



Inter-Parliamentary Union

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Philippines

PHI/08 - Leila de Lima

***Decision adopted unanimously by the IPU Governing Council
at its 201st session (St. Petersburg, 18 October 2017)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Senator de Lima and to the decision it adopted at its 197th session (April 2017),

Taking into account the report (CL/201/11(b)-R.1) of the Committee delegation which, at the invitation of the Philippines parliamentary authorities, went to the Philippines (22 – 24 May 2017) to gather first-hand information on Senator de Lima's situation from the parliamentary, government and judicial authorities, Senator de Lima herself, her lawyers and staff as well as third parties,

Taking into account the information regularly provided by the complainants since then,

Recalling the following information on file:

- Senator Leila de Lima served as Chairperson of the Commission on Human Rights of the Philippines from May 2008 until June 2010. In that capacity she led a series of investigations into a number of alleged extrajudicial killings linked to the so-called Davao Death Squad (DDS) in Davao City, where Mr. Duterte had long been mayor, and concluded that Mr. Duterte, now President of the Philippines, was behind the DDS;
- In 2010, Ms. de Lima was appointed Secretary of Justice. She resigned from this position in October 2015 to focus on her campaign to gain a seat in the Senate in the elections of May 2016, in which she was successful. In August 2016, as Chair of the Senate Committee on Justice and Human Rights, Senator de Lima initiated an inquiry into the killings of thousands of alleged drug users and drug dealers alleged to have taken place since President Duterte took office in June 2016;
- Senator de Lima was arrested and detained on 24 February 2017 in a case before Regional Criminal Court (RTC) Branch 204, in which she faces, as in two other cases before RTC Branches 205 and 206, criminal proceedings on the basis of accusations that she had received drug money to finance her senatorial campaign. The accusations against her were brought in the wake of an inquiry by the House of Representatives into drug trading in New Bilibid Prison and Senator de Lima's responsibility in that regard when she was Secretary of Justice. The House inquiry was launched one week after she initiated her inquiry in the Senate into the extrajudicial killings;
- Senator de Lima has been subject to a public campaign of vilification by the highest State authorities portraying her as an "immoral woman" and as guilty, even though a trial has yet to commence. On 7 November 2016, Senator de Lima filed a petition for writ of habeas data against President Duterte in the Supreme Court, with the request that the Court order President Duterte and any of his representatives to stop seeking

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details about her personal life outside the realm of legitimate public concern and making public statements that malign her as a woman and degrade her dignity as a human being, sexually discriminate against her, describe or publicize her alleged sexual conduct, constitute psychological violence against her and otherwise violate her rights or are contrary to law, good morals, good customs, public policy and/or the public interest,

Considering the following developments which have taken place since the mission:

- On 10 October 2017, the Supreme Court, by 9 votes in favour and 6 against, dismissed Senator de Lima's petition to nullify her arrest in the case before RTC Branch 204; Senator de Lima has filed a motion for reconsideration of this decision;
- RTC Branch 205 issued a non-bailable arrest warrant on 19 July 2017. Senator de Lima filed a motion for reconsideration which was denied; subsequent motions to quash submitted to RTC Branch 205 have likewise been dismissed; the arraignment is set for 24 November 2017; unless a temporary restraining order or preliminary injunction is issued, the proceedings, including trial, are expected to take place after the arraignment. The case before RTC Branch 206 is still on hold;
- On 29 May 2017, members of the minority bloc in the Senate filed a resolution expressing support for the granting of occasional furlough as requested by Senator de Lima. Another attempt, which also failed for lack of a majority, was made at the beginning of September 2017;
- The complainants reported that on 12 July 2017, Senate President Aquilino Pimentel III visited Senator de Lima. He committed to support any request for furlough, subject to court approval, provided that the Senator specifies which pre-scheduled sessions of the Senate and select committees she wishes to attend;
- The Supreme Court has not yet pronounced on the request for occasional furlough; Senator de Lima's lawyers intend to bring up this matter in the motion for reconsideration;
- The complainants affirm that the chief legal officer of the Bureau of Corrections, Mr. Alvin Herra Lim, as well as a memorandum from the Bureau of Corrections, clearly state that those from among the so-called "Bilibid 19" convicts who testified against Senator de Lima have benefited from privileged treatment since giving their testimonies;
- Although Senator de Lima remains very politically active from detention and receives newspapers, journals and books; she has no access to internet, TV or radio nor to an air-conditioning unit, despite a doctor's order - Senator de Lima has written a letter to the chief of the Philippine National Police in this regard;

Considering that, at the conclusion of their country visit, on 20 July 2017 the four members of the European Parliament (and of its Subcommittee on Human Rights) "called on the authorities of the Philippines to guarantee a fair trial for the senator and allow her to fulfil her duties as senator, including voting in the Senate."

Considering that in their joint statement of 18 August 2016, the UN Special Rapporteur on summary executions and the UN Special Rapporteur on the right to health called for drug trafficking offences to be "judged in a court of law, not by gunmen on the streets" and called on the Philippines authorities to adopt with immediate effect the necessary measures to protect all persons from targeted killings and extrajudicial executions; the UN Special Rapporteur on the right to health said that drug dependency should be "treated as a public health issue" and advocated "justice systems that decriminalize drug consumption and possession for personal use as a means to improve health outcomes."

