

Mandate of the the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE:
AL PHL 4/2019

22 July 2019

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolution 35/15.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the alleged arbitrary killings of eight individuals, including three by Security Forces and five by unknown assailants. All killings are allegedly related to the "war on drugs" pursued by the Government.

Thus far, similar concerns in connection with allegations of multiples violations of the right to life, in the context of the Government's anti-drug campaigns, as well as other similar operations, have been expressed on nine previous occasions by UN Special Procedures experts, namely:

- 1) On 17 August 2016, case PHL 2/2016 (joint communication of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health). I regret that no reply has been received and I look forward to receiving a substantive response soon;
- 2) On 3 February 2017, case PHL 1/2017 (communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions). A reply was received. The reply simply rejected the allegations raised in the communication without providing an explanation and addressing their substance;
- 3) On 28 February 2017, case PHL 3/2017 (communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions). Regrettably, no reply has been received to this communication either and I look forward to receiving a substantive response soon;
- 4) On 14 June 2017, case PHL 7/2017 (communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions). The reply received was an acknowledgment of receipt of the letter. Therefore, I look forward to receiving a substantive response from the Government to the allegations raised in the communication soon;

- 5) On 19 June 2017, case PHL 6/2017 (communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions). A reply to the communication was received;
- 6) On 1 June 2018, case PHL 7/2018 (communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions). Regrettably, no reply has been received to the communication and I look forward to receiving a substantive response soon;
- 7) On 5 October 2018, case PHL 9/2018 (communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the rights of persons with disabilities). Regrettably, no reply has been received to the communication and I look forward to receiving a substantive response soon;
- 8) On 7 December 2018, case PHL 11/2018 (communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right to food; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers). The reply received was an acknowledgment of receipt of the letter. I look forward to receiving a substantive response from the Government to the allegations raised in the communication soon;
- 9) On 13 December 2018, case PHL 10/2018 (communication sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right to food; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on violence against women, its causes and consequences). The reply received thus far was an acknowledgment of receipt of the letter. I look forward to receiving a substantive response from the Government to the allegations raised in the communication soon.

According to the additional information received:

Case of Mr. Melchor Biala Lapiad

Mr. Melchor Biala Lapiad, was a 40 years old, separated with two children, carpenter at City Mall construction site, resident of Purok Usman Ibrahim, Barangay Kalawag 3, Isulan, Sultan Kudarat. He was a drug surrenderee of Oplan Tokhang in 2016 but he did not complete the sessions of the Community

Based Rehabilitation Program (CBRP) of Local Government Unit of Barangay Kalawag 3. According to his father, he used to be a drug dependent, but he stopped using drugs when he surrendered.

On 26 June 2018, between 7 and 8 pm, Mr. Lapiad was reportedly shot by the police inside his house at Purok Usman Ibrahim, Barangay Kalawag 3, Isulan, Sultan Kudarat. He sustained multiple gunshot wounds to his chest and legs and died on the spot.

According to his father, Mr. Lapiad was inside his house when the police forcibly entered and took him out of his bedroom. At the same time, the police prevented Mr. Lapiad's cousins from entering the house. They reportedly heard the police shouting "May baril. May baril." ("He has a gun. He has a gun."). They then heard multiple gun shots.

According to the police, Mr. Lapiad was a drug pusher. The police allegedly recovered a sachet of shabu, money, and a 45 caliber gun from his pocket. Mr. Lapiad's father did not believe that his son owned those items and thought that they were planted evidence.

After 8 pm, the Scene of the Crime Operatives (SOCO) arrived to investigate the incident. At present, however, no information is available on the outcome of the investigation.

Case of Mr. Bily Baguio Eballe

Mr. Bily Baguio Eballe, was a 24 years old, single, fisherman, resident of Sitio Ratan, Barangay Tanke, Talisay City, province of Cebu.

Mr. Eballe was suspected to be a high level drug pusher and was reportedly included in the city's drug watch list. On 12 September 2018, at 4 am, he was allegedly shot to death by unidentified members of the Regional Mobile Force Battalion (RMFB) and Drug Enforcement Unit (DRU) of Talisay City Police station during a drug bust operation conducted at his grandparents' house in Sitio Galaxy, Barangay Tanke, Talisay City, Cebu.

Mr. Eballe's mother was informed of the incident by a neighbor. She was told that unidentified policemen surrounded Mr. Eballe's grandparents house. Five policemen forcefully opened the door and entered the house. Neighbors heard Mr. Eballe pleading for his life and multiple gunshots afterwards.

