

Mandates of the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on the human rights of internally displaced persons

REFERENCE:
UA PHL 16/2017

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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 human rights of internally displaced persons, pursuant to Human Rights Council resolutions 33/12 and 32/11 respectively.

In this connection, we would like to bring to the attention of your Excellency's Government allegations concerning **the reported killings of indigenous Lumad farmers in the province of South Cotabato, Mindanao, and the impact of military operations conducted in October, November and December 2017 on the human rights situation of indigenous Lumad peoples in Mindanao, including allegations on the displacement of approximately 2,500 indigenous families in the provinces of Sarangani, Surigao del Sur, Agusan del Sur, Maguindanao and North Cotabato, and the lack of humanitarian support to the displaced communities.**

According to the information received:

The ongoing military operations against the New People's Army (NPA) and other armed groups in Mindanao has forced thousands of people to leave their homes. The intensified militarization in Mindanao allegedly increases the threats to the safety and well-being of indigenous Lumad peoples, who are exposed to bombings and attacks in and around their communities. Of great concern are the reports of Lumads being killed by members of the armed forces. As per information received, members of the 27th and 33rd Infantry Battalions of the Philippine Army (IBPA) and the Philippine Marines opened fire against ten T'Boli and Dulangan Manobo farmers on 3 December 2017. This incident is said to have taken place in Sitio Datalbong, Barangay Ned, Lake Sebu, in the province of South Cotabato. According to the allegations, the military attack killed 8 of the Lumad farmers and injured the other 2¹.

The intensified militarization of Mindanao also seems to have aggravated conflict-induced displacement in the region. According to the information

¹ The names of the Lumad killed are Victor Danyan, Victor Danyan Jr., Artemio Danyan, Pato Celardo, Samuel Angkoy, To Diamante, Bobot Lagase, and Matend Bantal. The two Lumad injured are named Luben Laod and Tetend Laod.

received, more than 2,500 people were forcibly displaced in October, November and December 2017. The indigenous identity of most of the displaced persons raises concerns over the disruption of their livelihoods and education, as well as to the fulfillment of their humanitarian needs.

Reportedly, the military conflict displaced more than 1,000 persons in October 2017. This estimate comprises the displacement of 35 families (estimated 175 individuals) from the village of Barangay Alonganen, Datu Piang municipality, in the Province of Maguindanao, on 14 October 2017; the pre-emptive evacuation of 216 families (estimated 1,080 individuals) from the municipality of Pikit in the province of North Cotabato, on 16 October; and the unaccounted civilians who were forced to abandon their homes in Barangay Meta, Datu Unsay, on 19 October 2017.

This situation seems to have been aggravated on 26 November 2017, when military operations conducted by the 75th IBPA displaced 274 to 345 Manobo families (comprising 1,020 to 1,628 individuals) in Barangay Diatagon, Lianga and Barangay Buhisan, San Agustin, in the province of Surigao Del Sur. There are reports that these military operations disrupted the access of indigenous peoples to their farms, their food-gathering activities and their access to education. Accordingly, accounts suggest that 657 students and 60 para-teachers from 8 indigenous communities' schools were affected by these attacks.

Furthermore, concerns were raised over the alleged lack of sufficient humanitarian assistance to the Lumad persons forced to leave their homes. As per information received, only the local government of Barangay Diatagon, Lianga, is allowed to deliver relief goods to those in need of humanitarian assistance. Civil society organizations have expressed concern regarding the amount of assistance being delivered; they have reported that, as of 29 November 2017, the food items delivered to the 274 displaced families would amount to five sacks of rice and five boxes of noodles, which would not cover the daily needs of over 1,020 persons.

Concerns have also been raised alleging the hampering of NGOs attempts to assist with the provision of humanitarian supplies, and that military troops managing checkpoints restrict their access to the displaced persons.

Reportedly, military operations conducted by the 73rd IBPA further displaced *circa* 210 Blaan families on 1 December 2017 in the villages of Lilab, Basyawan, Balataan, Banlas, Nabol and Makol, in the Province of Sarangani. Accounts suggest that an additional 21 Banwaon families (approximately 139 individuals) were displaced on 4 December 2017 due to counter-insurgency activities conducted by the 25th IBPA in San Pedro, Binicalan, and Mahagsay in San Luis

town, in the province of Agusan del Sur. Allegedly, on the same day, members of the 26th IBPA denied the delivery of relief goods to the evacuees temporarily allocated in the San Luis Municipal Hall. Further concerns were raised over the interruption of classes and the education of indigenous youth.

Reports suggest that, in many instances, members of armed forces seemed to have perpetrated attacks and harassments against indigenous communities due to their resistance to mining projects on their ancestral lands. For instance, there are accounts suggesting that, prior to their displacement, on 4 December 2017, the Banwaon families in San Luis, Agusan del Sur, were threatened and harassed by soldiers due to their resistance to the establishment of mining operations. Similarly, the indigenous communities displaced in Surigao Del Sur in November 2017 have also been objecting to mining activities in the territory.

While we do not wish to prejudge the accuracy of these allegations, the information described above raises serious concerns over the safety and well-being of the members of indigenous communities, as well as their rights to their ancestral lands and resources and their ability to live their traditional lives according to their customs. We are particularly concerned about what seems to be a pattern of violations of the human rights of indigenous peoples in Mindanao, despite repeated efforts to bring these violations to the attention of the Government of the Philippines.

The human rights situation of indigenous peoples in Mindanao has been a long-standing concern for our mandates and was addressed by our predecessors in previous reports and communications.

