and Local Government (DILG). The President not only appoints the DILG Secretary but also selects the national police chief and senior police officers. While the DILG Secretary's appointment requires confirmation by the Commission on Appointments, appointments to police leadership positions do not, granting the President substantial influence over personnel decisions.

The Constitution grants the President control over all executive departments, bureaus, and offices, including the police and Napolcom (Art. VII, Sec. 17). However, this authority is explicitly constrained by "the limitations provided in the Constitution" (RA 6975, Sec. 3). Notably, the Constitution mandates that the President must ensure the faithful execution of the law (Art. VII, Sec. 17) and requires adherence to human rights, as it states, "The State values the dignity of every human person and guarantees full respect for human rights" (Art. II, Sec. 11). Thus, while the President wields con-

siderable power over the police and related institutions, this power is firmly bound by the principles of lawful exercise and respect for constitutional limits.

Police regulations on the use of deadly force are clear. The PNP Operational Procedures (2013) limit the use of deadly force to self-defense. Rule 7.1 prohibits excessive force, and officers must issue a verbal warning before using force. Firearms can only be used when there is „imminent danger of death or injury to the officer or others“ (Rule 8.1).

In drug enforcement, the Philippine Drug Enforcement Agency (PDEA) leads, not the PNP. With fewer than 1,000 officers, it lacked the manpower to fully assume this role. Strict regulations were established to ensure transparency, including requirements for witnesses from the media, the Department of Justice (DOJ), and local officials during drug confiscations. Although the aforementioned requirements were eased in 2013 (RA 10640), court rulings emphasized that these witnesses had to be present not only at the inventory but also during the arrest (Supreme Court 2023). Both sets of regulations – those on the use of force and drug enforcement procedures – were designed to uphold human rights and maximize transparency and accountability during operations.

In addition to regulations, institutions like the Internal Affairs Service (IAS) investigate cases involving allegations of human rights violations or misconduct by police officers. While the IAS can only impose administrative sanctions, it plays a crucial role in addressing police misconduct. The National Bureau of Investigation (NBI) can also conduct independent investigations, and the National Prosecution Service is tasked with initiating cases against officers (Revised Rules of Criminal Procedure 2000) who use excessive force, potentially resulting in charges of homicide or murder.

The legislative branch, comprising the Senate and the House of Representatives, holds indirect oversight powers. They can issue subpoenas, conduct inquiries, and pass resolutions expressing the sense of Congress. The House also holds the exclusive power to initiate impeachment proceedings, with the Senate responsible for trying impeachment cases. Impeachment requires proving that the President has violated the Constitution or committed other high crimes (Constitution 1987 Article XI, sect 2+3). In this context, directives to kill criminals could be seen as violating constitutional provisions that guarantee respect for human dignity and due process.

The Commission on Appointments (CA), while not confirming police leadership appointments, can veto the appointments of political leaders responsible for law enforcement, such as the DILG secretary and DOJ officials.

In summary, the Philippines has a broad set of institutions designed to prevent and address police misconduct, and to remove a president if necessary, providing multiple layers of oversight and accountability.

4.3 THE DUTERTE WAR ON DRUGS

Law enforcement was not a primary focus of the Aquino administration (2010–2016), which largely maintained the status quo but made occasional improvements, such as providing patrol jeeps and Glock pistols to enhance the PNP's operational capacity (PNP 2015a). One significant initiative before Duterte's war on drugs was Oplan Lambat Sibat, launched in 2014 by DILG Secretary Mar Roxas. Although not explicitly targeting drug crimes, it laid the groundwork for strategies later used in Oplan Double Barrel.

Oplan Lambat Sibat shifted control over anti-drug operations from PDEA to the PNP (MoA 2014). Its components, like „One Time Big Time“ (OTBT) operations and specialized tracker teams targeting high-value suspects, influenced Duterte-era strategies. OTBT saturated areas to address street crime, while Oplan Sibat focused on priority suspects. The program strengthened the PNP's role versus PDEA. Due to strong political backing it also reduced interference from local politicians, who often exerted influence to shield illicit activities such as gambling, a lucrative source of rents for many.¹⁴ Consequently, police were frequently hesitant to target illegal drugs or gambling if politicians were suspected of involvement.

