

Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE: AL
PHL 6/2015:

24 December 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 25/18 and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged killing of Mr. **Datu Ruben Laydan Enlog Jr.**, a tribal chieftain, Mr. **Randy Lavarcon Carnasa**, a village leader, Mr. **Oligario Quimbo**, a farmer and activist, and the attempted killing and filing of charges against the human rights defender, Ms. **Aida Seisa**.

Ms. Aida Seisa is a human rights defender and the spokesperson of Paquibato District Peasant Alliance (PADIPA). She led fact-finding missions into reports of human rights violations on the island of Mindanao in the Philippines, in connection to the militarisation of several communities in the Paquibato District of Davao City, Mindanao.

According to the information received:

From 10 to 12 June 2015, Ms. Aida Seisa led a fact-finding mission into reports of on-going human rights violations allegedly perpetrated by members of the 69th Infantry Battalion of the Philippine Army (69th IBPA), in several communities in Sitio Quimotod, Barangay Fatima, Paquibato District, Mindanao.

On 12 June 2015, Ms. Seisa was made aware that criminal charges of murder and failed attempted murder had allegedly been filed against her at the City Prosecution Office of Davao. The accusations were made by members of the 69th IBPA against Ms. Seisa, along with 11 other individuals, in relation to a confrontation between the military troops and members of the New People's Army, an insurgent group in the region, which had taken place on 6 May 2015 in the Calinan District, Davao City. In this connection, Ms. Seisa reportedly filed a counter affidavit before the Office of the Prosecutor in Davao City. There are reportedly no further developments in this regard.

On the night of 13 June 2015, soldiers from the 69th IBPA surrounded Ms. Seisa's house in Paquibato District, Davao City, where her family and neighbours had gathered for a social occasion. The soldiers allegedly proceeded to open fire on the house, and continued shooting for approximately thirty minutes, resulting in the killings of Mr. Datu Ruben Laydan Enlog Jr., a tribal chieftain, Mr. Randy Lavarcon Carnasa, a village leader, and Mr. Oligario Quimbo, a farmer and human rights activist. Ms. Seisa was able to flee the scene unharmed, along with her husband and three daughters, as well as guests who had been in the house.

It is alleged that subsequent to the attack on the house of Ms. Seisa, objects including explosives and firearms, were placed at the scene by soldiers from the 69th IBPA, in order to manufacture the appearance of an exchange of fire.

At the time of this communication, there are no reports on the latest developments with regard to preliminary investigation, however it is reported that Ms. Seisa appeared before the Davao City Council, on August 4, 2015 to give her testimony.

Grave concern is expressed at the alleged killings of Messrs. Enlog Jr., Carnasa and Quimbo, as well as the apparent attempted killing of Ms. Aida Seisa, members of her family and guests at their home, that appear to be in violation of the article 3 of the Universal Declaration of Human Rights, as well as to the article 6 of the International Covenant on Civil and Political Rights (ICCPR), which guarantee the right of every individual to life and security and not to be arbitrarily deprived of life.

Further concern is expressed at the allegedly unfounded criminal charges filed against Ms. Seisa and the connected criminal proceedings that remain open against her, which are feared to be a direct retaliation for Ms. Seisa's investigative human rights work in the Paquibato District of Davao City. Such retaliation would contravene articles 1, 2, 6 and 12 of the UN Declaration on Human Rights Defenders.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to International Law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.

2. Please provide the details, and where available the results, of any investigation carried out in relation to the shooting incident which took place at the home of Ms. Seisa on 13 June 2015. If no inquiries have taken place, or if they have been inconclusive, please explain why. Please provide the full details of any prosecutions which have been undertaken in this case.
3. Please indicate whether compensation has been provided to the families of the above-mentioned individuals who were killed in the shooting incident on the night of 13 June 2015.
4. Please provide details of the latest developments of the criminal proceedings against Ms. Seisa, following the filing of a case against her by members of the 69th IBPA on 12 June 2015, including detailed information as to the legal grounds for the charges brought against her.
5. Please kindly indicate what measures have been taken to ensure that human rights defenders are able to carry out investigative work into allegations of human rights violations in the Philippines, including relating to indigenous populations, in a safe and enabling environment, and without fear of threats or acts of intimidation, harassment or killings of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to refer your Excellency's Government to the article 3 of the Universal Declaration of Human Rights, as well as to the article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Philippines on 23 October 1986, which guarantee the right of every individual to life and security and not to be arbitrarily deprived of life.

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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

article 6 (a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;

article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone 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.

With regards to the shootings and killings at Ms. Seisa's house, we wish to recall that under international law, any loss of life that results from the excessive use of force by public officials without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. The Human Rights Committee in its General Comment 6, para. 3, has said that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts, and to prevent arbitrary killing by their own security forces. Moreover, the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular principle 9, recall the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal,

arbitrary and summary executions. A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

We further refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

In addition we would like to bring to the attention of your Excellency's Government the 2007 UN Declaration on the Rights of Indigenous Peoples, including Article 1 on indigenous people's right to fully enjoy the rights of freedoms in the UN Charter, UN Declaration of Human Rights and international human rights, as well as Article 7 on indigenous peoples' rights to life, physical and mental integrity, liberty and security of person.