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SENATE

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INTRODUCED BY SENATOR RISA HONTIVEROS
AND SENATOR AQUILINO "KOKO" PIMENTEL III

RESOLUTION

URGING THE DEPARTMENT OF JUSTICE TO WITHDRAW IMMEDIATELY THE REMAINING CHARGES AGAINST DETAINED FORMER SENATOR LEILA M. DE LIMA IN LIGHT OF THE RECENT RECANTATIONS GIVEN BY KEY WITNESSES IN HER DRUG CASES AND MOVE FOR HER RELEASE FROM HER UNJUST AND ARBITRARY DETENTION

WHEREAS, detained Senator Leila M. de Lima has been one of the foremost and exemplary advocates of justice, human rights and the rule of law throughout her lengthy career in public service;

WHEREAS, from 2008 to 2010, she was appointed as Chairperson of the Commission on Human Rights (CHR) where she energized the country's premier human rights body in addressing cases of human rights violations;

WHEREAS, from 2010 to 2015, she served as Secretary of the Department of Justice (DOJ), resolving renowned cases, including the prosecution of several prominent figures linked in the misuse of development funds, the dangerous raids of the prison cells for maximum security inmates, subsequently exposing and ending their luxurious lifestyle, and the overseeing of the Maguidanao massacre case;

WHEREAS, it was also under her watch as head of the Inter-Agency Council Against Trafficking (IACAT) that the Philippines was removed from the US Human Trafficking Watchlist, paving the way for its long-hoped-for upgrade to Tier 1 status;

WHEREAS, Leila M. de Lima was elected Senator of the Republic on her very first electoral run for a national post in the 2016 general elections. One of her earliest official acts was the delivery of two privilege speeches on the Senate floor calling for an end to the spate of extrajudicial killings (EJKs) committed under the so-called "War on Drugs";

WHEREAS, on 13 July 2016, she filed a senate resolution initiating a probe into the aforementioned extrajudicial killings;¹

WHEREAS, on 25 August 2016, the Office of the President released an unsubstantiated matrix showing personalities allegedly involved in the illegal drug trade inside the New Bilibid Prison (NBP). Among the personalities tagged were Senator de Lima and then Justice Undersecretary Francisco Baraan;

WHEREAS, in a hearing on 21 September 2016, several high-profile convicts from the NBP were presented before the House of Representatives (HOR) to testify against Senator de Lima. They alleged that she protected drug lords in the maximum-security units and allowed them to sell drugs from within the penitentiary, in exchange for millions of pesos in funding for her senatorial campaign;

WHEREAS, on the basis of the testimonies presented in the HOR, the DOJ made a finding of probable cause to charge Senator De Lima for conspiracy to commit drug trading;

WHEREAS, on 23 February 2017, the Muntinlupa Regional Trial Court issued an arrest warrant against Senator de Lima for violation of the Comprehensive Dangerous Drugs Act of 2002. The very next day, she willingly surrendered to the arresting team of the Philippine National Police (PNP), proudly proclaiming that it was an "honor to be jailed for the principles I am fighting for" right before her arrest and outright denying the charges that she coddled drug convicts during her time as Justice Secretary;

WHEREAS, in 2018, the United Nations Human Rights Council Working Group on Arbitrary Detention (WGAD) rendered the opinion that the deprivation of liberty of Senator de Lima being in contravention of Articles 2, 7, 9, 10, 11, 12 and 22 of the Universal Declaration of Human Rights (UDHR) and Articles 2, 3, 9, 14, 17, 25 and 26 of the International Covenant on Civil and Political Rights (ICCPR), is arbitrary;

WHEREAS, WGAD likewise found that Senator de Lima's deprivation falls within the following categories which it considers in determining when deprivation is arbitrary, to wit: Category I which considers deprivation of liberty as arbitrary "when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty"; Category II which regards deprivation of liberty as arbitrary if it results from the exercise of the rights guaranteed by the UDHR; Category III which looks at deprivation of liberty as arbitrary if it results from the non-observance, whether total or partial, of the international norms

¹ Ferras, V. (16 March 2021). *TIMELINE: De Lima's five-year struggle in prison*. Retrieved 25 May 2022 from

in relation to the right to fair trial established in the UDHR; and Category V which states that deprivation of liberty as arbitrary when the deprivation constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings;

WHEREAS, in the same opinion it rendered, WGAD requested the Government of the Philippines to “take the steps necessary to remedy the situation... without delay bring it into conformity with the relevant international norms”, including those set out in the UDHR and the ICCPR. It added that “taking into account all the circumstances of the case, the appropriate remedy would be to release Ms. De Lima immediately and accord her an enforceable right to compensation and other reparations, in accordance with international law”;

WHEREAS, in succeeding years, various international human rights organizations and several members of parliament around the world have called for Senator de Lima’s immediate release while dubbing her a “prisoner of conscience” and one of the world’s foremost human rights defenders;

WHEREAS, on 17 February 2021, nearly four years after her arrest and continued detention in Camp Crame, Muntinlupa Regional Trial Court Branch 205 dismissed Senator de Lima’s drug case with co-accused Jose Adrian Dera – one of the three drug charges filed against her;

