Mr. President,

We would like to request that the full text of the statement I will deliver be put on record as part of the proceedings.

Mr. President,

I wish to thank Prof. Alston for acknowledging the full cooperation extended by the Philippine Government to his mission. The number of key officials who received Prof. Alston, from the President to the Chief Justice, is indicative of the importance the Philippines attached to the visit.

Having said this, I have to express my government’s deep disappointment over the outcome of the visit. My government also regrets that the final report did not reflect or take into account the comments to the draft report it had submitted to the Special Rapporteur.

The Philippines finds that the report and the recommendations of Professor Alston are inaccurate, highly selective, and biased. The report neither provides a complete picture nor a fair assessment of the situation in the Philippines. Nevertheless, the Philippines remains committed to its state responsibility to resolve verifiable and legitimate cases of extrajudicial killings whoever may be
the perpetrators, whether members of rebel groups or members of the military and police. In this regard, the newly appointed Chief of Staff of the Armed Forces of the Philippines has reiterated the government’s firm resolve to investigate and prosecute human rights violations committed by men in uniform. In fact, the Philippines, on its own initiative, has taken and will continue to take resolute and concrete steps to address allegations of extrajudicial killings, including in the investigation and prosecution of legitimate cases with due regard to the rights of the accused to due process under the rule of law. Where judicial and police capabilities require strengthening, we have asked and have received assistance from partner countries.

After careful and thorough investigation, the Philippine government concludes that the allegations of extrajudicial killings have been exaggerated for political purposes. To illustrate, I wish to note that of the 836 alleged cases listed by the group Karapatan as of May 2007, only 121 or 14% were found to be probable extrajudicial killings. Of these cases, 28 killings were attributed to the communist rebels and only 13 to military or paramilitary elements. Charges have been filed in court in 86 cases, of which 46 are now on trial and four have resulted in convictions.

Of the other 714 cases, 46 cases or 6% are undergoing further verification. The bulk of the cases, numbering 669 or 80%, were either misreported or nonexistent cases. These include: 6 cases where the alleged victims were actually found to be alive; 25 cases of non-existent persons; 23 cases of convicted members of the terrorist Abu Sayyaf Group, who died in a violent jailbreak attempt; and, 86 cases of armed members of rebel groups killed in legitimate military encounters with government forces. The great majority of cases were killings related to common crimes involving illegal drugs, illegal gambling, robbery with homicide, personal grudges, tribal wars and for various other reasons including one killed by a deranged uncle and two suicides.

We have carefully studied Prof. Alston’s report. The extensive End Notes in Appendix C have convinced us that Prof. Alston was not impartial in the conduct of his mission and the implementation of his mandate. Specifically, Prof. Alston was unduly selective, readily accepting information from specific leftist groups while easily dismissing information provided not only by government agencies but also from other human rights defenders and government critics who do not fall under the persuasion of his favored group – the Communist Party of the Philippines/ New People’s Army/ National Democratic Front (CPP/NPA/NDF).

Incidentally, Prof. Alston has criticized government officials for calling his favored group “Communist Terrorist Movement” and for “legitimizing a turn from negotiations to counter-insurgency”. We wish to remind Prof. Alston that his favored group is in the terrorist list of both the European Union and the United
States. In fact, his favored group was the one that broke off peace negotiations; but, we would also like to ask Prof. Alston: Is counter-insurgency illegitimate under international law?

Prof. Alston’s partiality, selectivity and double standard are fully demonstrated in End Note no. 46 of Prof. Alston’s report. This concerns two leftist government critics – Prof. Walden Bello and Ms. Etta Rosales, whose freedom of expression and right to life were threatened, not by pro-government groups, but by Prof. Alston’s favored group. Mr. Bello and Ms. Rosales are leaders of the party-list group Akbayan and described by Prof. Alston as “non-CPP leftists”.

End Note no. 46 shows Prof. Alston’s wavering and soft pedaling on key human rights of “human rights defenders” to protect the credibility of his favored group. If the case was mentioned in the report, it was because it was too glaring to ignore. However, it was presented in such a way as to absolve his favored group of any culpability. To quote from Prof. Alston’s report: “In this context, it was hardly unreasonable for Bello and Rosales to wonder whether they might be subjected to the ‘revolutionary justice’ of a ‘people’s court.’ However, when I asked Sison whether there were such criminal complaints, he stated that he had no information that there were such complaints, and members of the NDF Negotiating Panel stated categorically that there were not.” We ask Prof. Alston: Is the threat merely a figment of the imagination of Mr. Bello and Ms. Rosales?