Mr. Eballe was brought to Talisay City District Hospital where he was declared dead upon arrival. He sustained five gunshot wounds, two in his chest and trunk and one on his head.

A policemen reportedly informed the mother of Mr. Eballe that her son was involved in the illegal drug trade and that he resisted arrest which allegedly forced the policemen to shoot him. Mr. Eballe's mother rejected these allegations.

Thus far, the Talisay City government reportedly took no action in relation to the case.

Case of Mr. Rolando Tayor

Mr. Rolando Tayor, was a 29 years old, with live-in partner and a child, tattoo artist, resident of Upper Bonbonan, Brgy. Labangon, Cebu City.

Mr. Tayor was a suspected drug user and was reportedly included in the city's drug watch list. It is stated that, on 4 October 2018, at 3 am, he was shot to death by alleged members of the police in Barangay Malubog, Cebu City.

According to his sister, Mr. Tayor left his house on 3 October 2018, at around 8 pm, without telling anyone where he was going. The following day, at 6 am, she saw that Mr. Tayor had not returned home. At 9 am, she saw a report on Facebook that there were five men who were found dead in Barangay Malubog, Cebu City.

Hours after, a staff from St. Francis Funeral informed her that her brother, along with four others, was among those individuals. She immediately went to St. Francis to see her brother. When she arrived, she could hardly recognize him. Mr. Tayor sustained gunshot wounds to his chest, stomach, left foot, head and left eye. Due to his condition, Mr. Tayor's sister asked the doctor not to conduct an autopsy.

It is reported that, on 4 October 2018, around 3 am, Mr Tayor, together with six other individuals, was brought by the police to a hilly area of Cebu City. They were all reportedly blindfolded with their hands tied with plastic. The shooting allegedly took place there. Mr. Tayor was allegedly shot at close range with a long firearm believed to be an M16 rifle.

Thus far, the Cebu City Government reportedly took no action in relation to the case.

Case of Mr. Alexander S. Mamot

Mr. Alexander S. Mamot, alias Aries, was a 31 years old resident of 7 Everlasting Street, Barangay Holy Spirit, Quezon City, married with three children.

On 23 May 2018, he was reportedly killed by an unidentified man along San Isidro Street, Barangay Holy Spirit, Quezon City.

According to his wife, he had been detained in 2017, from March to November, for violation of Section 11 of RA 9165.

On 23 March 2018, at around 2:15 am, Mr. Mamot's wife was called by her uncle who informed that her husband had been killed. They went to the crime scene where they saw Mr. Mamot lying facing down on the street with gunshot wounds. According to Mr. Mamot's wife, her husband sustained nine gunshot wounds, three to his head and six in his thorax.

Police officials were present at the crime scene and the Scene of the Crime Operatives (SOCO) conducted an investigation. Subsequently, Mr. Mamot was brought to Lights Funeral Homes.

Mr. Mamot's family has thus far received no copy of the police and the autopsy reports and no information is reportedly available on the outcome of the investigation.

Case of Mr. Marlon Udagan Lentija

Mr. Marlon Udagan Lentija, alias Kapatid, was a 36 years old resident of Sunga Subdivision, Purok 5, Barangay Lagao, General Santos City, married with three children, tricycle driver.

Mr. Lentija reportedly was a drug surrenderee of Oplan Tokhang in 2017. On 18 February 2018, he graduated from the Community Based Rehabilitation Program (CBRP) of Local Government Unit of Barangay Lagao. He stopped using drugs after he surrendered.

According to Mr. Lentija's mother, on 17 April 2018, around 8 am, he was shot on his head by three unidentified men riding two motorcycles in Estabillo Subdivision, Purok 23, Barangay Lagao, General Santos City.

On the same day, Mr. Lentija had brought one of his neighbors on his tricycle to Estabillo Subdivision in Purok 23. When there, at some point, the neighbor asked Mr. Lentija to wait. While waiting, three unidentified men riding on two motorcycles arrived. One of the men shot Mr. Lentija on the head twice. According to witnesses, these men were wearing caps and bonnets. They immediately left the crime scene after the shooting.

Mr. Lentija sustained two gunshot wounds, one to the left side of his face and another to the back of his head.

The SOCO and the police from Police Station 3 of General Santos City conducted an investigation into the case. However, at present, no information is reportedly available on its outcome.

Case of Mr. Ruber Nuguid Jr.

