

**Mandate of the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur  
on the situation of human rights defenders**

REFERENCE: UA  
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights of indigenous peoples and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolution 24/9 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged extrajudicial killings on 1 September 2015 of three human rights defenders in Liango, Surigao del Sur, including the director of ALCADDEV, an alternative learning school for indigenous peoples, an indigenous leader and the chairperson of MAPASU, an indigenous organization in defense of human rights violations of indigenous Lumad people; and on 18 August 2015, the extrajudicial killings of five indigenous persons from the Manobo tribe in Bukidnon in Northern Mindanao, including a political and spiritual adviser (known as datu)**

According to the information received:

On 1 September 2015, three extra-judicial killings of human rights defenders were allegedly carried out by members of the Philippine Army's 36th Infantry Battalion and Special Forces with members of the Magahat-Bagani Force. The victims included Mr. Emerito Samarca, the Executive Director of the Alternative Learning Center for Agriculture and Livelihood Development (ALCADEV); Mr. Dionel Campos, a member of the Manobo tribe and the chairperson of the Malahutayong Pakigbisog Alang sa Sumusunod (MAPASU); and Mr. Bello Sinzo, a Manobo tribal chieftain. MAPASU is an indigenous peoples (Lumad) organization leading the protests against human rights violations, mining operations, land conversions and plantations.

ALCADEV was established in July 19, 2004 as an alternative learning system especially designed to provide secondary education to indigent indigenous youth — Manobo, Higaonon, Banwaon, Talaandig and Mamanwa — who live in the mountains of Surigao del Norte and Sur, Agusan del Norte and Sur and was born out of the joint efforts of indigenous peoples organizations in CARAGA region. The ALCADDEV schools, along with other community learning centers established by the indigenous communities, have allegedly come under attack and been occupied by Government and paramilitary forces who threaten and harass students, teachers and parents.

On 30 August 2015, at the end of ALCADDEV's two-day event in celebration of its foundation in Sitio Han-ayan, Brgy. Diatagon, Lianga, Surigao del Sur, members of the Philippine Army's 36th Infantry Battalion and Special Forces together with members of the Magahat-Bagani Force occupied the school's function hall and school grounds. They ordered the members of the community to evacuate within two days or else they would be massacred. On 31 August 2015, members of the paramilitary forces Magahat-Bagani burned MAPASU's cooperative store, and indiscriminately fired around the area. As some of the residents, school teachers, staff and guests were preparing their evacuation to Km. 16, Emerito Samarca was taken by members of the paramilitary Magahat-Bagani on 31 August. He was found dead the following day in one of the classrooms of ALCADDEV, with both hands and feet tied, his throat slit and with stab wounds in the stomach.

On the early morning of 1 September 2015, around 4 a.m., residents of Km. 16, Han-ayan, Barangay Diatagon, Lianga, Surigao del Sur were roused from their sleep by members of the paramilitary Magahat-Bagani who forced them out of their houses and gathered them before the community. The alleged paramilitary forces then proceeded to open fire on the residents of the Manobo indigenous community peoples, resulting in the deaths of Dionel Campos and Bello Sinzo.

Following the killings, residents of Barangay Diatagon, Lianga, Surigao del Sur, evacuated to the City Sports Center of Tandag City, Surigao del Sur and are said to be residing in the stairs of the sports auditorium while more evacuees, who have undergone similar experiences, are coming from other places including Marihatag. Immediately following the killings in Surigao del Sur, the forced occupation by alleged paramilitary troops of the Alcadev premises has led to the relocation of 2,000 residents from Diatagon to Tandag City.

Governor Johnny Pimentel, the Governor of the province of Surigao del Sur who received the evacuees, allegedly called on the Army to disband and disarm the Bagani militia. In light of large press coverage and social media releases on this issue, Colonel Isidro Purisima, commander of the Army 402nd Brigade,

condemned the Diatagon killings and called on "the *Bagani* forces to surrender as well as any other armed groups in the area, which includes the New People's Army." Reports, however, show that the members of the Philippine Army were present during the killings in Diatagon.

In addition on 18 August 2015, several indigenous persons from the Manobo tribe, a datu (70 years old), the datu's son (20 years old), the datu's grandson (13 years old), and the datu's nephews (17 and 19 years old) were shot dead. A datu is a respected individual in the community who provides political and spiritual advice. The datu was the second highest ranking datu and a member of the tribal elders who influence in the community's decision-making processes and are consulted for the community's major decisions. The five persons with another relative were in the datu's house in sitio Mandum, Barangay Mendis, Pangantucan, Bukidnon, when they heard an exchange of gun fire in the direction of a nearby mountain about four kilometers away. The gunfire started around 3 p.m. At about 5 p.m., they heard shouting from outside the house ordering them to get down from the hut and referring to them as members of the New Peoples' Army (NPA). They saw the Government troops surrounding the house. Except for the datu who was blind, the other four went out of the house and down the ladder to the ground.