Considering that the European Parliament, in its resolution of 16 March 2017 on "The Philippines – the case of Senator Leila M. De Lima", strongly condemns the high number of extrajudicial killings by the armed forces and vigilante groups related to the anti-drug campaign; expresses its condolences to the families of the victims; expresses grave concern over credible reports to the effect that the Philippines Police Force is falsifying evidence to justify extrajudicial killings, and that overwhelmingly the urban poor are those being targeted; calls on the authorities of the Philippines to immediately carry out impartial and meaningful investigations into these extrajudicial killings and to prosecute and bring to

justice all perpetrators; and calls on the EU to support such investigations and on the authorities of the Philippines to adopt all necessary measures to prevent further killings,

Considering that the Philippines Government has rejected several recommendations by the UN Human Rights Council to investigate alleged extrajudicial killings resulting from the war on drugs, stating that it has sufficiently explained that deaths which occurred in the course of the implementation of the anti-illegal drugs campaign are not extrajudicial killings; that the government accepted only 103 out of the 257 recommendations made during the 36th session of the Council's Universal Periodic Review (UPR) of the Philippine human rights situation in May 2017, while taking note of the remaining 154 proposals. Aside from those calling for an independent investigation of alleged extrajudicial killings, the Government also denied a request to allow the UN Special Rapporteur on extrajudicial, summary or arbitrary executions to conduct an official visit to the country,

Considering that the UN High Commissioner for Human Rights, in his opening speech on 11 September 2017 to the 36th session of the UN Human Rights Council stated: "I continue to be gravely concerned by the President's open support for a shoot-to-kill policy regarding suspects, as well as by the apparent absence of credible investigations into reports of thousands of extrajudicial killings, and the failure to prosecute any perpetrator,"

Considering also that on 25 September 2017, 16 of the country's 23 senators introduced draft Senate resolution 516 urging the administration of President Rodrigo Duterte to "undertake the necessary steps to stop the spate of killings, especially of our children." The resolution also called for a Senate investigation into the "institutional reasons, if any, that give rise to such killings" and affirmed: "Due to the alarming spike in the number of children recently killed in blatant violation of their rights guaranteed by the Constitution, Philippine laws and international treaties, there is an urgent need to conduct an investigation of these senseless killings,"

Considering also that, amid the escalation of conflict in Mindanao and clashes in Marawi City, involving the Maute Group, President Duterte placed Mindanao and its nearby islands under martial law on 23 May 2017; that the 1987 Constitution provides for martial law for a maximum of 60 days without congressional approval; that on 22 July 2017, the two houses of Congress granted President Duterte's request to extend martial law in the southern Philippines until the end of 2017; and that President Duterte has said that he might extend martial law to the entire country if necessary, to "protect the people,"

Considering finally that, after threats by the House of Representatives to reduce the budget for the Commission on Human Rights for 2018 to a mere P1,000 (equivalent to 20 USD) in connection with its extensive investigation of reports of extrajudicial killings, it was finally decided to restore the Commission's previous budget, although the allocated sum did not match the increased amount that the Commission had asked for to be able to fully investigate the multiple reports of extrajudicial killings,

1. *Thanks* the Philippines authorities, in particular the parliamentary authorities, for receiving the on-site mission and for facilitating the fulfilment of its mandate, including the visit to Senator de Lima in detention;
2. *Fully endorses* the mission's findings and recommendations;
3. *Calls on* the relevant authorities to release Senator de Lima immediately and to seriously consider abandoning the legal proceedings should serious evidence not rapidly be forthcoming; *underscores* in this regard that the mission report amply shows that the steps taken against Senator de Lima came in response to her vocal opposition to President Duterte's war on drugs, including her denunciation of his alleged responsibility for the extrajudicial killings, and that there is no evidence to justify the criminal cases against her;
4. *Regrets* therefore that the Supreme Court did not see fit to nullify her arrest in the case pending before RTC Branch 204; *trusts* that the Court will give full consideration to the arguments presented by Senator de Lima and her lawyers in her motion for reconsideration; *wishes* to be kept informed in this regard;

5. *Decides* to send a trial observer to monitor and report on respect for fair trial standards in the case before RTC Branch 205, should the trial proceed;
6. *Is shocked* at the public campaign of vilification by the highest state authorities against Senator de Lima portraying her as an “immoral woman” and as guilty, even though a trial has yet to commence; *regrets* that the Supreme Court has still to rule on this matter, thereby missing an important opportunity to end and condemn the public degrading treatment to which she has been subjected as a woman parliamentarian; *calls* on the Supreme Court to rule on this matter as quickly as possible;
7. *Considers* that the Senate has a special responsibility to help ensure that its colleagues participate in its deliberations and to speak out when they face reprisals for their work; *regrets* therefore that the Senate has not been able to take a firm stance in favour of Senator de Lima’s direct participation in the most important work of the Senate; *sincerely hopes* that the Senate, under the leadership of its President, will finally be able to act in solidarity with its colleague;
8. *Sincerely hopes* that, failing her immediate release, the Supreme Court will soon grant her occasional furlough; *also hopes* that the relevant authorities will swiftly enable her to access internet, TV and radio, as it would greatly facilitate her parliamentary work; *trusts* that the authorities will also provide her with an air-conditioning unit, as per her doctor’s order; *wishes* to be kept informed in this regard;
9. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.