

## PHILIPPINES

- **PHL-08:** Leila de Lime (Ms.)
- **PHL-COLL-02:** Two parliamentarians



Inter-Parliamentary Union  
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# Philippines

*Decision adopted unanimously by the IPU Governing Council at its 213th session (Geneva, 27 March 2024)*



Former Philippine senator and human rights campaigner Leila de Lima (centre) waves as she arrives at the Muntinlupa City Trial Court in Manila on 16 October 2023. | JAM STA ROSA / 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 “Davao Death Squad” in Davao City, where Mr. Duterte had been long-time mayor, and concluded that Mr. Duterte, former President of the Philippines, was 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 had reportedly taken place after President Duterte took office in June 2016. After she was elected to the Senate, she became the target of acts of intimidation and denigration, including by the then President Duterte himself.

### Case PHL-08

**Philippines:** Parliament affiliated to the IPU

**Victim:** Female opposition member of parliament

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

**Submission of complaint:** September 2016

**Recent IPU decision:** October 2023

**IPU mission:** May 2017

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication from the authorities: Letter from the President of the Senate (March 2024)
- Communication from the complainant: October 2023
- Communication to the authorities: Letter to the President of the Senate (March 2024)
- Communication to the complainant: March 2024

On 7 November 2016, Ms. de Lima filed a petition for writ of *habeas data* against the then 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 ground that the President was immune from legal action during his incumbency and tenure.

Ms. de Lima was arrested and detained on 24 February 2017 over accusations of receiving drug money to finance her campaign for a senate seat. The charges, in three different cases, were brought in the wake of an inquiry in 2016 by the House of Representatives into drug trafficking in New Bilibid Prison and Ms. de Lima's responsibility in such trafficking while she was Secretary of Justice. The House-led inquiry was launched one week after she had initiated her inquiry in the Senate into the extrajudicial killings.

Since July 2018, Ms. de Lima has been charged in the three cases before Branches 205 and 256 of the Regional Trial Court (RTC) – Muntinlupa City. On 17 February 2021, RTC Branch 205 granted Ms. de Lima's demurrer to evidence in case No. 17-166, technically acquitting her, in the absence of sufficient evidence.

The complainant points out that during the presentation of the prosecution's evidence in the first of the two remaining cases (Case No. 17-165), not only was there no physical evidence of the alleged illegal drugs, or of the money allegedly delivered to Ms. de Lima as her share of the alleged illegal drug trade, but even the prosecution's own witnesses – mostly criminals serving sentences in the New Bilibid Prison – denied any involvement or even any personal knowledge of the alleged illegal drug trade. Instead, the prosecution spent most of its time attempting to prove the guilt of its own witnesses, including Mr. Peter Co, Mr. Hans Tan and Mr. Vicente Sy, all of whom repeatedly denied any involvement in the illegal drug trade, and whom the prosecution, to this date, has failed to indict as co-conspirators. Conveniently, the only person who was consistently singled out by these witnesses as having personal knowledge of the New Bilibid Prison drug trade and the role of Ms. de Lima died on 26 September 2016. That person, Mr. Tony Co, was an inmate who was stabbed to death in a staged prison riot that targeted inmates who initially refused to testify against Ms. de Lima before the House of Representatives Justice Committee's hearing on the New Bilibid Prison drug trade. Most importantly, the complainant points out that the prosecution's foremost witness in the case, Mr. Rafael Ragos, former National Bureau of Investigation Deputy Director and former Bureau of Corrections Officer-in-Charge, who had been the sole witness to testify that he had delivered money to Ms. de Lima's house on two occasions, recanted all his testimonies and statements against Ms. de Lima on 30 April 2022. In his retraction, Mr. Ragos said that he had been forced to testify against her by the then Secretary of Justice Vitaliano Aguirre II, who had led the witch-hunt against Ms. de Lima in the Philippines' House of Representatives Justice Committee's hearings in 2016. In addition to Mr. Ragos, Mr. Rodolfo Magleo, a former police officer convicted of kidnapping, and Mr. Nonilo Arile, a police asset, also recanted. In light of these recantations, Case No. 17-165 was concluded on 12 May 2023 with the acquittal of Ms. de Lima. According to the complainant, however, the Office of the Solicitor General and the Department of Justice appealed the acquittal before the Court of Appeals, in violation of the constitutional proscription against double jeopardy.

