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

REFERENCE:
AL PHL 5/2019

2 October 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 35/15, 34/18, 41/12 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the harassment and intimidation, including death threats, against human rights defenders Ms. **Brenda De Guzman**, Ms. **Christine Grace Ongos** and Mr. **Ramiel Aballe** for providing legal assistance to the defence of nine farmers accused of murdering a local government Councillor in the Philippines province of Negros Occidental, Western Visayas region, on 31 March 2019.

Ms. **Brenda De Guzman**, Ms. **Christine Grace Ongos** and Mr. **Ramiel Aballe** are all staff members at the Visayas regional office of the Task Force Detainees of the Philippines (TFDP), a non-governmental organization that advocates for and provides support to victims of human rights violations throughout the Philippines and globally, with particular focus on political prisoners.

According to the information received:

On 31 March 2019, at around 6 a.m., a local government Councilor was shot dead in his residence in Moises Padilla town, Negros Occidental province. Reportedly, this occurred after at least 50 members of the communist rebel group the New People's Army (NPA), the armed wing of the Communist Party of the Philippines (CPP), arrived by truck and surrounded the Councilor's home.

On 1 April 2019, eleven individuals (nine farmers and two minors) were arrested by members of the Armed Forces of the Philippines (AFP) and the Philippines National Police (PNP) after fleeing a clash between military troops and the NPA in Quintin Remo village, which neighbours Moises Padilla town.

On 2 April 2019, criminal complaints for the murder of the Councilor were filed against the eleven individuals (four were identified by witnesses as suspects and seven as suspected accessories). The two minors were released to the Department

of Social Welfare and Development and the nine farmers were detained in custody. Reportedly, the NPA have claimed responsibility for the murder of the Councillor and have said they do not know any of the nine farmers arrested. Family members of the nine farmers have asserted that they are not members of the NPA, but caught up in the fighting between military troops and the NPA.

On 6 April 2019, Task Force Detainees of the Philippines (TFDP) staff were approached and asked to assist with the legal defence of the nine farmers. The TFDP staff were provided with a letter from the legal counsel of the nine farmers authorising them to visit the detainees in order to obtain statements for a defence affidavit.

On 13 April 2019, TFDP staff Ms. De Guzman, Ms. Ongos and Mr. Aballe visited the Negros Occidental Provincial Police Office (NOPPO), where the nine farmers were being detained, to interview them for the defence affidavit. Later, two NOPPO personnel arrived and the TFDP staff requested to see the nine farmers. The two NOPPO personnel took the authorisation letter to their supervisor and subsequently told the TFDP staff that they were not permitted to interview the nine farmers. No reason was provided and the TFDP staff were advised to instead speak to the NOPPO Provincial Director, [redacted]. The TFDP staff then headed to the office of the NOPPO Provincial Director, where an unidentified man took their IDs for verification and directed them to speak with [redacted]. [redacted] then accused the TFDP staff of being supporters of the NPA for helping the nine farmers, who he said were all members of the NPA. The TFDP staff denied the accusations. [redacted] then refused the TFDP staff permission to interview the nine farmers, saying that they were merely paralegals and not the farmers' legal counsel, despite a letter from the farmers' legal counsel authorising them to do so. [redacted] spoke to the TFDP staff for around an hour about communist rebels in the country. The TFDP staff were eventually allowed to visit and talk to the detainees, but not to obtain statements for the defence affidavit. Two police officers guarded the TFDP staff as they spoke to each of the nine farmers for five minutes.

On 14 April 2019, Ms. De Guzman and Ms. Ongos returned to the NOPPO with an attorney, who was also involved in assisting the case, in order to obtain the statements for the defence affidavit. They were again referred to NOPPO Provincial Director, [redacted], who ignored the attorney and repeatedly accused Ms. Guzman of being a NPA recruiter. A little bit later, Ms. Guzman and Ms. Ongos were permitted to talk to the detainees for two hours, with the guard of three police officers.

On the evening of 23 July 2019, TFDP staff Ms. De Guzman, Ms. Ongos and Mr. Abelle received death threats via text message to their mobile phones from an unknown number, reading: "Your task force [referring to the TFDP] was sighted in the area, stop what you are doing if not I will fill your heads with 45 [apparently referring to a .45 caliber handgun] and you call yourself task

force". Ms. De Guzman replied to the text message asking the sender to identify themselves and received the reply: "Don't bother to know, just know there's a place for all of you". After that, Ms. De Guzman called the number twice. The first call was picked up but them immediately ended, while during the second call Ms. De Guzman heard the sound of a gun trigger being pulled four times before the call was ended. Ms. Ongos and Mr. Aballe then received the same message earlier sent to Ms. De Guzman ("Don't bother to know, just know there's a place for all of you"). After reading the message, Mr. Aballe called government officials in the administrative district of Barangay, to whom he had previously given his mobile phone number. Mr. Aballe asked the officials whether they had shared his number with anyone. The officials replied that they had not.

