

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

REFERENCE:
AL PHL 13/2017

13 November 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 35/15 and 34/5.

In this capacity, we are bringing to the attention of your Excellency's Government allegations, which we have received concerning the **extrajudicial, arbitrary or summary killings of 36 persons in the Philippines in the context of the Government's anti-drug campaign.**

The rapidly rising number of killings by the police and/or unidentified assailants in the context of the current anti-drug campaign has been the object of six previous communications:

- 1) Case PHL 2/2016 of 17 August 2016, (sent together with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health), addressed the rapidly rising number of killings by the police or hit-men in the context of an anti-drug campaign, as well as the various occasions in which Government's authorities have publicly incited law enforcement officials and the public at large to kill persons suspected of drug-related offenses and promised impunity for such abuses. We regret that we have not yet received a reply from your Excellency's Government to this communication.
- 2) Case PHL 1/2017 of 3 February 2017 addressed four cases of alleged excessive use of force by security forces that have resulted in deaths in the context of the war on drugs. We regret that only one acknowledgement of receipt in connection to case has so far been received.

- 3) Case PHL 3/2017 of 28 February 2017 addresses the alleged arbitrary killings of nine persons, including two children, in the context of the anti-drug campaign. We regret that we have not yet received a reply from your Excellency's Government to this communication
- 4) Case PHL 5/2017 of 27 March 2017 addressed the alleged intimidation, persecution and threats, as well as the judicial harassment, arrest and detention of Ms. Leila M. De Lima, a senator, in connection with her criticism of government policies surrounding the "war on drugs" in the Philippines. We regret that only one acknowledgement of receipt (in connection to this case has so far been received.
- 5) Case PHL 6/2017 of 14 June 2017 addresses the alleged arbitrary killing of four men and injury to another man in the context of the anti-drug campaign. We regret that only one acknowledgement of receipt in connection to case has so far been received.
- 6) Case PHL 7/2017 of 19 June 2017 addresses the alleged arbitrary killings of eight men in the context of the anti-drug campaign. We regret that only one acknowledgement of receipt in connection to case has so far been received.

According to the information received:

President Rodrigo Doa Duterte, elected in July 2016, declared that the eradication of illegal drugs would be a priority of his administration. On 1 July 2016, he directed the Philippines National Police Director-General Ronald Dela Rosa to take the lead in the so-called "war on drugs."

Philippine National Police (PNP) Command Memorandum Circular No 16-2016, issued by Director General Ronald de la Rosa lays down a "double barrel" approach to combating illegal drugs. The first barrel involves the conduct of house to house visits to persuade "drug personalities" to stop their drug activities. The second barrel relates to the "neutralization" of illegal drug personalities. On 29 August 2017, the Department of the Interior and Local Government issued Memorandum Circular No. 2017-112, which requires all cities, municipalities and barangays to establish a system for reporting alleged "drug personalities", including through drop box, emails and SMS.

Since then, numerous men, women and children have been summarily killed in the context of the Government's anti-drug campaign. The actual number of victims remains contentious and it is difficult to determine the actual death toll of the war on drugs, due to changes in terminology and conflicted official reporting. For instance, from 1 July 2016 to 24 March 2017, Director Augusto Marquez Jr., head of the Philippine National Police Directorate for Investigation and Detective Management, a total of 6,011 homicides had been recorded in the country, 1398 of which were drug-related. For the same period, Philippine National Police

Director-General Dela Rosa stated that 2,600 persons had been killed in actual police operations, while another 1398 were attributed to vigilantes. A later report by the Philippines Center for Investigative Journalism indicates that between 1 July 2016 and 23 May 2017, 2,962 persons were killed during police operations in the war on drugs.¹

The Annex to this letter includes the names of 36 victims of alleged killings with some details regarding the circumstances of their killing. These killings are reported to have taken place in 2016 and 2017. Some of them were allegedly killed by members of the Philippines Police Force or the Philippines Drug Enforcement Agency, and others were killed by unidentified assailants.

Statistics of the Department of Justice (DOJ) show that of the thousands of killings, only 71 cases were filed before it. 45 “cases where the victim who is an alleged or identified illegal drug user or trafficker, was killed during legitimate police law/enforcement anti-illegal drugs operations” and 26 “cases where the victim, who is an alleged or identified illegal drug user or trafficker, was killed outside of legitimate police/law enforcement operations.” Of these cases, 17 are pending preliminary investigation, 35 were dismissed, and 19 were filed in court.²

Several lawyers and human rights defenders who represent alleged drug users as well as judges ruling over drug related cases have also been subjected to harassment and threats due to their work on those cases.