The new program increased accountability for local PNP commanders, who were pressured to meet campaign goals, with „validation teams“ introduced to ensure implementation (PNP 2015b). The PNP saw an opportunity to overshadow PDEA and shifted its focus to drug crime. While fatalities were lower than later figures, the PNP framed deadly encounters as successes. Between January and June 2016, police director Ricardo Marquez reported over 18,000 drug user and pusher arrests, alongside 183 suspects killed (Gamil 2016).

By mid-2016, the transition from PDEA to PNP in anti-drug operations was evident. Duterte's presidency amplified this shift, legitimizing lethal force. At the appointment of police chief Dela Rosa, Duterte instructed: „If there is resistance that puts your life in danger, shoot them dead... if you kill 1,000 persons while doing your duty, I will protect you“ (Duterte 2016). He assured the police he would take full responsibility: „don't try to scare me with that imprisonment by the international court of justice. S***, I am willing to go to prison for the rest of my life. What's important to me is that I am doing what I want to do“ (Duterte 2017). Police chief Dela Rosa echoed this message, reinforcing the approach:

„The war against drugs is very dirty. Somebody has to lead the war. Somebody has to wage the war. It's war. [...] So, the president said, even before he took the position, that this campaign would be bloody. [...] It's really bloody. You have to sacrifice lives in order to save more lives“. (quoted in Eagle News 2016)

¹⁴ This rent-seeking led to an unusual provision in RA 8551 of 1998, securing rents for politicians through illegal gambling. Section 63 grants local government executives control over anti-gambling operations. This means that police can act only with their permission.

This message came with intense pressure on all levels of the PNP to deliver results. PNP chief Dela Rosa set the tone, declaring: "In our fight against drugs, criminality, and corruption, it is either you are with me or you are not with me. If you are with me, then let's do it. But if you are not with me, then you are finished" (Dela Rosa quoted in PNP 2017: 2; see also Panay News 2016).

This was no idle threat. Numerous officers were sacked for underperformance. Early in the campaign, 75 of 126 precinct chiefs in Central Visayas were reassigned (Mayol 2016a), followed by 55 more shortly after (Mayol 2016b). In August 2016, 22 Cagayan Valley chiefs were removed for „unsatisfactory performance“ (Dullana 2016), and in September, 12 Northern Mindanao chiefs were replaced to make room for more committed officers (Lagsa 2016). Further transfers stemmed from requests by Duterte-aligned politicians (Tatoy-Rabor 2016).

This punitive strategy was not entirely new. Oplan Lambat Sibab also employed it when four of five NCR district directors were relieved in 2014 for missing crime targets under DILG Secretary Roxas (Mangunay 2014).

Simultaneously, fatal encounters were celebrated. PNP Region 3 Director Aaron Aquino, for instance, praised an operation where two drug pushers were killed as „exemplary performance“ (Bolos 2016). The team was rewarded, despite this being their leader's fifth „bloody anti-drug operation“ (Bolos 2016).

In stark contrast to the violent rhetoric of the war on drugs, the operational plan *Double Barrel* emphasized adherence to legal and constitutional limits. It explicitly required operations to:

“conform with the provisions of RA No. 9165, the rules of Court, and strictly observe the Rights of the Accused enshrined in the Bill of Rights under the Philippine Constitution, other allied laws, rules and regulations’ as well as the internationally accepted principles of international laws, public policy, and with due observance of human rights”. (PNP 2016, 17)

While the formal framework of the war on drugs, as outlined in *Double Barrel*, emphasized adherence to the rule of law, this commitment largely remained symbolic. In practice, formal institutions were undermined by conflicting signals, creating an alternative system of incentives and sanctions.

Violent rhetoric from the President and police leadership, combined with intense pressure to show results and assurances of impunity, drove the PNP to adopt hardline measures, including targeted killings masked as self-defense. These tactics, while not new, became normalized, allowing the PNP to claim success without following standard policing rules.

