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HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

**Written statement* submitted by the Asian Legal Resource Centre (ALRC),
a non-governmental organisation 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.

[18 February 2009]

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

Philippines: Court rules subverted in filing criminal charges against activists

While incidents of extra-judicial killings targeting human rights and political activists have declined in recent years, which is welcomed, the authorities are instead now making use of the courts to target such activists, undermining the rule of law in the Philippines. Activists are increasingly facing questionable criminal charges which are produced through the subversion of court procedures and rules on evidence. Most of those charged are known activists and leaders, including lawyers, whose work helping those in need is therefore being hindered.

The Asian Legal Resource Centre (ALRC) and its sister-organisation, the Asian Human Rights Commission (AHRC), has documented an ongoing pattern of abuse of individuals' rights in which the prosecutorial power and judicial process in the country are being arbitrarily exploited. This is demonstrated in the cases below involving human rights and political activists in the country:

Victims are not informed on charges laid on them

A prosecutor in Calapan City resolved to file charges of multiple murder and multiple frustrated murder against 20 human rights and political activists, including labour lawyer Remigio Saladero, Jr., on 23 October 2008, but none of the respondents were informed of this or of the charges being laid against them. Some of the respondents were arrested separately in October and November 2008, and charged and investigated concerning a murder that took place on 24 July 2006, in Puerto Galera, Oriental Mindoro.

Under the Philippines Revised Rules of Criminal Procedure (RRCP), Rule 112, any persons accused of committing any criminal offence, should be informed of the accusation and given the opportunity to answer to the charges. However, although the prosecutors sent notices to the respondents, their postal addresses were reportedly deliberately made inaccurate, ensuring that they did not receive them or any notice for them to reply. The prosecutor did not inquire into the reasons why the notices were not delivered, even though it was his responsibility to do so.

As a result, the prosecutor resolved to file charges in court against all the respondents without the latter's reply. Under the rules, the prosecutor has the authority to resolve and to recommend the filing of charges should respondents fail to respond. Therefore, the rules had been subverted to make it appear as if procedures had been complied with, but this was reportedly done in bad faith.

In fact, over three months after Remigio and his fellow accused were arrested, the Regional Trial Court (RTC) in Mindoro Oriental, in February 2009, ruled to grant the respondents motion to quash the information filed by the defendants, and ruled that multiple crimes filed under only one case was not permissible. The court's ruling led to the release on February 5 of Remigio and five other activists held in detention.

However, a few days after their release, Remigio and his colleagues were once again informed that they had been charged concerning another murder that took place on July 29, 2008, in Rodriguez, Rizal province. The case now involves the murder of a member of a militia, Ricky Garmino. Remigio and other respondents in this murder case were not been informed of the

charges laid against them until a friend told Remigio that these names were included in the charges. They were not told officially.

Violations of detainees rights, notably concerning the rules on arrest and detention

When arrests were made of some of the accused in October 2008, for instance that of lawyer Remigio Saladero Jr., the name written in the arrest warrant used erroneous spelling. The policemen arresting him ignored this, and took him into their custody. His request to contact his wife Maricel to inform her about his whereabouts was also denied. The police arresting him also did not inform anyone that he was in their custody. He was, in fact, first reported by the media to have disappeared.

The manner in which the names of respondents are included in the charges for the July 24, 2006, incident was also arbitrary.

In the original complaint, only one respondent was named, while the others were described as John Does. Their identities should have been provided by credible witness who had personal knowledge of the incident, as required by Department Circular No. 50 of the Department of Justice (DoJ). However, court records show concerning this case, that only one witness had been able to identify all of respondents - which is highly unlikely in practice.

When the AHRC questioned the authorities concerning the procedures used concerning the inclusion of names in the charge, no explanations were given by the court judge in a response letter on January 8, 2009, to questions concerning irregularities in the issuance of arrest orders and the inclusion of names in the charges that the prosecutor filed in court. This judge recused himself from hearing the case. The new court judge hearing the case ruled to dismiss the case, granting a motion to quash the information filed by the defendants, and ruled that multiple crimes (multiple murder and multiple frustrated murder) filed under only one case were not permissible.

Failure to abolish the Inter-Agency Legal Assistance Group (IALAG)

In April 2008, Philip Alston, the Special Rapporteur on extra-judicial, summary or arbitrary executions, recommended the abolition of the Inter-Agency Legal Assistance Group (IALAG). The IALAG has been distorting the criminal justice system, as government agencies have been making use of it to abusively prosecute leftist activists. However, nearly two years after Mr. Alston's visit to the Philippines, this recommendation has not been implemented.

In fact, a news report on 28 January 2009, reported that a provincial IALAG in Canlaon City, Negros Oriental had been able to file criminal charges against alleged communist rebels. There are serious concerns that this agency may be responsible for the legal offensives against known human rights and political activists.

The Human Rights Council must therefore call on the Government of the Philippines to halt such subversion of its legal system in order to attack human rights and political activists. The Council must also press the government to provide a rational explanation as to what actions they have taken to meet each of the Special Rapporteur, Philip Alston's recommendations, or more,

importantly, why they have failed to implement them. These legal attacks should be seen as a continuing part of the same State-engendered attack on human rights defenders and political activists as the well-documented spate of extra-judicial killing and forced disappearances that have been taking place in the country under the current government.