We are expressing our most serious concern about these allegations which, if confirmed, would constitute severe and multiple violations of article 3 of the Universal Declaration of Human Rights, and 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. The Philippines ratified the ICCPR in 1986 and is obliged under international law to respect and implement its provisions.

Although law enforcement officials may sometimes be required to use force, they must always do so in strict compliance with the applicable international standard, in particular the strict requirements of necessity, proportionality and precaution. The large number of deaths, and the similar modus operandi on the part of the perpetrators raise serious concerns regarding the ability or willingness of the Government to implement its due diligence obligations, including by deterring or preventing these killings.

We are also expressing our serious concern regarding the lack of clarity concerning the number of persons killed in the context of the ‘war on drugs,’ and the

¹ PCIJ, “PCIJ findings: What’s flawed, fuzzy with drug war numbers?,”

<http://pcij.org/stories/pcij-findings-whats-flawed-fuzzy-with-drug-war-numbers/>

² “Inventory of Murder and Homicide Cases Allegedly Related to the government’s Campaign Against Illegal Drugs Filed before the DOJ Prosecution Offices Since 01 July 2016,” as release to the media by the Department of Justice.

limited number of investigations that have been initiated into these killings. This seems to indicate a climate of official, institutional impunity, which cannot but encourage further killings and other excessive use of lethal force by law-enforcement personnel or those acting on their behalf or with their acquiescence. Such a climate also makes it impossible for relatives of the victims to seek and obtain justice. In addition to the obligation of the State to prevent arbitrary deprivation of life, the State has the obligation to investigate and prosecute violations of the right to life, by States and non-State actors.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** 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 therefore 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 cases and allegations.
2. Please provide the full details of any investigations which may have been undertaken concerning the allegations of excessive use of force and extra-judicial killings, and the police's claims of self-defence. Who has undertaken these investigations? Are reports available? What are the findings and outcome?
3. Please provide detailed procedures in place that your Excellency's Government has adopted to identify unknown assailants and shooters in drug-related incidents.
4. Please clarify whether any form of reparation for the surviving victims and relatives of the deceased has been provided or will be provided.
5. Please indicate how many police operations that have resulted in the deaths of those targeted by the operations or of the policemen involved in the operations, have been investigated? Could you provide further details on these investigations, including who has conducted them, and their outcome.
6. Please indicate how many policemen have been suspended or dismissed in response to violations committed in their conduct of drug-related operations? How many cases, if any, have been filed by the Philippine National Police-Internal Affairs Service against these policemen?
7. What are the measures taken at the highest levels of the PNP to ensure that police officers do not use excessive force and do not execute individuals in their custody in the context of the anti-drug campaign? What steps are being taken to ensure that these measures are effectively implemented.

While awaiting a reply, we urge that all necessary measures are taken to halt the execution of persons suspected of drug offences, to prevent their re-occurrence, and to resort to other means, such as arrest, detention and judicial proceedings, to combat drug trafficking. In the event that the investigations into these incidents support these allegations to be correct, accountability of any person responsible of the alleged violations should be ensured.

We intend to publicly express our concerns in the near future as, in our view, the information upon which our concerns are based appears sufficiently reliable to indicate a matter warranting immediate attention. We would however welcome to receive promptly the views of the Philippines Government. We also believe that given the severity of the violations alleged, the public should be informed about them and their potential implications for the affected populations.

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.

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, and 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.

We would like to refer to articles 3 and 6 (1) of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) of which the Philippines ratified on 23 October 1986, which guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life.

As highlighted in previous letters, it is incumbent upon the state to undertake independent, impartial and prompt investigation in response to all cases of extra-legal, arbitrary and summary executions. 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 as per agreed standards, and bring perpetrators of killings to justice could in and of itself constitute a violation of the right to life.

In this connection, I would like to draw your Excellency's Government's attention to the relevant international principles and norms governing the use of force by law enforcement authorities. Under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. The Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials though not binding, provide an authoritative interpretation of the limits on the conduct of law enforcement forces. According to these instruments, law enforcement officials may only use force when it is strictly necessary and only to the extent required for the performance of their duties. Force used must be proportionate to the legitimate objective to be achieved. Medical assistance should be provided as soon as possible when necessary.