The troops ordered the datu to follow and despite pleas about the datu's visual impairment, they ordered him to leave the house. Following his descent down the ladder to the ground, the datu kept walking until the soldiers shot him. Subsequently, the 19 year old nephew was also shot. One of the civilians was able to run away. The following day, villagers went to the place of the incident and found the soldiers in and around the datu's house, as well as the scattered dead bodies of the datu, his son, grandson and two nephews. According to the villagers, the datu's intestines were exposed, the grandson's ear was removed and jaw broken, and the 17 year old nephew's left hand had been cut off from his wrist and his face disfigured. The villagers were directed to list their names and have their pictures taken before they gathered the bodies and while doing so, they were ordered not to look at the faces of the soldiers.

Following the extra-judicial killings, the indigenous community was instructed to seek the permission of the military on a daily basis to access their remote farms located in the mountains, far from their usual residence. The members of the community would sometimes remain in the farms for long periods of time, sometimes up to one week during tilling times. Mandum, located in the higher and more remote areas of the ancestral domain, is important to the Manobo community as many of their farms are located there, and require specific rituals to be held in the area throughout the year. The mountain is also the burial site for many of the community's ancestors, adding to the sacredness and value of the

area which is now sealed off to them. It appears that the soldiers were members of the 3rd Special Forces Company of the 1st SF Battalion under [REDACTED], and within the 403rd Infantry Brigade under the command of [REDACTED]. The survivor from the incident has been deeply traumatized and was not able to speak at the time this information was collected.

Reports indicate that [REDACTED] has referred to the incident as an encounter between his troops and the NPA, and that the five people who were killed were members of the NPA.

While we do not wish to prejudge the accuracy of these allegations, the information described above raises serious concerns over the human rights situation of indigenous peoples in Northern Mindanao and Surigao del Sur in Mindanao, including for the safety and well-being of the members of the indigenous communities. Control over access to their lands also hinders their ability to live their traditional lives according to their customs and constitutes a violation of their rights to their ancestral lands and resources.

We wish to draw the attention of your Excellency's Government to its obligations under the International Covenant on Civil and Political Rights (ICCPR) to respect and ensure the rights of individuals (article 2.1), especially the right to life and against any arbitrary deprivation of life (article 6.1), the right to liberty and security of persons (article 9), the right against torture or any inhumane or degrading treatment (article 7) and the right to effective remedy notwithstanding that the violation has been committed by persons in their official capacity (article 2.3.a).

In addition, we would like to draw the attention of your Excellency's Government to article 1 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) which provides for the rights of indigenous peoples as individuals and as a collective to their human rights as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law. Moreover, article 19 of the Convention on the Rights of the Child (CRC) indicates that all appropriate educational measures shall be undertaken to protect children from all forms of violence. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, ratified by the Philippines on 23 August 2003, condemns the targeting of children as well as the direct attack on places that generally have a significant presence of children, such as schools. In addition, we would like to reiterate the CERD Concluding Observations on the Philippines from 2009, which urged Your Excellency's Government to work on restoring peace in regions affected by armed conflicts and the protection of vulnerable groups, in particular indigenous peoples and children and to ensure independent and impartial investigations into all allegations of

human rights violations.<sup>1</sup> Finally, we refer to the former Rapporteur on the Rights of Indigenous Peoples, Rodolfo Stavenhagen's report<sup>2</sup> on the Philippines, recommending among others the protection of indigenous peoples' rights during military operations, in accordance with international humanitarian standards.

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 and 12, paragraphs 2 and 3.

We would also like to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the surviving family members of the above-mentioned persons as well as representatives from the indigenous communities and the organizations which they represent, including Alcadev and MAPASU, in compliance with international instruments.

As it is our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Did the Government organize inquiries or fact-finding missions to investigate these reported cases? Please provide the details, and where available the results, of any investigation and/or judicial or other inquiries which may have been carried out in relation to these events. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. With regard to the acts referred to in the present appeal, please indicate what if any measures have been taken to bring to justice the alleged

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<sup>1</sup> (CERD/C/PHL/CO/20)

<sup>2</sup> E/CN.4/2003/90/Add.3, 5 March 2003.

perpetrators and to provide adequate remedy to the victims and their families in compliance with their indigenous traditions.

4. Please provide information about paramilitary groups allegedly committing violence with impunity against indigenous peoples. Please explain their relationship to the Philippine Army and their command structure. What measures are in place to deal with accusations of acts of impunity committed by such groups?
5. Please provide information about any plans, if any, to protect indigenous peoples from these areas from further violence, threats to their lives and destruction to their properties, and to support and protect alternative learning schools targeted to indigenous peoples. Please provide information on how the needs of those who are internally displaced are being addressed by the Government and what the plans are in terms of ensuring a safe return and peace and security in their ancestral homelands.
6. Please explain what measures have been taken to ensure that all human rights defenders in the Philippines, in particular those working to defend the rights of indigenous peoples, can carry out their peaceful and legitimate activities without fear of violence or other reprisals.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We are intending to publicly express our concerns in the near future as we are of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the rights of indigenous peoples

Michel Forst  
Special Rapporteur on the situation of human rights defenders