The need to protect indigenous peoples' rights during military operations, in accordance with international humanitarian standards, was emphasized in the report following the country visit to Philippines made by the former Special Rapporteur on the rights of indigenous peoples, Rodolfo Stavenhagen, in 2002². This concern was further expressed in the communications dated 9 June 2008 (PHL 8/2008) and 8 July 2013 (PHL 1/2013), which addressed, respectively, the human rights situation of Lumad communities in Mindanao in view of military operations conducted in 2007, and the allegations of harassment and displacement of B'laan indigenous communities in Davao del Sur by members of the Philippine Army.

Allegations concerning the human rights situation of indigenous peoples in Mindanao were also addressed in communications dated 15 September 2015 (PHL 5/2015) and 21 September 2015 (PHL 4/2015), which brought to the attention of your Excellency's government allegations concerning extrajudicial killings of indigenous leaders and the closure and disruption of classes in community schools serving

² E/CN.4/2003/90/Add.3.

indigenous children in the context of the armed conflict. The issue was further addressed in the statement of 22 September 2015, in which the Philippines authorities were urged to “ensure the safe return of the indigenous peoples displaced by the violent events, the redress to the victim’s families in compliance with their indigenous traditions and the demilitarization and restoration of peace in regions affected by armed conflict”.³

The concerns were again brought to the attention of your Excellency’s Government in a communication dated 27 July 2017 (PHL 8/2017), reporting, *inter alia*, alleged threats and killings of Lumad indigenous leaders in Mindanao due to their opposition to mining activities and defense of their land and territories.

In this regard, we are thankful for your Excellency’s government’s responses to the communications PHL 8/2008, PHL 4/2015 and PHL 8/2017⁴, and we regret not having received any replies to the communications PHL 1/2013 and PHL 5/2015.

Following a mission to the Philippines in July 2015, the former Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, observed that “armed conflict and extractive and logging activities on indigenous ancestral territories have a devastating impact on indigenous peoples (Lumads), displacing them and subjecting them to gross violation of their rights and to conditions that threaten their unique communities, cultures and lifestyles”⁵. The Special Rapporteur noted that the Lumads have been disproportionately affected by the long-standing conflict between the Government and the New People’s Army, often accused by the armed forces of being members or supporters of the NPA⁶. At this time, the Special Rapporteur recommended the full implementation of the Indigenous Peoples’ Rights Act and the protection and respect of indigenous peoples’ cultures and way of life⁷.

The situation was also addressed by the Committee on the Elimination on Racial Discrimination (CERD), whose 2009 Concluding Observations 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 to ensure impartial investigations into all allegations of human rights violations (CERD/C/PHL/CO/20).

We would like to draw the attention of your Excellency’s Government to its obligations under binding international human rights instruments. The Philippines are party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the International

³ Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16481>.

⁴ Addressed by your Excellency’s government in communications dated 3 July 2008, 7 January 2016, 2 August 2017 and 13 September 2017.

⁵ A/HRC732/35/Add.3, p. 1.

⁶ A/HRC732/35/Add.3, p. 15.

⁷ A/HRC732/35/Add.3, p. 22.

Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the Convention on the Rights of the Child (CRC).

Furthermore, we would like to draw the attention of your Excellency's Government to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which provides in article 7 the individual right to "life, physical and mental integrity, liberty and security of person" and also includes collective rights of indigenous peoples to "live in freedom, peace and security as distinct peoples and... not be subjected to any act of genocide or any other act of violence".

Article 30 of UNDRIP sets out that "Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned." It further provides that: "States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities." Article 10 affirms that indigenous peoples "shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return."

We would also like to refer your Excellency's Government to the 1998 Guiding Principles on Internal Displacement, which establishes that every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence, including in situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand (Principle 6 (b)). We would like to particularly draw your attention to Principle 9, which states that "States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands." Principle 18.2 and 24-27 moreover identifies rights and guarantees relevant to the protection and assistance of IDPs during displacement as provided by international humanitarian law, such as the right to basic humanitarian assistance eg. food, medicine, shelter. Internally displaced persons moreover have the right to assistance from competent authorities in voluntary, dignified and safe return, settlement elsewhere or local integration, including help in recovering lost property and possessions. When restitution is not possible, the Guiding Principles call for compensation or just reparation (Principles 28-30).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matters in the instant cases, we would appreciate a response on the initial steps taken by your Excellency's Government on the killings of the

eight indigenous farmers and the wounding of two, to safeguard the rights of their families and their communities from any further attacks. Equally urgent is the situation of the evacuees. We would like to request for any information on actions taken or plans made to prevent any act that impede timely and adequate humanitarian assistance to the victims.

As it is our responsibility, under the mandates 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. Please provide information on what humanitarian assistance has been provided to the members of the indigenous Lumad communities who have allegedly been forcibly displaced due to the military operations conducted in October, November and December 2017.
3. Please explain the measures that are being taken to ensure that military personnel do not engage in violations of the human rights of indigenous peoples.
4. Please provide information on whether any investigations have been undertaken in relation to the alleged actions of members of the armed forces who were involved in the shooting and killing of the Lumad farmers on 3 December 2017, and the result if any of those investigations. If no investigations have been made, please explain why.

While awaiting a reply, we urge that all necessary interim measures be taken to ensure the safety of indigenous Lumad peoples in Mindanao from any further killings or bodily harm, and to ensure that the evacuees from Sarangani, Surigao del Sur and Agusan del Sur receive adequate help, including the lifting of any restriction on the delivery of relief goods to the evacuees including by non-government organizations.

We reserve the option to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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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