The *principle of necessity* outlined in Article 3 of the Code of Conduct limits the use of force by law enforcement officials to only that which is "strictly necessary" in order to carry out their duties. Paragraph 4 of the Basic Principles requires that law enforcement officials, as far as possible, apply nonviolent means before resorting to the use of force. Paragraph 9 of the Basic Principles further establishes that intentional lethal use of firearms may only be made when strictly unavoidable to protect life and when less extreme means are insufficient to achieve these objectives. According to this principle, officials shall not use firearms against persons except: i) in self-defence, ii) in defence of others against the imminent threat of death or serious injury, iii) to prevent a particularly

serious crime involving grave threat to life, iv) or to arrest a person presenting such a danger.

The *principle of proportionality* permits law enforcement officials to put life at risk only if it is for the purpose of saving or protecting another life. Just as with the principle of necessity, the proportionality principle limits the use of lethal force by police officers to situations where the primary aim must be to save life, rather than merely to protect law and order or to serve other similar interests. Therefore, as was highlighted in the 2011 report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/66/330, para. 37), it is not the fact that someone suspected of having committed a crime stands to be arrested as such that justifies the use of firearms but rather the danger that this person poses to life.

The *principle of precaution* requires States to take reasonable precautions to prevent loss of life, wherever necessary in legislation or subordinate law. This includes putting in place appropriate command and control structures; providing for the proper training of law enforcement officials in the use of force, including less lethal techniques; where possible, requiring the issuing of a clear warning before using force; and ensuring medical assistance is available.”³ The principle of precaution is important because “once a situation arises where the use of force is considered, it is often too late to rescue the situation. Instead, in order to save lives, all possible measures should be taken “upstream” to avoid situations where the decision on whether to pull the trigger arises, or to ensure that all the possible steps have been taken to ensure that if that happens, the damage is contained as much as is possible.”⁴

The State’s use of potentially lethal force during peacetime must take place within a framework of appropriate planning and training, which must be directed at avoiding or minimizing the risk of loss of life during any law enforcement operation.⁵ It is not enough for a State or its agents to say that they had no choice but to use force if the escalation of that situation could reasonably have been avoided through precautionary measures. Precaution should be seen as a separate requirement for the use of force, and in particular lethal force.⁶

Furthermore, I urge your Excellency’s Government in line with 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.

³ A/HRC/26/36, para 51

⁴ A/HRC/26/36, para. 63

⁵ A/71/372 16-15236 11/24

⁶ A/HRC/26/36, paras. 63-64
A/71/372

We would also like to bring to the attention of your Excellency's Government 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, 2, 6 and 12 of the Declaration.

Annex II

The following table analyses some key elements of 36 of the cases.

N°	Location	Name and age of the individual	Alleged Facts	Alleged Violations	Alleged Perpetrator
1	Sampaloc, Manila	Mr. Adriano Aguilar (62)	On 5 August 2016 Mr. Adriano Aguilar and Mr. Albert Aguilar were allegedly killed inside their house by men that had their hair and part of their face covered. In early 2016, the brothers were arrested by members of the Manila Police District for alleged drug use. In that arrest, the brothers claimed that the police planted evidence against them, along with two other persons.	Killing	Unknown
2	Sampaloc, Manila	Mr. Albert Aguilar	Same facts case n.1	Killing	Unknown

3	Bagong Silang, Caloocan City	Mr. Vergilio “Beryong” Alapag (40)	On 27 March 2017, Mr. Alapag was allegedly shot by an unknown assailant in a motorcycle.	Killing	Unknown assailant
4	Municipality of Cordova, Province of Cebu	Mr. Modesto “Jongjong” Amion	On 16 January 2017, unidentified policemen reportedly went to Barangay Bangbang and advised the residents who were involved in illegal drugs to voluntarily surrender at Cordova police station. Mr. Amion did not surrender and did not come home after he heard that he was included in the drug list and being monitored by policemen. Mr. Amion’s body was allegedly found with four gunshot wounds.	Killing	Unknown
5	Naga City, Province of Cebu	Mr. Michael “Dodong” Baraquel (22)	On 13 November 2016 , Mr. Baraquel was allegedly shot inside his house by members of the Philippine National Police.	Killing	Philippine National Police
6	Saragoza, Aloguinsan, Cebu	Mr. Marvin Canencia (34)	Mr. Canencia was allegedly shot inside his house by the police. Mr. Canencia was allegedly included in the anti-	Killing	Philippine National Police