WHEREAS, recent developments have only further strengthened Senator de Lima’s claim to innocence. On 28 April 2022, self-confessed drug-trader Kerwin Espinosa retracted his allegations that connected Senator De Lima in the business of illegal drugs inside the NBP. His retraction and subsequent apology to the Senator was contained in a counter-affidavit submitted before the DOJ. He further stated that those stories were made up for the Senate hearings since he was “coerced, pressured, intimidated, and seriously threatened by the police”;²

WHEREAS, on 2 May 2022, it was reported that another witness had recanted his statements accusing Senator de Lima of being involved in the illegal drug trade in the NBP. In his affidavit, notarized on 30 April 2022, in Pasig, Rafael Ragos, a former officer-in-charge for the Bureau of Corrections (BuCor), alleged that then Justice Secretary

² Torres-Tupas, T. (28 April 2022). *Kerwin Espinosa recants drug trade accusations vs Sen. Leila de Lima*. Retrieved 25 May 2022 from <https://newsinfo.inquirer.net/1589548/kerwin-espinosa-backtracks-drug-trade-accusations-vs->

Vitaliano Aguirre II had “coerced” him into testifying against Senator de Lima. Ragos made accusations against De Lima on various occasions starting in 2016 at the House justice committee hearing on the NBP illegal drug trade and during case hearings at the Muntinlupa Regional Trial Court (RTC) Branch 204;³

WHEREAS, on 14 May 2022, yet another key witness recanted their testimony against Senator de Lima. Ronnie Dayan, a former aide of Senator de Lima, in his new affidavit filed at the Muntinlupa Regional Trial Court Branch 204, said that the late former Oriental Mindoro Rep. Rey Umali, who was then the chair of the House of Representatives Committee on Justice, forced him to say that he received money from self-confessed drug lord Kerwin Espinosa during the 2016 Congressional inquiries into the illegal drug trade in the NBP. He also denied the allegations of prosecution witnesses that he received drug money and delivered it to Senator de Lima, when she was still Justice Secretary;⁴

WHEREAS, on 24 May 2022, then Cavite 7th District Rep., and now current DOJ Secretary Jesus Crispin “Boying” Remulla even said that the retraction of three witnesses on Senator de Lima’s drug cases is “a red flag” and that he would be willing to review her drug cases once he assumes the DOJ top post after accepting then President-elect Ferdinand Marcos Jr’s offer for the position;⁵

WHEREAS, with these series of recantations, it is becoming increasingly apparent that Senator de Lima’s arrest and continued unjust detention was nothing more than a carefully orchestrated ploy to silence an outspoken critic and passionate human rights advocate;

WHEREAS, in spite of the disadvantages brought by her detention, Senator de Lima continues to speak out on major issues and against the injustices and abuses of the Duterte regime. She remains a prolific legislator having authored several hundred bills and resolution in both the 17th and 18th Congresses. Of these, a handful have been enacted into law such as the 4Ps Act (R.A. No. 11310), Magna Carta of the Poor (R.A. No. 11291), National Commission of Senior Citizens Act (R.A. 11350), and the Community-Based Monitoring System Act (R.A. 11315);

³ Reyes, D. (2 May 2022). *Another witness retracts accusations vs De Lima, says he was ‘coerced’*. Retrieved 25 May 2022, from <https://newsinfo.inquirer.net/1590878/another-witness-retracts-accusations-vs-de-lima-says-he-was-coerced#ixzz7Tbrji8Ua>

⁴ Cabalza, D. (14 May 2022). *Dayan: Umali forced me to testify vs De Lima*. Retrieved 25 May 2022, from <https://newsinfo.inquirer.net/1597436/dayan-umali-forced-me-to-testify-vs-de-lima>

⁵ Mendoza, J. E. (24 May 2022). *Cavite Rep. Remulla says recanting of 3 witnesses in De Lima case a ‘red flag’*. Retrieved 25 May 2022 from <https://newsinfo.inquirer.net/1601827/cavite-rep-remulla-says-recanting-of-3->

WHEREAS, during her term as Senator, she has consistently advocated for the protection and promotion of human rights and social justice as well as pushed for key reforms to our social institutions, particularly our criminal justice system;

WHEREAS, throughout her ordeal, Senator de Lima has maintained her innocence and is fueled by her quest for vindication. Without question, her continued detention is one of the grossest injustices ever committed to a sitting Senator;

WHEREAS, the DOJ, under its current leadership, should seriously consider these retractions and immediately withdraw all pending drug charges against Senator de Lima and move for her release from detention thereby redeeming itself to the Filipino people and proving that its institutional integrity remains intact by standing up for truth, justice and the rule of law;

WHEREAS, every day that justice is not served amounts to a mockery of the whole justice system. It is thus incumbent upon the Senate to call on its co-equal branches of the government to be true to their mandates of ensuring that justice is served without passion or prejudice, and always with fairness;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE, to urge the Department of Justice to withdraw immediately the remaining charges against detained Senator Leila M. De Lima in light of the recent recantations given by key witnesses in her drug cases and move for her release from her unjust and arbitrary detention.

Adopted,


RISA HONTIVEROS


AQUILINO "KOKO" PIMENTEL III