

## PHILIPPINES

- **PHL-08:** Leila de Lima (Ms.)
- **PHL-02:** Saturnino Ocampo
- **PHL-09:** Antonio Trillanes
- **PHL-COLL-02:** 2 parliamentarians



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# Philippines

*Decision adopted unanimously by the IPU Governing Council at its 206<sup>th</sup> session (Extraordinary virtual session, 3 November 2020)*



Philippine Senator Leila de Lima is escorted by police after her arrest at the Senate in Manila on 24 February 2017 © Ted Aljibe/AFP

## PHL-08 – Leila de Lima

### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression

### A. Summary of the case

Ms. Leila de Lima served as Chairperson of the Philippines Commission on Human Rights from May 2008 to June 2010. In that capacity, she led a series of investigations into alleged extrajudicial killings linked to the so-called Davao Death Squad in Davao City, where Mr. Duterte had been long-time mayor, and concluded that Mr. Duterte, now President of the Philippines, was behind the Davao Death Squad.

In 2010, Ms. de Lima was appointed Secretary of Justice. She resigned from this position in October 2015 to focus on her campaign for a senate seat in the May 2016 elections, a bid that was successful. In August 2016, as Chair of the Senate Committee on Justice and Human Rights, she launched an inquiry into the killings of thousands of alleged drug users and drug dealers, which are alleged to have taken place since President Duterte took office in June 2016. Since becoming senator, she has been the target of acts of intimidation and denigration, including by President Duterte himself.

### Case PHL-08

**Philippines:** Parliament affiliated to the IPU

**Victim:** Female opposition member of parliament

**Qualified complainant(s):** Section I.(1)(d) of the [Committee Procedure](#) (Annex I)

**Submission of complaint:** September 2016

**Recent IPU decision(s):** April 2019

**Recent IPU mission(s):** [May 2017](#)

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication from the authorities: Letter from the Director General and Secretary of the IPU Group of the Philippines (April 2019)
- Communication from the complainant: October 2020
- Communication addressed to the authorities: Letter addressed to the President of the Senate (September 2020)
- Communication addressed to the complainant: October 2020

Senator de Lima was arrested and detained on 24 February 2017 over accusations of receiving drug money to finance her senatorial campaign for a senate seat. The charges, in three different cases, 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 for such while she was Secretary of Justice. The House-led inquiry was launched one week after she initiated her inquiry in the Senate into the extrajudicial killings.

On 27 July and 10 August 2018, Senator de Lima was indicted in two of the three cases that are currently before Branches 205 and 256 of the Regional Trial Court – Muntinlupa City. While the third case has gone on intermittently due to vacancies in court, with the trial having resumed only on 9 October 2020, hearings to present prosecution witnesses in the two other cases before Regional Trial Court Branch 205, mostly involving convicted drug traffickers, were scheduled well into 2020, with twice-monthly hearings scheduled in each case on average. It was later discovered that the convicted drug traffickers received special treatment in prison and were coerced into testifying against Senator de Lima after being viciously stabbed in prison in 2016. In June and August 2020, Senator de Lima filed two motions for release on bail on the grounds that there was insufficient evidence against her in the two cases before the court. The prosecution is likely to wrap up its work in both ongoing cases by November 2020, with remaining hearings being accessible for remote online monitoring. Thereafter, the court is likely to rule on the two pending motions for bail soon.

A May 2017 mission to the Philippines by the IPU Committee on the Human Rights of Parliamentarians concluded that there was no evidence to justify the criminal cases against Senator de Lima. Since then, the IPU has called for the release of Senator de Lima and for the case against her to be dropped unless cogent evidence becomes available soon. On 30 November 2018, the United Nations Working Group on Arbitrary Detention concluded that Senator de Lima's detention was arbitrary and that her immediate release was in order.

Although Senator de Lima has remained very politically active over the years while in detention and receives newspapers, journals and books, she has no access to the Internet, a computer, TV, radio, or to an air-conditioning unit despite a doctor's recommendation. Senator de Lima was allegedly kept in incommunicado detention from 25 April to 10 June 2020, purportedly for the purposes of stopping the spread of Covid-19. Although the situation regarding Senator de Lima's visiting rights has since improved, a number of restrictions thereto remain in place.