			drug campaign high value target list of Aloguinsan Police.		
7	Saragoza, Aloguinsan, Cebu	Mr. Julieto Macapas (38)	Mr. Macapas was allegedly shot inside his cousin's house by the police. Mr. Macapas was allegedly included in the anti-illegal drug campaign high value target list of Aloguinsan Police.	Killing	Philippine National Police
8	Isla Puting Bato, Tondo, Manila	Mr. Joshua Yanson Comelang (18)	On 18 November 2016, Mr. Comelang was allegedly shot in front of his house.	Killing	Unknown
9		Mr. Danilo Sumagingsing Dancillo (36)	On 2 December 2016, Mr. Dancillo was allegedly shot multiple times.	Killing	Unknown
10	Municipality of Ayungon.	Mr. Junrey Depillo (38)	On 28 January 2017, Mr. Depillo was allegedly killed by four assailants on a motorcycle wearing civilian clothes and bonnets.	Killing	Unknown assailants
11	Sitio Esperanza, Guihulngan City	Mr. Russel Gemina (48)	On 25 January 2017, 2 unidentified armed men wearing civilian clothes allegedly followed Mr. Gemina along the road of Sitio Esperanza, Guihulngan City. Mr. Gemina died from a gunshot wound.	Killing	Unknown assailants

12	Handumanan, Bacolod City	Mr. Marjon “Jepjep” Numbre (24)	On 13 July 2016, Mr. Numbre was allegedly killed inside his house during an operation conducted by twelve unidentified members of the Philippine National Police Bacolod City and Philippines Drug Enforcement Agency.	Killing	Philippine National Police Bacolod City and Philippines Drug Enforcement Agency
13	Tagbilaran City	Mr. Cyril Lambo Ostia (33)	On 23 September 2016, Mr. Ostia was allegedly surrounded by fifteen unidentified police officers and fatally shot. Some of the police officers were in civilian clothes.	Killing	Philippine National Police
14	Carcar City, Province of Cebu	Mr. Elmer Padin (47)	On 13 February 2017, Mr. Padin was allegedly killed inside his house during an operation conducted by seven unidentified members of Philippine National Police Carcar City and Central Visayas Philippines Drug Enforcement Agency.	Killing	Philippine National Police Carcar City and Central Visayas Philippines Drug Enforcement Agency
15	Barangay Candabong, Municipality of Alcantara, Province of Cebu	Mr. Nero Pulgo (23)	On 21 August 2016, two unidentified armed men wearing civilian clothes allegedly arrived at Mr. Pulgo’s house and fatally shot him.	Killing	Unknown assailants

16	Sitio Lagsing, Barangay Bacani, Municipality of Clarin, Province of Bohol	Ms. Alma Arcales Sabejon (42)	On 11 July 2016, Ms. Sabejon was allegedly shot by unknown assailants in a motorcycle. Ms. Sabejon was included in the drug watch list.	Killing	Unknown assailants
17	Bogo City, Province of Cebu	Mr. Efric Alburo (38)	On 26 September 2016, Mr. Alburo was allegedly killed inside his house by members of the Philippine National Police during an operation.	Killing	Philippine National Police
18	Silay City	Mr. Welbeth Aliman (34)	On 2 June 2017, Mr. Aliman was allegedly shot by unidentified assailants.	Killing	Unknown assailants
19	Matinabangon, Barangay Lambusan, San Remigio, Cebu	Mr. Eric Maglasang Artista (35)	On 10 October 2016, two assailants in a motorcycle allegedly shot Mr. Artista outside his house.	Killing	Unknown assailants
20	Aguinaldo Street, Amigo Subdivision, Barangay Piapi, Dumaguete City, Negros Oriental	Mr. Victor Asonio (47)	On 3 August 2016, Mr. Asonio was allegedly killed during an operation conducted by Police.	Killing	Philippine National Police
21	Barangay Takuling, Bacolod City	Mr. Jovel Batusbatusan (25)	On 24 January 2017, Mr. Batusbatusan was allegedly shot by unidentified assailants.	Killing	Unknown assailants
22	Barangay	Mr. Warren de Leon	On 23 October 2016, Mr.	Killing	Philippine National