As indicated in his report, Prof. Alston is familiar with “CPP/NPA/NDF’s publications online”. In one of these online publications of the NDF, in an article written by Prof. Jose Maria Sison titled “Reyes is criminally Culpable for Kampanyang Ahos”, it was stated that “criminal liabilities” arise from the following circumstances:

“1. Akbayan has collaborated with the Philippine Army (PA) and the Philippine National Police (PNP) not only for psywar operations and in the commission of electoral fraud and terrorism against the six progressive parties in the party list but also in deploying Akbayan officers and members as informers in murderous operations against the revolutionary forces and people in Batangas, Bondoc Peninsula, Mindoro provinces, Agusan, Davao provinces and Bukidnon.

“2. Akbayan has organized local armed gangs acting as the barangay intelligence network (BIN) and paramilitary units of the armed forces of the Government of the Republic of the Philippines (GRP). For instance, Pedro (otherwise Dioscoro) Tejino, who is being misrepresented in the press by Etta Rosales as an innocent poor farmer, ‘hounded’ by the NPA and ‘hiding’ in Manila for more than one year, is actually the gang leader of the BIN in Bondoc Peninsula. Twenty nine peasants of San Narciso,
Quezon denounced him as a military agent on March 2, 2004, responsible for terrorizing and destroying the local peasant association.”

Mr. Bello and Ms. Rosales are the leaders of Akbayan.

We find it convenient for Prof. Alston not to provide details of the case mentioned in End Note no. 46 while being profuse elsewhere in describing the activities of his favored group. For this reason, we are attaching to this statement information taken from the website of leftist groups so that End Note no. 46 can be understood in the light of fuller information. Considering Prof. Alston’s aversion for information coming from the government, we have taken care to provide information coming from leftist groups that are readily accessible in the Internet.

Prof. Alston may wish to clarify his position with respect to End Note no. 46 and the specific threat to the right to life and freedom of expression of Mr. Bello and Ms. Rosales, described by the World Social Forum in 2005 in Puerto Alegro, Brazil, as “credible threat of assassination”.

Additionally, we would like to ask Prof. Alston if he has investigated the cases of extrajudicial killings mentioned in the open letter of Mr. Bello – in particular, Mr. Popoy Lagman, Mr. Romulo Kintanar, Mr. Arturo Tabara, Mr. Nonong Boy Ocmen and another unnamed local leader? These are high profile cases of extrajudicial killings of former high level officials of leftist groups that broke away from Prof. Alston’s favored group. These cases do not appear in the list of Karapatan. We would like to ask Prof. Alston: why? We would also like to ask Prof. Alston: Is the recent extrajudicial killing of three high-level rebel leaders and countless of their followers not indicative of a purge? These killings did not happen 20 years ago, but happened very recently in 2001 and continuing.

In fact, End Note no. 46 is a contradiction of Prof. Alston’s assertion in his main report: “Indeed, I met no one involved in leftist politics – whether aligned with the CPP, opposed to the CPP, or following an independent course  who believed that such a purge was currently taking place.” It this is true, then what was the complaint of Mr. Bello in End Note no. 46? In this regard, we are also attaching to this statement an article titled “The CPP-NPA-NDF Hit List – a preliminary report” by Mr. Pierre Rousset of Europe Solidaire Sans Frontier and a statement titled “Appeal to Defend Threatened Filipino Activists” by the World Social Forum, 2005. Prof. Alston may wish to explain the contradiction.

In connection with End Note no. 46, we would like to ask Prof. Alston a related question. In his main report, Prof. Alston stated: “Failure to respect due process norms constitutes a violation of IH for the NPA/CPP/NDF and may constitute a war crime for participating cadres.” In this regard, how come only “participating cadres” are liable? Is “the principle of command responsibility, as it is
understood in international law” not applicable? Or is it that Prof. Alston has already made a determination that the leaders of the CPP/NPA/NDF have no responsibility or culpability for the acts committed by “participating cadres”?

