



# General Assembly

Distr.: General  
22 February 2012

English only

---

## Human Rights Council

Nineteenth session

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2012]

---

\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Philippines: Action required to address ongoing abuses of the legal system used to target human rights defenders**

The Asian Legal Resource Centre (ALRC) submitted a written statement to the tenth session of the Human Rights Council in March 2009<sup>1</sup> concerning a growing pattern of the abusive use of prosecutorial powers and the country's judicial process in order to detain human rights and political activists, and prevent their work in favour of the rights of the disenfranchised. The Philippines' government and military have been repeatedly condemned for the widespread extra-judicial killings that had targeted such actors over the previous decade, leading to hundreds of deaths. As such pressure led to a reduction in these killings, abusive use of the legal system has grown to continue this repression.

Despite some welcome approaches and actions taken by the current government to bolster human rights in the country, these have remained superficial and do not address the fundamental flaws in the systemic and institutional rule of law mechanisms that are needed in order to put an end to the deeply insecure climate for human rights defenders and victims of human rights violations in the country, or to tackle the entrenched systems of impunity that prevail in relation to these abuses. The ALRC therefore wishes to again highlight this ongoing problem, providing key examples to illustrate how it operates, and calls on the Special Rapporteur on human rights defenders and Human Rights Council members and observer States to intervene with the government of the Philippines to ensure the necessary reforms required to ensure an end to abusive prosecutions of human rights defenders.

The ALRC previously highlighted the case of labour lawyer Remigio Saladero Jr. and 20 other activists, who had been arbitrarily charged with multiple murder and multiple frustrated murder in Calapan City, with six of them (including Remigio Saladero Jr.) having been arrested and the others having been forced into hiding as a result. While a Calapan City Regional Trial Court ruled to release those detained and drop the charges against them on February 5, 2009, a few days later, on February 11, 2009, Remigio and his fellow respondents, were once again informed of another murder charge arbitrarily being laid against them. This concerned the killing of Ricky Garmino, 37, a member of a government paramilitary group, the Civilian Auxiliary Forces Geographical Unit (CAFGU), on July 29, 2008. Witness accounts however point to the Narciso Antazo Aramil Command of the Communist Party of the Philippines-New People Army (CPP-NPA) operating in Rizal province as the perpetrators of this killing.

It is worth noting that attorney Remigio Saladero Jr. was working to defend the rights of 19 workers and members of the local chapter of the Congress Labor Organization (CLO), who have faced prolonged arbitrary detention and false charges in relation to a strike that they held on May 2, 2007, concerning a pay dispute and to protest against the illegal dismissal of fellow workers.<sup>2</sup>

In its previous statement, the ALRC highlighted the role of the country's Inter-Agency Legal Assistance Group (IALAG) in distorting the criminal justice system and enabling the arbitrary prosecution of activists, as seen in the case above. In April 2008, Philip Alston, the Special Rapporteur on extra-judicial, summary or arbitrary executions, had recommended the abolition of the IALAG. In a welcome move, the government has since abolished the IALAG in May 15, 2009, however, as will be seen below, such abusive

---

<sup>1</sup> PHILIPPINES: Court rules subverted in filing criminal charges against activists - [http://www.alrc.net/doc/mainfile.php/alrc\\_st2009/541/](http://www.alrc.net/doc/mainfile.php/alrc_st2009/541/)

<sup>2</sup> For case details please see an urgent appeal issued by the ALRC's sister-organisation, the Asian Human Rights Commission: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-102-2009>

prosecutions continue to take place, pointing to a need for further action by the government to address more deep-seated systemic failings.

The current prosecution of human rights defender Temogen "Cocoy" Tulawie and four co-accused on charges of multiple frustrated murder and multiple attempted murder for allegedly 'masterminding' and 'plotting' to assassinate Abdusakur Tan, the present governor of Sulu, in a bomb attack on May 13, 2009, in Patikul, Sulu, is particularly illustrative of the ongoing problem of abusive legal targeting of activists. The evidence against them in this case is based on forced confessions by two of the accused, which they have since recanted. Tulawie was forced into hiding out of concern that he would not receive a fair trial in Sulu, but was arrested on January 13, 2012 in Davao City.

On May 26, 2009, the police in Patikul, Sulu, arrested two persons - Sulayman Muhammad Muin and Juhan Alihuddin - who were allegedly involved in the bomb attack. Under interrogation, Muin implicated Tulawie as the "mastermind and who provided the single motorcycle planted with (an) Improvised Explosive Device (IED) used in their plan to assassinate the governor". Muin also implicated three others, Alihuddin, Muammar Askali and a certain Abs, supposedly as his accomplices. Alihuddin was also forced to implicate Tulawie, Muammar and Sulayman. However, they both later recanted these confessions and claimed they had been forced to make "extrajudicial statements." Three witnesses have confirmed Tulawie's alibi, and four others have confirmed the alibi of co-accused Askali.

Despite this, Prosecutor Cabaron arbitrarily decided on July 22, 2009, that there was probable cause in filing murder charges in court against the five accused and that the recanted statements obtained under duress were credible and admissible as evidence.