	Daanlungsod public cemetery in Medellin, Cebu	(35)	Warren de Leon was allegedly fatally shot during an operation conducted by the Philippine National Police.		Police
23	Barangay Mambulak, Silay City	Mr. Jun Guillargan (49)	On 12 March 2017, Mr. Guillargan was allegedly fatally shot by unknown assailants wearing bonnets.	Killing	Unknown assailants
24	Municipal of Libagon, Southern Leyte	Mr. Philip Elejorde (45)	On 17 April 2017, Mr. Philip Elejorde was allegedly killed in his house during an operation conducted by the Philippine National Police.	Killing	Philippine National Police
25	Municipality of Macrohon, Southern Leyte	Mr. Felimon Labolabo (55)	On 6 January 2017, Mr. Labolabo was allegedly killed at his house during an operation conducted by Macrohon Police, Southern Leyte Police, Regional Philippine National Police Focus team composed of Regional Intelligence Division, Regional Intelligence Unit, Regional Public Safety Battalion and Regional Anti-Illegal Drugs Operation Task Group.	Killing	Macrohon Police, Southern Leyte Police, Regional Philippine National Police Focus team composed of Regional Intelligence Division, Regional Intelligence Unit, Regional Public Safety Battalion and Regional Anti-Illegal Drugs Operation Task Group
26	Barangay San Roque, Liloan, Southern Leyte	Mr. Oliver Lorona Laurete (40)	On 2 April 2017, Mr. Oliver Laurete was allegedly killed during an operation conducted	Killing	Municipal Drug Enforcement Team and Regional Drug

			by the Municipal Drug Enforcement Team and Regional Drug Enforcement Unit.		Enforcement Unit
27	Barangay San Roque, Liloan, Southern Leyte	Mr. Jerry Manawatao Lorona (34)	Same facts case no.26	Killing	Municipal Drug Enforcement Team and Regional Drug Enforcement Unit
28	Barangay Alegria, Cordova	Mr. Marlon Villacencio Miano (39)	On 20 November 2016 Mr. Miano was allegedly killed at his friend's house by members of the Philippine National Police.	Killing	Philippine National Police
29	Barangay Paliparan II, Dasmariñas, Cavite.	Mr. Jay-ar Padilla (24)	On 11 March 2017, Mr. Padilla was allegedly killed by police officers at his brother's house.	Killing	Philippine National Police
30	Barangay Poblacion	Mr. Joseph Pepito (20)	On 8 September 2016, Mr. Pepito was allegedly fatally shot by unidentified assailants.	Killing	Unknown assailants
31	Barangay Ibarra, Maasin City, Province of Southern Leyte	Mr. Reynaldo Gardoza Tan (52)	On 17 August 2016, Mr. Tan was allegedly killed by unknown assailants who were looking for him.	Killing	Unknown assailants.
32	Barangay Ibarra, Maasin City, Province of Southern Leyte	Mr. Pablo Gabucan (45)	On 17 August 2016, Mr. Gabucan was allegedly killed by unknown assailants.	Killing	Unknown assailants.

33	Balicbalic, Sampaloc, Manila	Mr. Ernest Tapang (51)	On 25 January 2017, Mr. Tapang was allegedly killed in front of his house by an unknown assailant.	Killing	Unknown assailant.
34	Barangay Bateria, Daanbantayan, Cebu	Mr. Joselito Nuñez Valiente (48)	On 24 January 2017, Mr. Valiente was allegedly fatally shot by unknown assailants at his neighbor's house. Mr. Valiente was allegedly on the municipal drug watch list.	Killing	Unknown assailants.
35	Tuburan	Ms. Maricel Malirong Ylanan (34)	On 16 January 2017, Ms. Ylanan was allegedly killed by unknown assailants. Ms. Ylanan was a suspected drug pusher and was included in the high value target list.	Killing	Unknown assailants.
36	Guadalupe Cebu City	Mr. Jaime Aves Catolpos Jr (28)	On 14 August 2017, Mr. Catolpos Jr was allegedly fatally shot in the street by police officers from Police Station 9 of the Philippine National Police.	Killing	Philippine National Police