On 27 April 2020, the Senate adopted a motion to allow teleconferencing in plenary and committee hearings. That same day, the Senate President, however, reportedly publicly stated that Senator de Lima would not be allowed to take part in such virtual proceedings given that the Senate has no jurisdiction over her. According to the complainant, this is a further attempt to prevent her from fully performing her role as Senator, despite the clear Supreme Court jurisprudence on this point. On 7 November 2016, Senator de Lima had filed a petition for writ of *habeas data* against President Duterte before the Supreme Court, requesting that the Court, *inter alia*, order President Duterte and any of his representatives to cease: seeking details about her private life outside the realm of legitimate public concern or making statements maligning her as a woman and injuring her dignity as a human being; discriminating against her on the basis of gender; describing or publicizing her alleged sexual conduct; engaging in psychological violence against her; and otherwise violating her rights or engaging in acts that are contrary to law, good morals, good customs, public policy and/or public interest. On 18 October 2019, the Supreme Court had dismissed the petition for writ of *habeas data* on the grounds that the President is immune from suit during his incumbency and tenure.

## A. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Remains deeply concerned* that Senator de Lima has been in detention for three and a half years without any serious evidence presented against her to justify the charges; *recalls* in this regard the principle that justice delayed is justice denied;
2. *Recalls also* that there are multiple, strong signs that the steps taken against Senator de Lima come in response to her vocal opposition to the way in which President Duterte was waging a war on drugs, including her denunciation of his alleged responsibility for extrajudicial killings; *points out* in this regard the repeated violation of the principle of the presumption of innocence, the dubious choice of jurisdiction to present the accusations against her, the timing of the

criminal proceedings, the amendment of the charges and the reliance on testimonies of convicted drug traffickers, who were either promised favourable treatment in return, subjected to physical intimidation in prison, or have an axe to grind against Senator de Lima as a result of her efforts to dismantle their drug trafficking operations when she was Secretary of Justice;

3. *Renews it call*, in light of the foregoing, for Senator de Lima to be released immediately and for the legal proceedings against her to be dropped; *calls on* the authorities to take the necessary action forthwith;
4. *Requests* that, should charges not be dropped, an IPU trial observer continue to monitor and report on respect for fair-trial standards in the cases before Branches 205 and 256 of the Regional Trial Court in Muntinlupa City, including in order to assess if and how existing concerns about the legality and fairness of the proceedings are properly reviewed;
5. *Regrets* that it was not possible for the Supreme Court to rule on the public campaign of vilification of Senator de Lima by the highest state authorities, thereby missing an important opportunity to condemn and end the public degrading treatment to which she has been subjected as a woman parliamentarian;
6. *Is concerned* that Senator de Lima has not been able to benefit from the Senate's move towards teleconferencing; *considers* that the parliamentary authorities can do much more to help ensure that she can fully participate in the work of the Senate and effectively represent the interests of the 14 million Filipinos who elected her, also bearing in mind past initiatives by the Senate in other similar cases, well before teleconferencing was allowed; *wishes* to be kept informed on this point;
7. *Is concerned* about limitations imposed on Senator de Lima's visiting rights and continued lack of access to the Internet, TV, radio, tablet or laptop; *regrets* furthermore that the authorities have also yet to provide her with an air-conditioning unit, as ordered by her doctor; *sincerely hopes* that the relevant authorities will take the necessary steps to address these matters for as long as she remains in detention; and *wishes* to be kept informed in this regard;
8. *Requests* the Secretary General to convey this decision to the relevant authorities, including the Secretary of Justice, the Prosecutor's Office and the relevant courts, the complainant and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.



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# Philippines

*Decision adopted unanimously by the IPU Governing Council at its 204<sup>th</sup> session (Doha, 10 April 2019)*



Saturnino Ocampo

PHI02 - Saturnino Ocampo

PHI04 - Teodoro Casiño

PHI05 - Liza Maza

PHI06 - Rafael Mariano

## Alleged human rights violations:

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Failure to respect parliamentary immunity

## A. Summary of the case

The persons concerned were elected to the House of Representatives in May 2007 under the Philippine party-list system, which is designed to ensure the representation of underprivileged groups in parliament. In the May 2010 parliamentary elections, Mr. Ocampo and Ms. Maza stood for the Senate but were not re-elected, whereas Mr. Casiño and Mr. Mariano were elected. Since the 2013 elections, the persons concerned have no longer occupied parliamentary posts.