The rhetoric-driven approach was bolstered by Oplan Double Barrel, which expanded the PNP's role in the anti-drug campaign. The PNP was tasked with “neutralizing street-level drug personalities” (PNP 2016: 23e) and targeting high-value suspects (PNP 2016: 24b), while the PDEA was relegated to a secondary, reporting-focused role. Double Barrel also established the National Anti-Illegal Drugs

Monitoring Center (NAIDMC) to centralize intelligence and drug-related data, further sidelining the PDEA and cementing the PNP's dominance in the campaign.

PDEA briefly took leadership after the abduction and killing of a Korean businessman and the killing of a 17-year-old student, prompting public outrage. Duterte ordered PDEA to lead anti-drug operations (President 2017), but after the outcry subsided, the PNP regained control. These short periods, marked by almost no killings, highlighted the extent of centralized control over violence.

Duterte's drug war also changed the dynamics between the police and local political leaders. Whereas previously, local politicians often had the power to undermine police careers, under Duterte, opposition to the drug war was equated with complicity with drug lords, making defiant politicians targets for police operations and even vigilante attacks.

As former police general and current Baguio City mayor Benjamin Magalong put it:

"This time we have a president who is really doing his best to protect the organization, the police organization. [...] if the police are doing what is right then he is there to back them up. Provide them support, all out support. That's what we felt with President Duterte". (Benjamin Magalong, interview with the author November 9, 2022)

Financial backing from politicians and businesspeople further supported the killings of suspects (Bolloso 2024; Politiko 2024; Panti 2024; De Layola 2024). In the past, vigilante killings of criminal suspects could not be claimed as law-enforcement success, but the shift to police-led fatal force allowed the administration to openly label these killings as victories against violent criminals.

Finally, one should mention that the war on drugs enjoyed high public support, with approval rates for government crime-fighting efforts surging to about 80 percent during his presidency (see below).

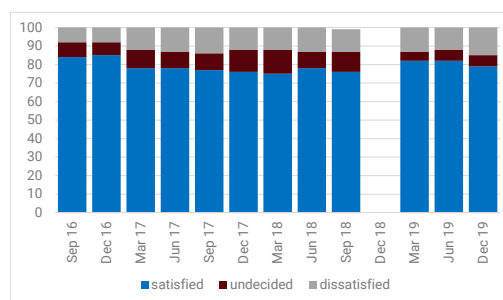


Fig. 4: Satisfaction with the Campaign Against Illegal Drugs. Source: Social Weather Stations (SWS).

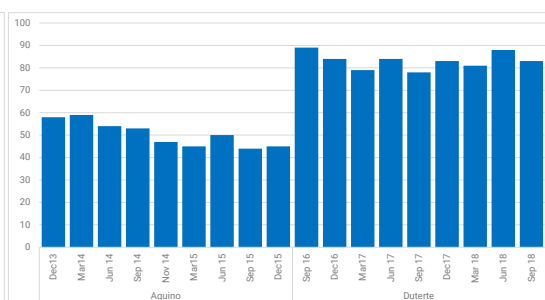


Fig. 5: Approval Rate for government "fighting Crime". Source: Pulse Asia, various surveys.

The dramatic shift in the police's use of deadly force was driven and reinforced by a convergence of messages from various sources influencing the PNP as the implementing institution. These signals overwhelmingly endorsed the violent strategy, effectively overriding the formal framework outlined in the operational plan, which emphasized adherence to national laws and internationally accepted principles of policing.

While the President, through his formal powers, could appoint loyal allies within the PNP, it was the informal norm of prioritizing directives from influential figures over the law – when the two were in conflict – that played a pivotal role. This norm, combined with intense pressure to deliver results and the accompanying incentives, largely explains the PNP's dramatic shift toward a more violent approach.

4.4 FAILURE IN CONTROL

Despite various factors enabling Duterte's directive to eliminate illegal drugs, this outcome would not have been possible if formal institutions had functioned as intended. However, every institution failed in its role.

One initial key factor was time. Oversight institutions can only act within their formal mandates, which causes delays and allows a period of unchecked killings. However, the failure extended beyond this time-lag.