After Mr. Ragos' recantation, and earlier recantations by Mr. Kerwin Espinosa and co-accused former bodyguard Mr. Ronnie Dayan, in the remaining case (Case No. 17-167) two more witnesses for the prosecution recanted their testimony on 16 October 2023. This was done in a letter handed over to Ms. de Lima, and subsequently shared with the court, in which they said that they were "bothered by their consciences" and that they did not want the accused to be the victim of a false trial. The letter also mentioned that five more witnesses would also recant. Moreover, the complainant underscores that at least two other witnesses, Mr. Joel Capones and Mr. Herbert Colanggo, claim to have engaged in illegal drug trafficking. Despite these admissions made under oath and in open court, to this day the prosecution has actively refused to charge them, whether as co-conspirators in the same case or in a separate case, hence showing – according to the complainant – that they stand to benefit from incriminating Ms. de Lima. Currently, the case is pending before the RTC of Muntinlupa City (Branch 206), with Judge Gener Gito presiding. Pending before the court is the motion for reconsideration of the court order under the previous judge, Mr. Romeo Buenaventura, who denied Ms. de Lima's

application for bail on 7 June 2023. The motion for reconsideration was submitted after it was discovered that Judge Buenaventura's brother had direct and close links to the Chair of the aforementioned inquiry into Ms. de Lima by the House of Representatives in 2016. After Judge Buenaventura recused himself from the case, the case was assigned to Muntinlupa RTC Branch 206 under presiding Judge Gener Gito. On 13 November 2023, Judge Gito granted Ms. de Lima bail, after which she was released. After running through the testimonies of the primary witnesses, the court stated that the testimonies were unable to clearly establish that conspiracy existed among the accused, including Ms. de Lima, to commit illegal drug trading. The prosecution completed its case on 11 March 2024. On 21 March 2024, the defence counsel filed a demurrer to evidence, which, if granted, would amount to an acquittal. The defence counsel did so in the belief that there is not sufficient evidence for the case to proceed.

In his letter of 6 March 2024, the President of the Senate stated that the "Philippine Senate continues to uphold the rights and privileges due to its incumbent and former members".

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.

Ms. de Lima ran for re-election to the Senate from detention in May 2022, but was not re-elected.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the President of the Senate for his communication and his spirit of cooperation;
2. *Is pleased* that Ms. de Lima was finally released on bail in November 2023; *is deeply concerned*, nevertheless, that the reasons that led the judge to grant bail underscore once more the serious deficiencies in the trial and in the evidence presented against Ms. de Lima; and *sincerely hopes* that the demurrer to evidence will succeed and that justice will finally be done through the dismissal of this last, remaining charge;
3. *Remains convinced* in this regard that the steps taken against Ms. de Lima came in response to her vocal opposition to the way in which the then President Duterte was waging war on drugs, including her denunciation of his alleged responsibility for extrajudicial killings; and *points out* in this regard, in addition to the numerous recantations by witnesses, the inexplicable length of the criminal proceedings; the repeated violation of the principle of the presumption of innocence; the timing of the criminal proceedings; the amendment of the charges; the reliance on the testimonies of convicted drug traffickers, who were either given favourable treatment in return, subjected to physical intimidation, including death, in prison, or had an axe to grind against Ms. de Lima as a result of her efforts to dismantle their drug trafficking operations when she was Secretary of Justice; and the pressure exerted on other individuals to testify against her;
4. *Welcomes* the readiness of the Senate to help protect the rights of Ms. de Lima; and *trusts* that it will continue to monitor her situation until its satisfactory conclusion;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.



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# Philippines

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France Castro Official portrait, 2019 © Wikipedia

PHI-10 – Francisca Castro (Ms.)  
PHI-13 – Sarah Jane I. Elago (Ms.)

## Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Failure to respect parliamentary immunity

### A. Summary of the case

Ms. Francisca (“France”) Castro and Ms. Sarah Jane I. Elago became members of the Philippines’ House of Representatives in 2016. After 2022, only Ms. Castro remained a member of the House of Representatives.

The complainants state that in the course of their parliamentary mandates, they have both faced regular harassment due to their opposition to the policies of the then President, Mr. Rodrigo R. Duterte. This alleged intimidation includes being subjected to

### Case PHL-COLL-02

**Philippines:** Parliament affiliated to the IPU

**Victims:** Current opposition members of parliament (two women)

**Qualified complainants:** Section I.(1)(a) of the Committee Procedure (Annex I)

**Submission of complaint:** December 2019

**Recent IPU decision:** October 2023

**IPU mission(s):** - - -

**Recent Committee hearings(s):** - - -

#### Recent follow-up:

- Communication from the authorities: Report from the Reference and Research Bureau of the House of Representatives (March 2024)
- Communication from the complainants: March 2024
- Communication to the authorities: Letter to the President of the Senate (March 2024)
- Communication to the complainants: October 2023

charges that have no legal or factual merit and that run counter to the individuals' right to a fair trial and to their rights to freedom of expression, assembly and movement.

In this regard, the complainants state that Ms. Castro, who stands accused with other educators and advocates for the Lumad indigenous community in Davao del Norte in the Philippines, was briefly arrested and detained on 28 and 29 November 2018 on a charge of "child abuse" in connection with the evacuation of 14 Lumad children attending the Salugpongan Ta' Tanu Igkanogon Community Learning Center in conflict-ridden Mindanao, where the armed forces, along with the paramilitary group Alamara, are fighting against the communist insurgency. It seems that the authorities are also claiming that the learning centre operated as a front for the communist insurgency. The prosecution is trying to prove the crime of "child abuse" by maintaining that this abuse was committed by accompanying the minors without the assistance and presence of the government law enforcement agency concerned or the written permission and consent of the minors' parents. The complainants state that Ms. Castro and the other accused rescued the 14 minors from harassment by the paramilitary group Alamara and the military. The children's parents reportedly denied that their children had been kidnapped by the accused and said that they had had to leave because the threats were no longer bearable. The complainants contend that the prosecution recently discharged one of the accused so that they could become a state witness, and that this individual – like the other witnesses for the prosecution – did not have any personal knowledge that would implicate Ms. Castro and the other accused in the commission of any crime. Despite the reported lack of evidence, on 25 September 2023, the court in the case denied the defence counsel's motion for leave to file a demurrer to evidence. Instead, it directed the defence counsel to present its witnesses starting on 4 October 2023. From the information provided on 20 March 2024 by the Reference and Research Bureau of the House of Representatives, it would appear that, until now, the witnesses for the prosecution have not been able to support the prosecution's thesis. Since October 2023, several witnesses for the defence have been heard. The defence counsel will present its next witness, Ms. Nolasco, on 11 April 2024, after which the court will set a trial date for the final defence witness, Ms. Castro. These last two hearings will be conducted via videoconference, as Ms. Nolasco and Ms. Castro continue to be targets of red-tagging, offline and online, which have given them cause for concern for their safety should they fly from Manila to Davao City and Tagum City.

In that regard, the complainant also states that Ms. Castro continues to be subjected to attacks, red-tagging and political harassment, and even threats. On 11 October 2023, the following remarks were made on national television, and subsequently disseminated on social media, by former President Duterte, whose daughter is the incumbent Vice-President of the Philippines: "I didn't tell them (France Castro and others) face-to-face, I didn't tell them that 'you know, we're enemies, I want to kill you but I want to kill you softly'". He then reportedly told his daughter, the Vice-President: "But your first target with the intelligence fund, is you, you, France, you communists whom I want to kill. Tell her already". According to the complainants, the former President issued these threats due to Ms. Castro's denunciation of the Vice-President's alleged unauthorized receipt and use in 2022 of 125 million pesos of confidential funds. Upon the insistent opposition of Ms. Castro and others to the new grant of confidential funds, the House of Representatives scrapped the Vice-President's request. The leadership of the House of Representatives has called former President Duterte out for threatening harm to Ms. Castro. The leaders of all political parties in the House of Representatives issued a statement on 14 October 2023 saying that "We, leaders of all political parties in the House of Representatives, take utmost exception to the remarks made by former President Rodrigo R. Duterte". On 24 October 2023, Ms. Castro filed a criminal complaint against former President Duterte for grave threats in relation to the Cybercrime Act or Republic Act No. 10175. In her criminal complaint, Ms. Castro, among others, said that President Duterte's remarks with regard to her were factually baseless and clearly malicious, but that she could not dismiss them as "figurative, joking, or otherwise benign". On 9 January 2024, the Quezon City Office of the City Prosecutor dismissed the complaint for "want of sufficient evidence". Ms. Castro filed a petition for review with the Department of Justice on 5 February 2024.