Prior to his arrest, on June 13, 2011, the Supreme Court (SC) had granted Tulawie's petition to transfer the trial of his case from Jolo, Sulu to Davao City, due to concerns about the prospect for a fair trial in Sulu. The SC acknowledged the severity of insecurity and threats in Sulu, stating that: "...there is an indication of actual and imminent threat to the life of the petitioner and his family, as well as his witnesses, as found by the Court of Appeals..." For seven months, the Clerk of Court (CoC) of the Regional Trial Court (RTC), Branch 3, Jolo, Sulu, ignored the SC's order, while the court's Judge Betlee-Ian Barraquias has taken action, in defiance of the SC's order, to have Tulawie transferred to his jurisdiction and threatened administrative action for obstruction of justice and contempt of court against those refusing to do so.

This case is an evident situation of baseless and flawed legal reprisals against a human rights defender by the authorities and the ALRC therefore calls for the Department of Justice (DoJ) to withdraw without delay the murder charges against Tulawie and his co-accused. Beyond this, the case sheds light on the lack of accountability of local prosecutors and courts with regard to the Supreme Court and points to deep flaws within the institutions of the rule of law.

The ALRC has documented a number of other cases showing the arbitrary and abusive use of prosecutions that speak to a pattern of repression against human rights defenders and activists. This is enabled by systemic flaws and a lack of effective accountability systems within the Philippines' State machinery.

Further examples include the case of eleven activists who were arbitrarily charged in relation to an attack on the military. On August 16, 2010, Mr. Esperidion R. Solano, assistant provincial prosecutor in Camarines Sur province, sent subpoenas to eleven activists and several others to respond to a murder complaint by the military concerning their alleged involvement in an attack by the New People's Army (NPA) rebel group on the 9th Infantry Division of the Philippine Army's Camp Elias Angeles, Caboclodan, San Jose, Pili.

The complaint, which comprised two counts of murder, four counts of frustrated murder, three counts of 'carnapping' (stealing a vehicle) and a special case of malicious mischief,

relied heavily on the testimony of one witness, Edwin Nazarionda, who claimed that the eleven activists took part in the executive meeting of political party Bayan Muna on April 28, 2006, during which the attack was allegedly planned. Two former members of the NPA also provided sworn statements claiming the involvement of the activists.

There are major doubts as to the credibility of the witnesses, on whose statements alone the case is based, and the ALRC believes that they are in fact false witnesses being used by the military to concoct these charges against the activists in question. Attempting to charge persons involved in the defence of human rights or political activism that runs contrary to the interests of those in power, by implicating them in acts of violence or terrorism by armed groups, has been a typical tactic used by the authorities, including in order to justify the many extra-judicial killings that have taken place over the last decade. In this case, serious flaws in their sworn testimonies that led to the persons being charged include the fact that none of these witnesses identified all the respondents as being involved and physically present during the attack.

Furthermore, valid alibis have been discounted in the process, all of which point to an effort to arbitrarily persecute these activists. For example, one of the human rights defenders in question, Mr. Leo Caballero, a correspondent for the Center for Trade Union and Human Rights in Bicol region and head of the Human Rights Department of Kilusang Mayo Uno (KMU)-Bicol, was not present during the meeting that Nazarionda cites in his testimony. He was participating in a regional fact-finding mission investigating a case of extrajudicial killing and was performing documented radio and other media interviews. Furthermore, when the attack took place he was at the regional council meeting of NGO KARAPATAN in Legazpi City, Albay from May 25 to 27, 2006.

Given all of the above, the ALRC calls on the government of the Philippines to take all steps necessary to ensure effective oversight of the prosecutorial services, notably by ensuring that the Department of Justice launches an effective inquiry into the problem of false prosecutions, in order to establish systemic lacuna as well as individual responsibility concerning such cases, and recommend and implement measures to address these. This is required in order to deter and punish arbitrary and legally flawed actions being taken by officials with impunity, and ensure a halt to the pattern of abusive prosecutions and the use of false charges against human rights defenders and activists in particular. Similarly, the Supreme Court of the Philippines is urged to launch an inquiry into the role of the judiciary in allowing false and arbitrary prosecutions to proceed, in order to halt this practice and punish all those who participate in these travesties of justice.

The ALRC also calls upon the Special Rapporteur on human rights defenders to intervene with the government of the Philippines in order to express concern at the use of such arbitrary prosecutions and other forms of repression against human rights defenders through abusive use of the legal system, and to request a visit to the country in order to monitor this situation and assist the government in halting such practices.

Furthermore, the ALRC calls on the members of the Human Rights Council to intervene with the government of the Philippines to ensure that it takes all steps necessary to halt the phenomenon of arbitrary legal attacks against human rights defenders, as this is creating a climate of fear and repression that is seriously undermining efforts to uphold and protect human rights across the country.

Finally, the ALRC calls on all members of the Universal Periodic Review Working Group to recommend that the government of the Philippines take all the necessary steps cited above to ensure effective oversight of the prosecution services, to deter further false prosecutions of activists and to punish those involved in such acts of injustice with appropriate sanctions that reflect the gravity of their actions.