All four victims claim to have been subjected to continuous harassment since May 2007, due to their opposition to the policies of the President of the Philippines at the time, Ms. Gloria Macapagal Arroyo. The rebellion charges brought against them in February 2006 were dismissed with final effect by the Supreme Court on 2 July 2007, and the writ of amparo case against Mr. Ocampo was also dismissed in February 2014.

In March 2008, multiple murder charges were filed against Mr. Ocampo (Leyte Murder Case). In February 2014, the Supreme Court dismissed Mr. Ocampo's petition to have the case rejected, ruled

## Case PHL-COLL-01

**Philippines:** Parliament affiliated to the IPU

**Victim(s):** Opposition members of parliament (three men and one woman)

**Qualified complainant(s):** Section I(1)(a) of the [Committee Procedure](#) (Annex I)

**Submission of complaint(s):** March and April 2006

**Recent IPU decision:** [April 2015](#)

**IPU mission:** [April 2007](#)

**Recent Committee hearings:** - - -

### Recent follow-up:

- Communication from the authorities: Letter from the Director General and Secretary of the IPU Group of the Philippines (April 2019)
- Communication from the complainant: March 2019
- Communication addressed to the authorities: Letter addressed to the President of the Senate (March 2019)
- Communication addressed to the complainant: January 2019

that the trial against him should proceed and granted him bail. A subsequent omnibus motion by Mr. Ocampo to quash more recent information brought forward by the prosecution was dismissed by the Regional Trial Court, the Court of Appeals and, finally in 2017, by the Supreme Court. Hearings are ongoing before the Regional Trial Court, Branch 32, City of Manila. In July 2010, Mr. Ocampo was charged with murder in a related case, which has not advanced even though the Supreme Court has long ruled that the trial in the main Leyte murder case should proceed. Mr. Ocampo's petition, which he filed in August 2010 asking for the case to be dropped for lack of probable cause, is still before the Regional Trial Court, Branch 18, of Hilongos in Leyte.

Mr. Ocampo, Ms. Maza, Mr. Casiño and Mr. Mariano were charged with murder in December 2006 (Nueva Ecija case). On 8 August 2018, the case against them was dismissed for lack of probable cause.

A charge of obstruction of justice was filed against Mr. Casiño in May 2007 with the City Prosecutor's Office in Ormoc City, Leyte (Investigation Slip No. 07-238). No action has been taken in the case. It can be argued that, since the case is punishable under special law, the prescriptive period has already lapsed.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Senate President for his cooperation and the information provided;
2. *Notes* that the charges in the Nueva Ecija case against Ms. Maza, Mr. Casiño and Mr. Mariano were finally dismissed; *decides* to close further examination of their cases in line with section 25(a) of its Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians), while deeply regretting that it took 12 years to establish that there was not enough evidence to bring the case to trial; *recalls* in this regard that the right to be tried without undue delay is an element of the right to a fair trial enshrined in the International Covenant on Political and Civil Rights, to which the Philippines is a party, and that it is designed to ensure that people are not kept in a prolonged state of uncertainty about their fate; *notes* that, with respect to the obstruction of justice charge against Mr. Casiño, no further information from him has been forthcoming, there is no indication that the charge has been pursued in the past and it is very likely that it can no longer be pursued under Filipino law;
3. *Takes note* that the judicial proceedings against Mr. Ocampo in connection with the multiple murder charges in the main Leyte case have progressed in recent years, albeit very slowly, which can be largely attributed to the multiple objections raised by the defence counsel for Mr. Ocampo; *sincerely hopes* that, now that the hearing of witnesses is well under way, the trial proceedings will advance speedily; *wishes* to be kept informed in this regard; *is concerned*, however, that the related Leyte case is at a complete standstill; *calls on* the Regional Trial Court to finally rule on Mr. Ocampo's petition; *wishes* to be kept informed of progress in this regard;
4. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
5. *Requests* the Committee to continue examining the case of Mr. Ocampo and to report back to it in due course.