Mr. Ruben Nuguid, Jr., was a 25 years old, vendor, resident at Sta. Margarita Street, Tondo, Manila City.

On 1 May 2018, he was allegedly killed by two men in civilian clothes in front of his house, at around 12:18 am.

Mr. Nuguid Jr.'s mother runs a convenience store, open 24 hours daily, in front of her family's house at Sta. Margarita Street. During the day, she was in charge of manning the store, while in the evening, it was Mr. Nuguid Jr. and his younger brother who looked after the store.

On the night of 30 April 2018, Mr. Nuguid's mother, her husband - Mr. Nuguid Sr. - and their other children were sleeping in their house, while Mr. Nuguid Jr.'s was at the store.

On 1 May 2018, at around 12:18 am, Mr. Nuguid Sr. was awakened by the sound of a gun shot that came from outside their house. He went out of the house to check what happened. He immediately returned inside and screamed. His wife was then awakened as a result of his screams and thought that he and her son were fighting. She went out to look for her son at the store but did not find him there. She asked her husband where he was. She then went out again and saw her son laying on a pool of blood. She asked her neighbours and relatives for help.

The family brought Mr. Nuguid Jr. to Gat Andres Hospital in Tondo, Manila where he passed away at around 3 am. The victim reportedly sustained three gunshot wounds, one on the right leg, another on the right side of his trunk, and another on the head.

According to his mother, Mr. Nuguid Jr. was using illegal drugs. According to Mr. Nuguid Jr.'s father, he had received death threats a week before the incident. The police conducted an investigation in the area of the incident and the SOCO conducted an autopsy on the body of Mr. Nuguid Jr. However, at present, no information is available on their outcome.

Case of Mr. Jurriel "Jay" Sabal

Mr. Junriel "Jay" Sabal, was a 34 years old, married, driver of habal-habal, resident of Sitio Salampi, Barangay Vito, Minglanilla, province of Cebu. Mr. Sabal was a suspected drug pusher. He was reportedly known by the Minglanilla police as a trusted man of a drug personality in Minglanilla town.

On 12 August 2018, at 7 pm, Mr. Sabal was reportedly shot to death by unidentified men riding a motorcycle along Sitio Salampati Road, Barangay Vito, Municipality of Minglanilla, province of Cebu.

According to Mr. Sabal's mother-in-law, a neighbor informed her that Mr. Sabal had been shot. She and her daughter then ran to the crime scene. When they arrived, several policemen were there conducting an investigation. After a while, the municipal ambulance also arrived. Mr. Sabal's body was loaded into the ambulance vehicle and brought to Minglanilla District Hospital.

Due to the lack of appropriate medical equipment, Mr. Sabal was subsequently transferred to Vicente Sotto Memorial Medical Center along B. Rodriguez Street, Barangay Sambag II, Cebu City. He was declared dead upon arrival there. Mr. Sabal sustained eight gunshot wounds, three in the chest, one in his hand, and four in the head.

On the following day, Mr. Sabal's body was brought to St. Peter Memorial Chapel in New Imus Street, Barangay Lorega San Miguel, Cebu City. His body was then brought to his parents' house in Barangay Babag, Cebu City for the wake.

Meanwhile, a witness informed Mr. Sabal's mother-in-law that two men had been following Mr. Sabal and that one of the men shot him multiple times until he fell on the road. The armed men left the crime scene after the shooting.

Thus far, the Minglanilla municipal government reportedly took no action in relation to the case.

Case of Mr. Wendel Tampos

Mr. Wendel Tampos, was a 38 years old, married, resident of Sitio San Miguel, Barangay Guizo, Mandaue City, Province of Cebu.

Mr. Tampos was a suspected drug pusher and was reportedly included in the city's drug watch list. He voluntarily surrendered to the Mandaue City police station in July 2016. He was held in detention and released from jail in 2017.

On 15 October 2018, at 11 pm, Mr. Tampos was reportedly shot to death by unidentified men riding a motorcycle along AC Cortes Street and BB Cabahug Street in Barangay Guizo, Mandaue City, Cebu. Mr. Tampos was allegedly shot at close range with a short firearm believed to be a .45 caliber pistol. He sustained six gunshot wounds, two to his stomach, one on his chest and three in his head. The policemen allegedly recovered four empty slugs of .45 caliber pistols at the crime scene.

