

PHILIPPINES

- **PHL-08:** Leila de Lima (Ms.)
- **PHL-13:** Sarah Jane I. Elago (Ms.)
- **PHL-02:** Saturnino Ocampo
- **PHL-09:** Antonio Trillanes



Inter-Parliamentary Union

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Philippines

Decision adopted unanimously by the IPU Governing Council at its 207th session (Virtual session, 25 May 2021)



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, had been 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.

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

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: November 2020

Recent IPU mission: May 2017

Recent Committee hearing(s): - - -

Recent follow-up:

- Communications from the authorities: Letters from the Director General of the Office of International Relations and Protocol of the Senate and the Secretary of the IPU Group of the Philippines (May and April 2021)
- Communication from the complainant: November 2020
- Communication addressed to the authorities: Letter addressed to the President of the Senate (January 2021)
- Communication addressed to the complainant: February 2021

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 before Branches 205 and 256 of the Regional Trial Court (RTC) – 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 and a motion for bail pending resolution, hearings to present prosecution witnesses in the two other cases before RTC 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. On 17 February 2021, RTC Branch 205 granted Senator de Lima's demurrer to evidence in case No. 17-166, technically acquitting her, in the absence of sufficient evidence, but denied the same plea in the second case. Senator de Lima's defence counsel has appealed against the denial.

On 30 November 2018, the United Nations Working Group on Arbitrary Detention concluded, echoing the conclusions of an earlier IPU mission to the Philippines, 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 a 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 dismissed the petition for writ of *habeas data* on the grounds that the President is immune from suit during his incumbency and tenure.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the parliamentary authorities for their recent communications and for the information provided therein;
2. *Is deeply concerned* that its appeals for Senator de Lima's immediate release and for charges to be dropped have gone unheeded and that she continues to be detained, more than four years after her arrest, in the absence of any serious evidence; *considers* that her continued detention and prosecution not only run counter to her basic human rights, but should also be seen as reprisals for her political activities and positions;
3. *Recalls* in this regard that there are multiple, strong signs that the steps taken against Senator de Lima came 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 had 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, as well as the use of testimonies of criminal law enforcement officers who had been involved in the alleged criminal events that underpinned the charges against Senator de Lima and had clear motives to resent her, and who had been kept in their official positions without facing disciplinary sanctions, let alone charges;

4. *Calls on* the authorities, once more, to release Senator de Lima and to drop the legal proceedings against her immediately;
5. *Reaffirms* the need, should charges not be dropped, for an IPU trial observer to 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;
6. *Remains concerned* that Senator de Lima has still not been able to benefit from the Senate's move towards teleconferencing, well over a year after COVID-19 led the Senate to allow for proceedings to take place virtually; *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 know exactly why no further action is being taken to enable Senator de Lima to fully participate in Senate proceedings;
7. *Remains 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 finally 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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Ms Elago's official portrait during the 18th Congress @ Wikipedia

PHL-13 – Sarah Jane I. Elago

Alleged human rights violations

- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

Ms. Sarah Jane I. Elago is a member of the Philippine House of Representatives. The complainants state that Ms. Elago has faced continuous harassment due to her opposition to President Duterte's policies.

Ms. Elago has been directly and indirectly labelled in social media posts by the police and army as a terrorist. She currently has a complaint filed against six senior officials who have allegedly "red-tagged" her on a number of occasions, something which, according to the complainants, has put her life at serious risk. Red-tagging in the Philippines is understood to refer to the malicious blacklisting of individuals or organizations critical or not fully supportive of the actions of a sitting government in the country. These individuals and organizations

Case PHL-13

Philippines: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

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

Submission of complaint: December 2019

Recent IPU decision: January 2020

Recent IPU mission(s): - - -

Recent Committee hearings(s): - - -

Recent follow-up:

- Communications from the authorities: Letters from the Director General of the Office of International Relations and Protocol and the Secretary of the IPU Group of the Philippines (May and April 2021)
- Communication from the complainants: March 2021
- Communication addressed to the authorities: Letter addressed to the President of the Senate (January 2021)
- Communication addressed to the complainants: March 2021

are "tagged" as either communist or terrorist, or both, regardless of their actual political beliefs or affiliations.

As part of the alleged harassment, Ms. Elago was also targeted by an amended 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 "the Kabataan Party List" in which she accused the latter of kidnapping and abusing her daughter. On 10 November 2020, the Supreme Court upheld its earlier decision to dismiss the petition submitted by the daughter's parents. In so doing, the Supreme Court concluded that the daughter was reportedly of legal age and that she had denied having been subjected to coercion and had voluntarily chosen to join the youth group. Shortly before, on 15 October 2020, prosecutors at the Department of Justice dismissed two of the five charges in connection with this situation against Ms. Elago for lack of probable cause, while a determination of the three other charges was pending with the Department of Justice.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning Ms. Sarah Jane I. Elago, a member of the Philippine House of Representatives, was declared admissible by the Committee on the Human Rights of Parliamentarians under its procedure at its 161st session (January 2020);
2. *Thanks* the parliamentary authorities for the latest information provided and for their spirit of cooperation;
3. *Is deeply concerned* that official communications are published online that contain baseless accusations against Ms. Elago, which not only discredit her but also put her physical integrity at risk; *calls on* the Filipino authorities to prevent such claims from being made and to hold those responsible to account; *wishes* to know what steps are being taken for this purpose, including any progress made with regard to the complaint that Ms. Elago brought against six senior officials;
4. *Strongly believes* that it is in the interests of the Congress of the Philippines to ensure that its members can exercise their parliamentary mandates without fear of reprisal; *calls on* Congress, therefore, to carry out its oversight function so as to ensure that Ms. Elago is not hindered by state entities and officials in fulfilling her parliamentary duties; *wishes* to know what steps, if any, Congress is taking in this regard;
5. *Trusts* that the determination of the pending charges against Ms. Elago will soon be concluded and that such determination will take full account of the conclusions reached by the Supreme Court on the petition pertaining to the same facts; *wishes* to be kept informed in this regard;
6. *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;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.



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Decision adopted unanimously by the IPU Governing Council at its 204th 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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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.