As mentioned earlier, Alston readily accepted information from supporters of rebel groups while casually dismissing information provided by the government. To illustrate, I would like to cite paragraph 30 of the main report where the Prof. Alston complained of lack of documentation with respect to the list of extrajudicial killings perpetrated by the New People’s Army (NPA). I quote Prof. Alston’s comment: “While I have no reason to doubt that the list represents a good faith accounting, without further documentation it is impossible to confirm its reliability or to evaluate which killings violated the humanitarian law of conflict.”

However, when the government agencies do provide documentation, the Special Rapporteur changes tack. I wish to quote from End Note No. 15: “After my visit, Task Force Usig also forwarded me a large quantity of documentation to substantiate the argument that a number of individuals listed by civil society organizations died in legitimate encounters between the NPA and the AFP or PNP. I ultimately concluded that a comprehensive, case-by-case analysis of the excluded cases could not usefully be undertaken by someone in my position.” This is truly unfortunate because among the excluded cases that Prof. Alston refused to consider were 23 convicted members of the dreaded Abu Sayyaf Group, a notorious group that is in the UN Security Council terrorist list, the US terrorist list and the European Union terrorist list. They were killed in a violent jailbreak attempt. We ask Prof. Alston: Is it not part of his mandate to verify cases?

While Prof. Alston had no time to waste on documentations that would disprove the allegations, he had plenty of energy to go over documentations to support the allegations. In paragraph 3 of the main report, Prof. Alston boasts: “In addition to meetings with many civil society representatives from across the political spectrum, I conducted in-depth interviews with witnesses to 57 incidents involving 96 extrajudicial executions. I also received dossiers regarding 271 extrajudicial executions.”

The sad part is that, finding no time for documentation provided by a government agency, Prof. Alston shifts the fault and I quote from End Note No. 15: “I continue to believe, however, that there is a need for greater transparency with respect to this aspect of Task Force Usig’s work if its efforts are to be fully accepted by all concerned.”

Prof. Alston, however, is not particular about transparency when it comes to groups submitting false reports. I quote from End Note No. 1, paragraph 5: “Fourth, did the fact that a few of the persons who had been listed by one civil
society organization as victims of extrajudicial executions were actually alive indicate that the allegations were fabricated? Obviously, such mistakes do not enhance an organization’s credibility.” If this is his belief, then he should have been more careful in examining cases reported by groups whose credibility are not impeccable. In fact, six persons reported as victims of extrajudicial killings turned out to be alive. Prof. Alston explained it as follows: “Under these circumstances, the misreporting of what appear to have been (happily, temporary) disappearances as extrajudicial executions does very little to discredit the vast number of remaining allegations.”

Prof. Alston tried to belittle the significance of these misreported cases; but if Prof. Alston was more judicious in his investigation, he would have found in the records of this august body that misreporting of cases by so-called civil society groups from the Philippines approaches epidemic proportions. A case in point is the records of the Working Group on Enforced or Involuntary Disappearances. With respect to 153 clarified cases from the Philippines, in 105 or 69% of the cases, the alleged victims were actually at liberty; in 19 or 12 % of the cases, the alleged victims were actually in detention; and, in only 29 or 19 % of the cases, the alleged victims turned out dead. Strictly speaking, in 124 or 81 % of the cases, the alleged victims did not actually disappear.

Going back to “the vast number of remaining cases”, Prof. Alston was referring to the 885 alleged cases reported by the group Karapatan. I quote from paragraph 11 of the main report: “The most widely cited list is that of Karapatan, which contains 885 names. Task Force Detainees of the Philippines has compiled a shorter list, but the different numbers indicate differences in geographical coverage of their activist networks more often than disagreement about particular cases.” Prof. Alston dismissed the difference as if it were insignificant. The difference, in fact, was huge and could not be conveniently attributed to geographical coverage of activist networks. The huge discrepancies may gleaned from End Note No. 14, which reads: “According to a Government analysis of the various lists of ‘alleged political killings’ that was current as of 20 December 2006, while Karapatan’s list contained 725 names and TFD-P’s list contained 89 names, only 46 names appeared on both lists.” The huge discrepancy between 725 and 89 was the difference needed to sensationalize the problem.

To conclude, and for reasons stated in the foregoing, I wish to reiterate that my government’s has a number of serious concerns on Prof. Alston’s report and recommendations.

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