Mr. Tampos' aunt was informed that Mr. Tampos had been shot by a neighbor. She and her son immediately went to the crime scene to verify the information. When they arrived there, they saw several policemen cordoning the crime scene. One of the policemen blocked her when she tried to approach her nephew's body. After a while, members of the SOCO arrived and conducted an investigation. Subsequently, Mr. Tampos' body was loaded into St. Jude Funeral vehicle and brought to their funeral homes in S.B Cabahug Street, Mandaue City.

On the following day, Mr. Tampos' body was brought in San Miguel Chapel, Sitio San Miguel, Barangay Guizo, Mandaue City for the wake. During the wake, a witness informed Mr. Tapos' wife that her husband was sitting along A.C Cortes Street when a motorcycle with two unidentified men on board arrived. The men sitting on the back of the motorcycle stepped down and shot Mr. Tampos. Mr. Tampos managed to run for a few meters, but the gun man followed him and shot him multiple times again. After realizing that Mr. Tampos was dead, the unidentified men left the crime scene.

Thus far, the Mandaue City government reportedly took no action in relation to the case.

While I do not wish to prejudge the accuracy of the information above, I am extremely concerned by these allegations, which appear to contravene the right of every individual to life, as set out in Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Philippines on 23 October 1986.

At the outset, I wish to recall, once again, the relevant international human rights 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, along with that of precaution, is an arbitrary deprivation of life and therefore illegal. The Code of Conduct for Law Enforcement Officials, General Assembly resolution 34/169 of 17 December 1979, and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990), 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.

Furthermore, the use of potentially lethal force by a State, 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 (A/71/372 16-15236 11/24).

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 (A/HRC/26/36, paras. 63-64).

In addition, according to international human rights law, the Government of the Philippines is under an obligation to protect individuals' right to life against acts of violence committed by non-State actors, such as vigilante groups, death squads or criminal gangs, and to act with due diligence to prevent individuals' arbitrary deprivation of life.

Furthermore, as highlighted in previous letters, based on the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, in particular Principle 9, 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.

A failure to investigate as per agreed standards, as well as to bring perpetrators of killings to justice, could in and of itself constitute a violation of the right to life. Furthermore, Principle 4 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.

As explained, requests of information on the nature and extent of the investigations into allegations of arbitrary killings in the Philippines, including those perpetrated by police officers, within the context of the war on drugs and others, were sent to Your Excellency's Government on different occasions. As mentioned, however, thus far, your Excellency's Government has not provided any substantive information or evidence, as appropriate, regarding such investigations.

In connection with the above alleged facts and concerns, please also 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 the allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I 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 cases.

2. Please provide information on the status, and the full details of any investigation into the killings reported above as well as any other similar killing, including those identified in my previous communications. If investigations into any of the killings have not been initiated, please explain the reasons why, and how this is compatible with the international human rights obligations of the Philippines under the conventions it has ratified.
3. Please provide information on the number of persons killed by law-enforcement personnel, and of law enforcement personnel prosecuted and convicted, or otherwise held accountable, for the killing of individuals during anti-drug operations.
4. Please provide detailed information on the measures taken to effectively protect, and to ensure the safety of persons during anti-drug, and other similar operations.
5. Please provide any information on the number of killings of alleged drug offenders by unknown assailants and the progresses of investigations undertaken into such killings.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I 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.

I may publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the human rights implications of the above-mentioned allegations. Any public statement on my part will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Agnes Callamard
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 refer your Excellency's Government to Article 3 of the Universal Declaration of Human Rights which states that "Everyone has the right to life, liberty and security of person"; and to Article 6 (1) of the International Covenant on Civil and Political Rights which states that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life".

Furthermore, according to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, intentional lethal use of firearms is permitted strictly when it is unavoidable to protect life and necessary to carry out law enforcement duties. Should lethal force be used, restraint must be exercised at all times and damage and injury mitigated. Medical assistance should be provided as soon as possible when necessary.

Additionally, the principle of precaution dictates that the authorities have a duty to plan policing operations in a manner that minimize the risk that its law enforcement agents may kill or injure members of the public. As stated by the previous holder of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions: "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" (A/HRC/26/36, 1 April 2014, §63).

Lastly, international human rights law obliges States parties to carry out thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, as set forth in the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) and the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1989).

The Human Rights Council reiterated this obligation in Resolution 26/12 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" and added that this obligation includes identifying and bringing to justice those responsible; granting adequate compensation to the victim or his family; and taking steps to end impunity and the recurrence of such executions (A/HRC/26/12, Op. 4).