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# Philippines

*Decision adopted unanimously by the IPU Governing Council at its 204<sup>th</sup> session (Doha, 10 April 2019)*



Senator Trillanes arrives at the Senate building in Manila on 25 September 2018. Senator Trillanes, a vocal critic of President Duterte, was arrested but posted bail in proceedings that the lawmaker decried as a "failure of democracy" | NOEL CELIS/AFP

## PHL09 – Antonio Trillanes

### Alleged human rights violations:

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression

### A. Summary of the case

In July 2003, the then Navy Lieutenant Antonio Trillanes was arrested and charged with staging a coup d'état for his participation in what is known as the "Oakwood Mutiny", which took place in July 2003, when more than 300 soldiers took over the Oakwood Premier Hotel in Makati to make known their grievances over bribery and corruption within the army. While in detention, he was allowed to stand in the Senate elections held in May 2007. He was duly elected to the Senate, having received the eleventh highest number of votes. In November 2007, he led another uprising, after walking out of a court hearing and subsequently occupying the Peninsula Hotel in Manila, reportedly calling for the ousting of the then President, Ms. Gloria Macapagal-Arroyo.

In November 2010, President Benigno Aquino III issued Proclamation No. 75, which was approved by both houses of Congress, regarding an amnesty for Senator Trillanes and others for their participation in these events. Senator Trillanes' release was finalized in January 2011, when he applied for and was subsequently granted amnesty under the above-

### Case PHL09

**Philippines:** Parliament affiliated to the IPU

**Victim(s):** Male opposition member of parliament

**Qualified complainant(s):** Section I(1)(a) of the [Committee Procedure](#) (Annex I)

**Submission of complaint(s):** September 2018

**Recent IPU decision:** [October 2018](#)

**IPU mission:** - - -

**Recent Committee hearing(s):** - - -

### Recent follow-up:

- Communication from the authorities: Letter from the Director General and Secretary of the IPU Group of the Philippines (April 2019)
- Communication from the complainant: Meeting at IPU Headquarters (March 2019)
- Communication addressed to the authorities: Letter addressed to the President of the Senate (March 2019)
- Communication addressed to the complainant: March 2019

mentioned proclamation. In September 2011, the Makati Regional Trial Court (RTC) Branches 148 and 150 therefore dismissed the coup d'état and rebellion charges that were pending against Senator Trillanes.

However, on 31 August 2018, President Duterte, through Proclamation No. 572, decided that Senator Trillanes had not fulfilled the amnesty conditions and ordered his arrest. Senator Trillanes sought protective custody in the Senate until 25 September 2018, when RTC Branch 150, which had dealt with the original rebellion charges, issued a warrant for his arrest, basically reviving those charges. Senator Trillanes has challenged this decision before the Court of Appeal, where the matter is pending. The police subsequently escorted Senator Trillanes out of the Senate building. He was released on bail that same day in this case.

On 22 October 2018, RTC Branch 148, which had handled the original coup d'état case, dismissed the motion from the Department of Justice to issue an arrest warrant against Senator Trillanes, saying that the same court had already dismissed those charges in September 2011 and that that decision "has become final and executory". In reaching its decision, RTC Branch 148 established that there was only one application form given to each of the 277 amnesty applicants at the time. This single form, once completed, was immediately submitted to the DND Amnesty Committee and kept by the relevant authorities, without giving the applicants a copy of their fully completed form. The RTC Branch 148 also concluded that several witnesses, along with photo evidence, attested to the fact that Senator Trillanes had duly filled out the form, which included a section recognizing admission of participation/involvement and guilt, and that the due completion and submission of the form had been properly verified and validated at the time. The Department of Justice has challenged the decision of RTC Branch 148 before the Court of Appeal, where the matter is pending.

According to the complainant, President Duterte's Proclamation No. 572 is politically motivated and comes solely in response to Senator Trillanes' vocal opposition to the current administration. Mid-term elections will take place in the Philippines in May 2019, which means that half of the seats on the Senate will be up for election. Having served two terms on the Senate, Senator Trillanes is not eligible to stand again.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Remains deeply concerned* that Senator Trillanes is facing a renewed charge of rebellion with regard to the same incident and offence for which he, together with all others involved, was subsequently amnestied in 2011, and which charge runs counter to the legal principle that no one shall be tried twice for the same offence; *points out* in this regard that the RTC 148, on the charge of coup d'état, has heard, unlike the RTC 150, extensive evidence on the facts related to Senator Trillanes' completion and submission of his amnesty application form, including his admission of guilt; *concurs* with the analysis of the RTC 148 that this evidence shows that Senator Trillanes fulfilled the conditions for amnesty and that his inability to produce the original, or a copy, of his completed form is due to no fault of his own; *is concerned* to learn in this regard that the Filipino authorities are not able to locate the completed forms for any of the 277 individuals who applied for and were granted amnesty at the time;
2. *Considers* that the sudden calling into question of his amnesty, more than seven years after the amnesty procedure was properly completed, and the exclusive preoccupation of President Duterte's Proclamation No. 572 with Senator Trillanes' situation, when many other individuals were likewise amnestied in connection with the same events, give serious weight to the allegation that this is a targeted attempt to silence Senator Trillanes;
3. *Sincerely hopes* that the Court of Appeal will duly examine the legal issues that have arisen in this case; *decides* to send a trial observer to closely monitor and report on the appeal proceedings with regard to their compliance with international fair-trial guarantees;
4. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
5. *Requests* the Committee to continue examining this case and to report back to it in due course.