The Internal Affairs Service (IAS), despite having the authority to independently initiate investigations, remained largely inactive during Duterte's presidency, continuing prior patterns of inaction. Instead of conducting its own investigations, the IAS relied on police reports and failed to file any criminal cases against officers involved in suspect deaths. Its efforts were limited to minor administrative cases, leaving criminal investigations to agencies like the National Bureau of Investigation (Subingsubing, 2024). This inaction persisted despite the IAS's mandate, which included the automatic investigation (*motu proprio*) of all incidents:

“where a police personnel discharges a firearm; [...] where death, serious physical injuries or any violation of human rights occurred in the conduct of police operations; [...] where evidence was compromised, tampered with, obliterated or lost [...] where a suspect in the custody of the police was seriously injured; and [...] where the established rules of engagement have been violated”. (PNP-IAS 2010)

Simply put, the IAS should have investigated thousands of operations involving firearm discharges that resulted in death or injury, but its investigators generally chose not to do so.

Public prosecutors similarly failed to challenge the presumption of „regularity in deaths from police operations” (Subingsubing 2024). They often filed charges against deceased suspects and

accepted police accounts without question. One prosecutor noted that even when the integrity of the charges was in doubt or the suspect killed in the encounter, they were still compelled to file cases in court, as it was seen as necessary for police records to show success in drug busts

“even if we do not believe completely to the integrity, to the truthfulness of the charges by the police, against a person dead or otherwise, we are just compelled to file a case in court [...]. What happens in our jurisdiction is that still, we entertain the charges [...] even if the subject is already dead. [...] Because if the police will not file, [...] they would not have the record that they have accomplished a busting, a drug case against this person. But if they are able to file, then they can always submit the record and be part of their accomplishment”. (Provincial Prosecutor A, interview 2022)

Another prosecutor explained that most prosecutors avoided conducting independent investigations due to the risks involved, preferring to stay within their comfort zones: “If you go outside and then you conduct investigation, of course, there is an additional risk, the risk to yourself, to your own safety” (Provincial Prosecutor B, interview 2022). The IAS observed a similar practice, noting that both investigators and prosecutors remained in their comfort zones due to a lack of skills and fear of confronting the police (PNP-IAS 2022).

Despite the dramatic surge in police killings, both the IAS and prosecutors continued to operate under the assumption of regularity in police actions. This stance, clearly contradicted the legal foundations of their mandates, Rather than fulfilling their institutional responsibilities, they adhered to professional practices that allowed them to avoid risk, effectively siding with the police and political leadership rather than enforcing formal procedures.

The Supreme Court initially took a somewhat different stance, with Chief Justice Lourdes Sereno openly criticizing the war on drugs. However, the Court lacked the authority to act independently and thus only intervened after a lawyers’ group filed a petition in September 2017, challenging the constitutionality of the Oplan Double Barrel circular. During oral arguments, the court’s critical position became evident, leading it to demand police data on nearly 4,000 killings. This activism, however, was undermined by an impeachment effort against Sereno initiated in Congress with active support from the Department of Justice. The Court’s engagement waned after Sereno’s removal from office in 2018, following an 8–6 vote by her colleagues over allegations she failed to file required financial statements (The Guardian, 2018), thereby rendering moot the impeachment trial. The proceedings leading to this majority decision was criticized by the minority, as a breach of the constitution, as in their view the Court ousted “the Chief Justice on its own, without any constitutional basis” and traveled a

“prohibited road [...] at the expense and to the extreme prejudice of the independence of the entire Judiciary, the independence of the Court’s individual members, and the freedom of discourse within the Court. This case marks the time when the Court commits *seppuku* [ritual suicide] without honor”. (Caguioa 2018; italic in the original)

Although the government eventually released the requested data in 2018 after delays, the Court took no significant action beyond a 2019 ruling granting petitioners access to the records.

The Commission on Human Rights (CHR) could and did investigate allegations of human rights violations but lacked the power to subpoena the Philippine National Police (PNP). CHR investigators were often denied access to documents, and had to rely on witness testimonies, and often, witnesses feared coming forward. With limited resources, the CHR pursued only a few cases with little success. In 2017, Congress voted to slash the CHR's budget to just 1,000 pesos (approx. 15 US\$), signaling it did not want the CHR to investigate police misconduct. House Speaker Pantaleon Alvarez justified the move by saying: "if you want to protect the rights of the criminals, get your budget from the criminals. It's that simple" (Alvarez quoted in Cayabyab 2017).

