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26 February 2020

Open letter to the Integrated Bar of the Philippines from the International Bar Association's Human Rights Institute

Mr President,

We are writing to you on behalf of the International Bar Association's Human Rights Institute (IBAHRI) to express our concern over the continued persecution of lawyers and jurists in the Philippines, and the extrajudicial killings committed as part of the 'war on drugs' under President Rodrigo Duterte.

The International Bar Association (IBA), established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. It has a membership of over 80,000 individual lawyers, and 190 bar associations and law societies, spanning over 160 countries. The IBAHRI, an autonomous and financially independent entity, works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide. This year we celebrate the 30th anniversary of the United Nations Basic Principles on the Independence of the Judiciary and the IBA Standards for the Independence of the Legal Profession.

In a public letter dated 2 September 2017, the IBAHRI expressed our concerns over the extrajudicial killings associated with the Philippines' President Rodrigo Duterte's 'war on drugs', and urged him to ensure due process of law and the protection of human rights of all in the Philippines. Further, amid reports of threatening remarks by the President to shoot human rights officials and kill judges and lawyers, whom he perceives to be conspiring with drug offenders, the IBAHRI called for President Duterte to respect and uphold the independence of the legal profession.

The IBAHRI understands that as of the 10 June 2019, 27,000 people have been extra judicially killed with impunity according to information received in a report from Lawyers Rights Watch Canada.¹ This number includes 50 lawyers, prosecutors and judges, amongst journalists and human rights defenders. Additionally, court workers and paralegals have also been killed, and eight lawyers have reportedly survived fatal attacks; one lawyer has also been abducted and/or

¹ <https://www.lrwc.org/ws/wp-content/uploads/2019/07/Philippines.Statement.5July2019.F.pdf>
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disappeared. It has been reported that in only five of these cases the suspects are in custody or, have charges pending against them. It is reported that the lawyers most at risk are those representing clients accused of terrorist or drug-related crimes. These killings are a great threat to an individual's right to life, to a free and fair trial before an independent judiciary, and also to a lawyers' ability to undertake their work without threat of persecution.

It has been reported that in order to identify persons with whom the administration disagrees, 'drug lists' are being created to 'red-tag' defenders, including lawyers representing those accused of drug crimes. Through these lists, defenders are publicly named, vilified as public enemies and subjected to a high probability of being murdered. Few suspects have been identified by investigations or held accountable through prosecution and trial.

The IBAHRI is deeply concerned that the current climate of government-approved extrajudicial killings represent a clear contravention to important international human rights law. (1) The Philippines have ratified the UN Declaration on Human Rights, Article 3 of which upholds the right to life, liberty and security of a person. (2) The ratification of the International Covenant on Civil and Political Rights obligates the Philippines to Article 4 which states that no one shall be arbitrarily deprived of his life, and Article 2 which mandates all ratifying states to take effective measures to protect the right to life and provide remedies for rights violations. (3) Under the Bangalore Principles of Judicial Conduct, the Philippines is committed to upholding the independence of the legal profession. (4) Finally, the 2016 UN Minnesota Protocol on the Investigation of Potentially Unlawful Death requires the Philippines to ensure the right to life, and the duty to conduct investigations of all extrajudicial killings.

Further to this, the domestic law of the Philippines upholds the right to life and the independence of the judiciary. As such, the persecution of journalists presents a real threat to the rule of law in the Philippines. (1) Article II, section 11 of the Constitution of the Republic of the Philippines 'guarantees full respect for human rights'. (2) In June 2019, the Philippines passed the Human Rights Defenders Protection law to prevent human rights violations against defenders, enshrining into law the UN Declaration on Human Rights Defenders.

In 2017, the UN Universal Periodic Review assessed that the Philippines 'failed to uphold the highest standards in the promotion and protection of human rights'. Furthermore, after the International Criminal Court prosecutor attempted to implement an investigation into the Philippines, President Duterte withdrew the Philippines from the Rome Statute and threatened the prosecutor with arrest if she conducted activities in the country. Evidently, this greatly undermines the standards of international human rights law in the Philippines, and indicates a serious threat to the upholding of the rule of law. The Philippines, in its ratification of international law, has shown previous commitment to protect the independence of the legal profession and a democratic rule of law, principles which now seem to face rapid erosion.

It is of course imperative that the Integrated Bar of the Philippines is resolute in its support of the rule of law and human rights, and is outspoken in the defence of the lives and safety of judges

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and lawyers, and their capacity to discharge their constitutional functions. We ask you to respond urgently to this letter regarding what steps you have taken with regard to the alleged 50 extra-judicial killings of lawyers that have been reported under President Duterte's period in office. Are there any legal proceedings initiated by the Bar against the President, the police or any other branch of state?

We would be grateful to receive your assurances that you have received our letter and that our concerns will be addressed as a matter of urgency.

Yours sincerely,

Handwritten signature of Michael Kirby.

The Hon Michael Kirby AC CMG
IBAHRI Co-Chair

Handwritten signature of Anne Ramberg.

Anne Ramberg
IBAHRI Co-Chair

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