As a then member of parliament, Ms. Elago was directly and indirectly labelled in social media posts by the police and army as a terrorist. Red-tagging in the Philippines is understood to refer to the malicious blacklisting of individuals or organizations critical or not fully supportive of the actions of a sitting government in the country. These individuals and organizations are "tagged" as either communist or terrorist, or both, regardless of their actual political beliefs or affiliations. On 7 December 2020, Ms. Elago filed a complaint to the Office of the Ombudsperson with regard to the conduct of six senior army and government officials. The matter is still pending.

As part of the alleged harassment, Ms. Elago was also targeted by an amended complaint, originally submitted on 24 July 2019, to which her name was added as a respondent. It concerns a complaint from a mother against the youth group “the Kabataan Party List” in which she accused the latter of kidnapping and abusing her daughter. On 10 November 2020, the Supreme Court upheld its earlier decision to dismiss the petition submitted by the daughter’s parents. In so doing, the Supreme Court concluded that the daughter was reportedly of legal age and that she had denied having been subjected to coercion and had voluntarily chosen to join the youth group. Shortly before, on 15 October 2020, prosecutors at the Department of Justice dismissed several of the charges in connection with this situation against Ms. Elago for lack of probable cause.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Reference and Research Bureau of the House of Representatives for the report provided;
2. *Remains deeply concerned* that the then President of the Philippines directly threatened on air the life of a member of parliament; *considers* that, over and above the grave consequences for Ms. Castro herself, this matter also has a serious impact on the functioning of the Filipino Parliament as a whole, as it may deter its members from speaking out on important matters and put their lives at significant risk; and *reiterates* its satisfaction that the leaders of political parties in parliament denounced the remarks made by the then President Duterte soon after he made them;
3. *Is perplexed* that, in light of the very public nature of the threats, the Prosecutor’s Office decided not to proceed with Ms. Castro’s criminal complaint against the then president; *sincerely hopes* that the Department of Justice will reconsider this decision and take the necessary follow-up action that the complaint warrants; and *wishes* to receive more information on this point;
4. *Remains concerned* about the continuous allegations of intimidation and red-tagging against Ms. Castro; *wishes* to know what steps are being taken to investigate these allegations and to provide her with the necessary protection; *trusts* that the House of Representatives is closely monitoring her situation; and *wishes* to receive confirmation thereof;
5. *Is concerned* that the trial proceedings against Ms. Castro and the rest of the accused have still not been completed and that the status of the remaining potential charges against Ms. Elago has yet to be determined, thereby creating a situation of prolonged legal uncertainty; *trusts* that Ms. Castro’s trial will soon be concluded, all the more so in the apparent absence of any clear evidence to support the charge; *also trusts* that the remaining potential charges against Ms. Elago will soon be determined and that, in doing so, the conclusions reached by the Supreme Court on the petition pertaining to the same facts will be duly taken into account; and *wishes* to be kept informed in this regard;
6. *Remains concerned* that Ms. Elago’s complaint regarding her alleged red-tagging is still pending with the Ombudsperson, with no sign of it being actively examined; *calls again on* the Ombudsperson to take the necessary action to examine the complaint along with any steps its findings may warrant; and *wishes* to be kept informed in this regard;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Department of Justice, the Ombudsperson, the complainants and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.