A paradox arises regarding the institutions responsible for controlling police violence: those best positioned to challenge misconduct – the IAS and the prosecution – offered the least resistance. Instead, they stuck to outdated patterns of inaction that proved disastrous. Entrenched practices conflicting with their formal mandates continued to shape their actions.

The legislative branch, which should have provided independent oversight, failed to resist Duterte's drug war. One exception was Senator Leila de Lima, who opposed the killings and initiated an investigation into extrajudicial killings, including those linked to the Davao Death Squad (DDS). However, she was ousted as chair of the Senate Committee on Justice by her fellow senators in a 16 to 4 vote. Despite testimony implicating Duterte, the Senate committees found no evidence of a DDS or state-sponsored killings (Senate of the Philippines 2016). In 2017, a Senate report referred to police killings as the work of „rogue uniformed personnel“ rather than a systemic issue tied to Duterte's policies (Lacson 2017; Senate of the Philippines 2017a: 17).

There were no further investigations into police killings, except for the high-profile case of Ronald Espinosa and his aide, Raul Yap, killed in prison by the regional PNP's Criminal Investigation and Detection Group (CIDG) in November 2016. A Senate investigation uncovered evidence of a „systematic 'clean-up'" to conceal police involvement in the drug trade (Senate of the Philippines 2017b: 25), even implicating Duterte for reversing an order to remove officers involved in the raid (Senate of the Philippines 2017b). The Committee also noted the lack of serious investigations by the IAS and the state prosecution, as well as the willing complicity of judges in providing legal cover for the police operations. Despite this, the committee framed the issue as the work of „rogue uniformed personnel“ (Lacson 2017), not a consequence of Duterte's drug war.

The House of Representatives also failed to challenge the surge in police violence. Despite rising police killings in the first months of Duterte's term, neither the Human Rights Committee nor the Dangerous Drugs Committee addressed the issue. Bills for police body cameras were submitted but left unaddressed. However, when charges of drug trade involvement were brought against Senator De Lima, the House acted swiftly, basing its findings almost entirely on testimonies from convicts (Cepeda 2016a, 2016b, 2016c).

The Commission on Appointments (CA) also displayed no opposition, confirming DILG and DOJ secretaries without challenges. When one DILG secretary lost the president's confidence, his replacement, former police general Catalino Cuy, was confirmed just as easily, followed by Eduardo Año in 2018.

Overall, the legislative branch offered no resistance to the executive, failing to oppose or constrain the increasing police violence. Instead, it demonstrated clear acquiescence to an administration determined to bypass due process and human rights. The CA similarly did not hold secretaries accountable for police violence or the lack of prosecutions.

Several factors contributed to this failure, with the most significant being the personalized, clientelist nature of politics in the Philippines. The country lacks ideologically driven political parties, which instead function as networks of individual politicians, often from political families, focused on mutual support to enhance their positions and resources. Many parties, typically led by political families, prioritize local interests, frequently winning only one or two seats.

Currently, 80% of seats in single-member constituencies are held by 30 different parties and six independents, with larger parties serving primarily as platforms for negotiating family interests. Politicians often switch party affiliations to maintain ties within the clientelist network, leading to divisions and fluctuations based on presidential election outcomes.

A presidential victory usually helps their party gain seats. For instance, although Rodrigo Duterte won the 2016 election with 39 percent of the vote, his party, PDP-Laban, secured only 1.9 percent of lower house seats, while the Liberal Party (LP) of his strongest contender, Mar Roxas, became the largest with 42percent. Likewise, five of the 12 winning Senators ran on the Liberal Party ticket, providing potential for an anti-Duterte alliance. However, before Duterte took office, PDP-Laban formed a supermajority coalition, and many representatives switched to it (Cabacungan 2016). As a result, LP's share in the House dropped from 117 in 2016 to 18 in 2019, while PDP-Laban's rose from 3 to 86 (Teehankee 2024).

