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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

REFERENCE: AL G/SO 214 (67-17) G/SO 214 (107-9) G/SO 214 (33-27)
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30 May 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolution 16/4, 16/5, and 17/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the alleged killing of Messrs. Jimmy Liguyon and Margarito Cabal**.

Mr. Liguyon was the Vice-Chairman of Kasilo, an organisation of indigenous peoples from the southern municipalities of Bukidon which works in defence of land rights and cultural rights as well as advocating for the sustainable use of natural resources, and he was also the village chief of Barangay Dao, San Fernando, Bukidon, Mindanao. As village chief Mr. Liguyon had refused to sign papers which would have allowed mining companies to operate on the ancestral lands of indigenous peoples and he had refused to recognise the ancestral domain claims of the San Fernando Matigsalug Tribal Datus Association (SANMATRIDA) over the lands.

Mr. Cabal was an employee of the Government of the Municipality of Kibawe, Bukidon, and a member of the Save Pulangi Alliance, a coalition which opposes the construction of a hydro-electric dam in Mindanao which, once completed, allegedly threatens to submerge 22 peasant and indigenous communities in the provinces of Bukidon and Cotabato.

According to the information received:

On 5 March 2012, at approximately 6:00 p.m., a group of 16 men arrived at the home of Mr. Liguyon. It is reported a member of the New Indigenous People's Army Reform (NIPAR), a paramilitary group allegedly closely affiliated with the SANMATRIDA, shot Mr. Liguyon at close range with an armalite rifle, hitting him in the chest and killing him.

Reportedly, the perpetrator then declared to those on the scene that he had killed Mr. Liguyon because he had refused to enter into any agreements with the

SANMATRIDA and he warned that anyone else who opposed the SANMATRIDA would also be killed.

It is indicated that NIPAR later issued a press release claiming responsibility for the killing and alleging that the victim had been a supporter of the New People's Army.

It is reported that on 30 April, Branch 10 of the Regional Trial Court of Malaybalay City issued a warrant for the arrest of the alleged perpetrator. However, the individual in question is allegedly still at large.

According to reports, Mr. Liguyon had received a series of threats since being appointed village chief, and he had been receiving an increasing number of death threats in the last year, with some of these death threats emanating from the father of the alleged perpetrator.

According to the information received, on 9 May 2012, Mr. Margarito Cabal was shot outside his home in Palma village. He is reported to have sustained three gunshot wounds in the chest and one in the back from a .45 calibre pistol, and he was declared dead on arrival at the nearest hospital. Sources indicate that the perpetrators rode a red motorcycle with no registration plates. Reportedly, the driver wore a helmet and a black jacket, and the gunman wore a ski mask, dark pants and denim pants.

Concern is expressed that Messrs. Jimmy Liguyon and Margarito Cabal may have been killed as a direct consequence of their legitimate human rights work, particularly their work in defence of the rights of indigenous people and peasants in Bukidnon. Further concern is expressed for the physical and psychological safety of all human rights defenders who fight for the promotion and protection of land rights and the rights of indigenous people in Mindanao.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to

promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

With respect to the information on the killing of Messrs. Liguyon and Cabal, as well as to the alleged death warnings against the people of Mindanao, and the death threats reportedly received by Mr. Liguyon before his death, we would like to refer to Article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Philippines on 23 October 1986, which provides that every individual has the right to life and security of the person, that this right shall be protected by law and that no person shall be arbitrarily deprived of his or her life. In addition, in its General Comment No. 31, the Human Rights Committee observed that the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. There may be circumstances in which a failure to ensure Covenant rights would give rise to violations by States Parties of those rights, as a result of States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. Furthermore, Principle 4 of the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65, states that effective protection through judicial or other means shall be provided to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

We would like to further draw the attention of your Excellency’s Government to the duty to investigate, prosecute and punish violations of the right to life, in line with the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. In particular, Principle 9 stipulates that there shall be thorough,

prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, while Principle 18 provides that “Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice”.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate what measures have been taken to ensure that human rights defenders, including those advocating for indigenous rights and the rights of peasants, can operate in an enabling environment and can carry out their legitimate activities without fear of suffering harassment, stigmatization or attacks of any kind.
6. Please indicate whether compensation has been paid to the families of the victims.

We would appreciate a response within sixty days. Your Excellency’s Government’s response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency’s Government to take all necessary measures to guarantee that the rights and freedoms of all human rights defenders who fight for the promotion and protection of land rights and the rights of indigenous people in Mindanao are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency’s Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions