



Inter-Parliamentary Union

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Philippines

Decision adopted unanimously by the IPU Governing Council at its 207th session (Virtual session, 25 May 2021)



Philippine Senator Leila de Lima is escorted by police after her arrest at the Senate in Manila on 24 February 2017 © Ted Aljibe/AFP

PHL-08 – Leila de Lima

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression

A. Summary of the case

Ms. Leila de Lima served as Chairperson of the Philippines Commission on Human Rights from May 2008 to June 2010. In that capacity, she led a series of investigations into alleged extrajudicial killings linked to the so-called Davao Death Squad in Davao City, where Mr. Duterte had been long-time mayor, and concluded that Mr. Duterte, now President of the Philippines, had been behind the Davao Death Squad.

In 2010, Ms. de Lima was appointed Secretary of Justice. She resigned from this position in October 2015 to focus on her campaign for a senate seat in the May 2016 elections, a bid that was successful. In August 2016, as Chair of the Senate Committee on Justice and Human Rights, she launched an inquiry into the killings of thousands of alleged drug users and drug dealers, which are alleged to have taken place since President Duterte took office in June 2016. Since becoming senator, she has been the target of acts of intimidation and denigration, including by President Duterte himself.

Senator de Lima was arrested and detained on 24 February 2017 over accusations of receiving drug money to finance her senatorial campaign for a senate seat. The charges, in three different cases, were

Case PHL-08

Philippines: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

Qualified complainant(s): Section I.(1)(d) of the Committee Procedure (Annex I)

Submission of complaint: September 2016

Recent IPU decision: November 2020

Recent IPU mission: May 2017

Recent Committee hearing(s): - - -

Recent follow-up:

- Communications from the authorities: Letters from the Director General of the Office of International Relations and Protocol of the Senate and the Secretary of the IPU Group of the Philippines (May and April 2021)
- Communication from the complainant: November 2020
- Communication addressed to the authorities: Letter addressed to the President of the Senate (January 2021)
- Communication addressed to the complainant: February 2021

brought in the wake of an inquiry by the House of Representatives into drug trading in New Bilibid Prison, and Senator de Lima's responsibility for such while she was Secretary of Justice. The House-led inquiry was launched one week after she initiated her inquiry in the Senate into the extrajudicial killings.

On 27 July and 10 August 2018, Senator de Lima was indicted in two of the three cases before Branches 205 and 256 of the Regional Trial Court (RTC) – Muntinlupa City. While the third case has gone on intermittently due to vacancies in court, with the trial having resumed only on 9 October 2020 and a motion for bail pending resolution, hearings to present prosecution witnesses in the two other cases before RTC Branch 205, mostly involving convicted drug traffickers, were scheduled well into 2020, with twice-monthly hearings scheduled in each case on average. It was later discovered that the convicted drug traffickers received special treatment in prison and were coerced into testifying against Senator de Lima after being viciously stabbed in prison in 2016. On 17 February 2021, RTC Branch 205 granted Senator de Lima's demurrer to evidence in case No. 17-166, technically acquitting her, in the absence of sufficient evidence, but denied the same plea in the second case. Senator de Lima's defence counsel has appealed against the denial.

On 30 November 2018, the United Nations Working Group on Arbitrary Detention concluded, echoing the conclusions of an earlier IPU mission to the Philippines, that Senator de Lima's detention was arbitrary and that her immediate release was in order.

Although Senator de Lima has remained very politically active over the years while in detention and receives newspapers, journals and books, she has no access to the Internet, a computer, TV, radio, or to an air-conditioning unit, despite a doctor's recommendation. Senator de Lima was allegedly kept in incommunicado detention from 25 April to 10 June 2020, purportedly for the purposes of stopping the spread of COVID-19. Although the situation regarding Senator de Lima's visiting rights has since improved, a number of restrictions thereto remain in place.

On 27 April 2020, the Senate adopted a motion to allow teleconferencing in plenary and committee hearings. That same day, the Senate President, however, reportedly publicly stated that Senator de Lima would not be allowed to take part in such virtual proceedings given that the Senate has no jurisdiction over her. According to the complainant, this is a further attempt to prevent her from fully performing her role as a senator, despite the clear Supreme Court jurisprudence on this point. On 7 November 2016, Senator de Lima had filed a petition for writ of *habeas data* against President Duterte before the Supreme Court, requesting that the Court, *inter alia*, order President Duterte and any of his representatives to cease: seeking details about her private life outside the realm of legitimate public concern or making statements maligning her as a woman and injuring her dignity as a human being; discriminating against her on the basis of gender; describing or publicizing her alleged sexual conduct; engaging in psychological violence against her; and otherwise violating her rights or engaging in acts that are contrary to law, good morals, good customs, public policy and/or public interest. On 18 October 2019, the Supreme Court dismissed the petition for writ of *habeas data* on the grounds that the President is immune from suit during his incumbency and tenure.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the parliamentary authorities for their recent communications and for the information provided therein;
2. *Is deeply concerned* that its appeals for Senator de Lima's immediate release and for charges to be dropped have gone unheeded and that she continues to be detained, more than four years after her arrest, in the absence of any serious evidence; *considers* that her continued detention and prosecution not only run counter to her basic human rights, but should also be seen as reprisals for her political activities and positions;
3. *Recalls* in this regard that there are multiple, strong signs that the steps taken against Senator de Lima came in response to her vocal opposition to the way in which President Duterte was waging a war on drugs, including her denunciation of his alleged responsibility for extrajudicial killings; *points out* in this regard the repeated violation of the principle of the presumption of innocence, the dubious choice of jurisdiction to present the accusations against her, the timing of the criminal proceedings, the amendment of the charges and the reliance on testimonies of

convicted drug traffickers, who were either promised favourable treatment in return, subjected to physical intimidation in prison, or had an axe to grind against Senator de Lima as a result of her efforts to dismantle their drug trafficking operations when she was Secretary of Justice, as well as the use of testimonies of criminal law enforcement officers who had been involved in the alleged criminal events that underpinned the charges against Senator de Lima and had clear motives to resent her, and who had been kept in their official positions without facing disciplinary sanctions, let alone charges;

4. *Calls on* the authorities, once more, to release Senator de Lima and to drop the legal proceedings against her immediately;
5. *Reaffirms* the need, should charges not be dropped, for an IPU trial observer to continue to monitor and report on respect for fair-trial standards in the cases before Branches 205 and 256 of the Regional Trial Court in Muntinlupa City, including in order to assess if and how existing concerns about the legality and fairness of the proceedings are properly reviewed;
6. *Remains concerned* that Senator de Lima has still not been able to benefit from the Senate's move towards teleconferencing, well over a year after COVID-19 led the Senate to allow for proceedings to take place virtually; *considers* that the parliamentary authorities can do much more to help ensure that she can fully participate in the work of the Senate and effectively represent the interests of the 14 million Filipinos who elected her, also bearing in mind past initiatives by the Senate in other similar cases, well before teleconferencing was allowed; *wishes* to know exactly why no further action is being taken to enable Senator de Lima to fully participate in Senate proceedings;
7. *Remains concerned* about limitations imposed on Senator de Lima's visiting rights and continued lack of access to the Internet, TV, radio, tablet or laptop; *regrets furthermore* that the authorities have also yet to provide her with an air-conditioning unit, as ordered by her doctor; *sincerely hopes* that the relevant authorities will finally take the necessary steps to address these matters for as long as she remains in detention; and *wishes* to be kept informed in this regard;
8. *Requests* the Secretary General to convey this decision to the relevant authorities, including the Secretary of Justice, the Prosecutor's Office and the relevant courts, the complainant and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.