This phenomenon, described as an „anarchy of families“ (McCoy 1994), explains why a determined president's radical agenda faced little opposition. The president's powers – such as appointing officials, controlling the national budget, and allocating funds – allow him to influence resource distribution, creating incentives for alignment with presidential preferences (Yusingco et al. 2023, Holmes 2019). Thus, patterns of cooperation and competition among political families reliant on the president's favor largely explain the lack of opposition to Duterte's radical policies.

Despite minimal prior support for Duterte's anti-drug agenda from national or local politicians, the structure of Philippine politics, driven by familial and local interests, hinders resistance. Forming a unified front on human rights policies becomes nearly impossible against an administration intent on disregarding them. Thus, Duterte's administration could rely on strong backing from 80% of House members, many of whom switched allegiance to PDP-Laban or aligned their parties with the government.

4.5 SUMMING UP: THE PHILIPPINES

The discussion above shows that the first crucial determinant of presidential success in implementing his war on drugs was the wide-ranging presidential authority over law enforcement institutions, which Duterte used in an extra-constitutional manner, relying on his informal authority.

A history of impunity provided important context, with Duterte's *carte blanche* for killings and his credible promise to shield the police from consequences further explaining police complicity. Given Duterte's aggressive political agenda and full support, police were assured that lower-level politicians, who had previously interfered with police operations by threatening officers' careers, would no longer have such influence. Open political resistance became a dangerous option. The war on drugs also allowed the police to reclaim authority over anti-drug operations from the Philippine Drug Enforcement Agency (PDEA), enhancing their status in law enforcement. The shift toward violent excess was further driven by strong pressure on officers to comply or risk their careers, as shown by high-profile transfers of those failing to meet targets.

Thus, several factors fueled police compliance with presidential directives: pressure to conform, a precedent of fatal operations, the promise of impunity, opportunities for increased status, and strong political support that offset local politicians' informal powers over police careers.

Despite a surge in police killings, oversight institutions remained passive, with only two cases resulting in convictions. While Duterte's authority allowed him to act without altering laws, the legislature largely supported his campaign, not due to ideological agreement, but because of the fragmented, clientelist nature of Philippine politics, i.e. because politicians followed a logic derived from a competing informal institution. Politicians aligned with Duterte to maintain their positions and avoid being labeled enemies. With little trust among colleagues and constant competition for the President's favor, suspicion of opportunistic defection was high, raising incentives for individual politicians to outmaneuver contenders.

The result is a logic of action resembling Banfield's classical hypothesis explaining South Italian village society. He argues that one imperative, or informal institution, underlies perception and action: "Maximize the material, short-run advantage of the nuclear family; assume that all others will do likewise" (Banfield 1958, 85). In the case of the Philippines under Duterte, this translates into alignment with Duterte. This situation also resembles a prisoner's dilemma. While effective formal institutions could enable collective opposition to the President, informal factors – such as role expectations and shared experiences – lead most politicians to assume others will align with the President to secure political positions and government benefits. Opposing the President without strong backing risked exclusion from these benefits and, more dangerously, being labeled a narco-politician. Aligning with the President, even passively, allowed politicians to minimize risk. The safest choice was (and is) to support the President. Given the lack of ideologically committed parties and a political culture that values principled stands, the choices made by Congress members and Governors are predictable and likely to persist as long as these informal institutions, stemming from the quasi-anarchic competition between families, remain the dominant logic driving political choices.

5. COMPARING DEMOCRATIC WEAKNESS IN BRAZIL AND THE PHILIPPINES

The cases of Brazil and the Philippines reveal crucial similarities and differences in how political institutions and informal practices shape police violence under radical presidents. The crucial difference lies in the role of formal institutions that define the authority of a President, which in turn, determine the reach of presidential initiatives for iron-fisted policing. In Brazil, presidential powers are more limited and limit the effect of pleas for harsher law enforcement, whereas in the Philippines they provide the crucial enabler.