## Philippines

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 161<sup>st</sup> session (Geneva, 20–30 January 2020)*



© Castro, Francisca, 17<sup>th</sup> Congress of the Philippines

PHI-10 - Francisca Castro

PHI-11 - Antonio Tinio

PHI-12 - Ariel Casilao

PHI-13 - Sarah Jane I. Elago

### Alleged human rights violations:

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Failure to respect parliamentary immunity

### A. Summary of the case

Ms. Francisca Castro and Ms. Sarah Jane I. Elago are current members of the Philippines' House of Representatives, whereas Mr. Antonio Tinio and Mr. Ariel Casilao are former members.

The complainants affirm that all four individuals have faced continuous harassment due to their opposition to the policies of President Duterte. This alleged intimidation includes being subject to charges that have no legal or factual merit and that run counter to the individuals' right to a fair trial and to their rights to freedom of expression, assembly and movement.

### CASE PHL-COLL-02

**Philippines:** Parliament affiliated to the IPU

**Victim(s):** Current and former opposition members of parliament (Two women and two men)

**Qualified complainant(s):** Section I.1(a) of the [Committee Procedure](#) (Annex I)

**Submission of complaint(s):** December 2019

**Recent IPU decision(s):** - - -

**IPU mission(s):** - - -

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication from the authorities: - - -
- Communication from the complainant: - - -
- Communication addressed to the authorities: - - -
- Communication addressed to the complainant: - - -

In this regard, the complainants affirm that Ms. Castro was briefly detained and arrested on 28 and 29 November 2018 on a charge of "child abuse" in connection with an initiative, which appears to be legitimate and laudable, in which she took part to save a group of school children in conflict-ridden Mindanao. The matter is still pending before the court.

Mr. Tinio and Mr. Casilao were allegedly subject to a legal complaint with regard to their lawful participation in a protest held in Davao City on 23 October 2018 against the ongoing militarization in Mindanao and other human rights violations committed during martial law. The Prosecutor dismissed the complaint in April 2019.

Ms. Elago was targeted by a modified complaint, originally submitted on 24 July 2019, to which her name was added as a respondent. It concerns a complaint from a mother against the youth group "Kabataan Party List" in which she accused the latter of kidnapping and abusing her daughter. The mother, however, had never accused Ms. Elago of anything. Moreover, the daughter is reportedly of legal age, has denied having been subject to any human rights violations and has explained that she wanted to become a youth activist and that her refusal to go home was the result of a family misunderstanding. The matter has been submitted for resolution by the Department of Justice.

## **B. Decision**

The Committee on the Human Rights of Parliamentarians:

1. *Notes* that the communication was submitted by qualified complainants under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the communication concerns current and former members of parliament at the time of the alleged facts;
3. *Notes* that the communication was submitted in due form;
4. *Notes* that the communication concerns allegations of arbitrary arrest and detention, lack of due process in criminal proceedings, violations of freedom of opinion, expression, assembly and movement and failure to respect parliamentary immunity, allegations which fall within the Committee's mandate; *considers*, however, with regard to Mr. Tinio and Mr. Casilao, that there is no clear need for action by the Committee, given that the legal complaint against them was dismissed; and *considers* that this may change should other allegations about ongoing harassment that are directly related to their previous parliamentary mandate be made available;
5. *Considers*, therefore, that the complaint appears to be *prima facie* admissible under the provisions of section II of the Procedure inasmuch as Ms. Castro and Ms. Elago are concerned and declares itself competent to examine the case.