On 30 July 2019, Ms. De. Guzman received a further death threat via text message to her mobile phone from the same unknown number, seemingly addressed to Mr. Aballe, reading: "Ramel your group is too small and easy to eliminate. 45 [apparently referring to a .45 caliber handgun] starts with you".

At present, TFDP have closed their Visayas regional office and staff are working remotely or from a TFDP office in another province. The nine farmers have been released on bail pending the investigation.

We wish to express our grave concern regarding the alleged death threats, and other harassment and intimidation, directed against TFDP staff members Ms. De Guzman, Ms. Ongos and Mr. Abelle, which appear to be in direct response to their human rights work and legal assistance to the defence of the nine farmers accused of murdering the local government Councilor. Death threats represent a serious menace to the lives of these three individuals and are frequently indications of violent actions to come in the future. We are also concerned this may have created a chilling effect on the legitimate work of Ms. De Guzman, Ms. Ongos and Mr. Abelle and their organization.

In this context, additional concern is expressed by the alleged labelling by authorities of the TFDP staff as supporters, and in the case of Ms. De Guzman, a recruiter, of the NPA for assisting the defence of the nine farmers, which may have placed Ms. De Guzman, Ms. Ongos and Mr. Abelle at a heightened risk of danger. Such allegations reflect a worrying broader trend in the Philippines of so-called "red-tagging" of, for example, human rights defenders, journalists, rural communities and legitimate organizations, perceived as threats or enemies of the State, as having links to communists groups.

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.

As 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/or comment(s) you may have on the above-mentioned allegations and facts.

2. Please provide information on measures taken to ensure the physical and psychological safety and integrity of Ms. De Guzman, Ms. Ongos and Mr. Aballe.

3. Please provide detailed information on the access to legal council of the nine farmers and two minors. Please additionally provide detailed information regarding what measures have been taken to ensure that the fair trial rights of these farmers and minors have not been infringed on a discriminatory basis given the charges levelled against them.

4. Please provide the details, and where available the results, of any investigation, or judicial or other inquiries which may have been carried out in relation to the reported death threats received by Ms. De Guzman, Ms. Ongos and Mr. Aballe. If no inquiries have taken place, or if they have been inconclusive, please explain why, and how this is consistent with the Philippines's domestic and international human rights obligations.

5. Please provide detailed information as to the specific measures that have been put in place to ensure human rights defenders in the Philippines can carry out their legitimate work in a safe and enabling environment without fear of harassment and intimidation from the authorities and media, along with specific information as to steps taken to support and promote the work of human rights defenders in the country.

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, 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.

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

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

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 articles 3 of the Universal Declaration of Human Rights (UDHR) and 6(1) and 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Philippines on 23 October 1986, which guarantee everyone's right to life, personal security and not to be arbitrarily deprived of life.

We also want to refer to article 2(1) of the ICCPR that establishes a general duty to ensure the rights recognized by the ICCPR. This article has been interpreted to have established a State duty to take positive measures to protect the right to life. The Human Rights Committee clarified that "States parties have a positive obligation to ensure the protection of individuals against violations of Covenant rights, which may be committed not only by its agents, but also by private persons or entities" in the case of *Peiris v. Sri Lanka* (CCPR /C/103/D/1862/2009).

We further recall the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. In particular, Principle 4 provides 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 also like to refer to Human Rights Committee General Comment no. 35 which states that the right to personal security obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. It further notes that States must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury.

We also wish to refer to articles 19 and 22 of the ICCPR, which guarantee the rights to freedom of opinion and expression and freedom of association, respectively.

We would like to remind your Excellency's Government that under article 19 ICCPR States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. The limitation clause under article 19(3) ICCPR may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. Nor, under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including threats to life and killing, be compatible with article 19. Persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to such threats, intimidation and attacks because of their activities. All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their

representatives, be in receipt of appropriate forms of redress. (Human Rights Committee, General comment 34 on Freedoms of opinion and expression, para. 23).

Furthermore, the right to freedom of assembly under article 22 ICCPR requires States parties to take positive measures to establish an enabling environment for associations. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to, for example, any threats, acts of intimidation or violence. States additionally have a negative obligation not to unduly obstruct the exercise of the exercise of the right. Associations, pursuing objectives and employing means in accordance with international human rights law should benefit from international legal protection. (A/HRC/20/27, paras. 63 & 64).

We would also like to refer your Excellency's Government to the duty to respect, protect, and fulfil the rights of individuals to engage in human rights work without fear of reprisal or harassment, as 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 article 12, paragraphs 2 and 3 of the Declaration, which provides that States 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. Furthermore, article 5 paragraph b of the Declaration provides for the right to form, join and participate in non-governmental organizations, associations or groups, and article 9 paragraph 3 (c) provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.