In both countries, deeply ingrained practices within internal police oversight and external institutions, such as the prosecution, have fostered a culture of non-interference in police matters, resulting in a breakdown of accountability. This reluctance to scrutinize police conduct has resulted in an inability to effectively address or prevent abuses, allowing unchecked police violence to continue.

In both cases, formal institutions established to check executive power failed to fulfill their role and were, to varying degrees, undermined by informal practices that competed with the norms and expectations outlined in laws and regulations. These informal practices play a critical role in weakening these institutions, preventing them from resisting executive overreach, or from holding the masters accountable early enough to halt the killings.

Some variation is discernible. The Brazilian Parliament's stance on law enforcement and the use of force often mirrored its broader relationship with the executive branch. Under Temer, a cooperative dynamic with Congress facilitated a permissive approach, enabling smoother policy implementation. In contrast, Bolsonaro's erratic relationship with Congress led to greater resistance, with lawmakers opposing changes to the legal framework in response to his unilateral and often contentious governance style. In the Philippines, the war on drugs unfolded within the legal framework, with no efforts at change, because established informal practices of Presidential bandwagoning were sufficient to establish majority acquiescence.

What does this mean for democratic resilience as embedded in democratic institutions? The contrasting cases of Brazil and the Philippines emphasize the importance of both institutional design and informal institutions. In Brazil, Temer advanced his militarization agenda without resistance, benefiting from cooperative institutional dynamics. However, resistance emerged under Bolsonaro, revealing the limits of presidential power and his failure to garner support from other branches for his ideological agenda. In contrast, in the Philippines, where the president wields broad powers, the initial checks against executive overreach – through a limited presidential mandate – are largely absent. As a result, the immediate effects of presidential actions are often far more severe, illustrating how institutional configurations can either restrain or exacerbate executive excesses.

The comparative analysis of Brazil and the Philippines explicitly highlights the vulnerabilities of democratic institutions when confronted with radical presidents. Institutions tasked with overseeing the police or government rely on support from complementary or substitutive informal institu-

tions embraced by their members. The more that members' perceptions and political choices are influenced by accommodating or, especially, competing informal institutions, the more institutional practices will deviate from the ideal type defined by the laws and regulations that underlie those institutions.

In both countries, the persistence of police violence and the erosion of institutional oversight can be traced to a broader failure to internalize democratic norms and human rights standards among key actors. When the separation of powers and the rule of law are not deeply embedded in the political culture, even strong formal institutions can be bypassed by informal practices, leading to widespread abuses of state power.

This is true even when a president holds a majority in parliament, as parliamentarians are expected to follow the law. Their failure to act against executive overreach may stem from genuine agreement and support. However, while their inaction need not be based on substantive agreement, it always entails the influence of competing informal institutions, such as established practices of executive bandwagoning or obedience to party discipline.

This attests to the conclusion that the resilience of democracy and the rule of law depends not only on the legal framework of the formal institutions but on the political culture and informal practices that guide the perceptions, assessments, and behavior of those who run them. When competing informal practices dominate the minds of those who represent these very institutions, they tend to predominate over the formal rules of the game. Put differently, the rule of law is only as strong as its internalization in the minds of those tasked with controlling it.

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VIOLENT MANDATES: PRESIDENTIAL POWER, INSTITUTIONAL FAILURE, AND THE RISE OF POLICE KILLINGS IN BRAZIL AND THE PHILIPPINES

Ariadne Natal // Peter Kreuzer

The report examines the role of control institutions in the rise in police killings in Brazil and the Philippines from 2016 to 2022. It identifies how radical presidents were able to emasculate democratic institutions tasked with upholding due procedure and rule of law, as well as controlling the executive, from internal police oversight to the judiciary and the legislative. It argues that controls fail as long as those institutions are not staffed by individuals who are willing to resist in crisis situations in order to uphold the normative and legal foundations of the democratic order and thereby safeguard democratic resilience.

Dr. Ariadne Natal and Dr. Peter Kreuzer are senior researchers at PRIF's "Intrastate Conflict" research department. Ariadne Natal's research focuses on Brazil, police legitimacy and use of force as well as vigilantism, Peter Kreuzer focuses on political violence in the Philippines and maritime conflicts in the South China Sea.