

Mandates of the Special Rapporteur on the rights of Indigenous Peoples; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and the Special Rapporteur on the human rights of internally displaced persons

Ref.: AL PHL 3/2022

(Please use this reference in your reply)

18 October 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of Indigenous Peoples; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and Special Rapporteur on the human rights of internally displaced persons, pursuant to Human Rights Council resolutions 51/L.31, 50/17, 43/14 and 50/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged unlawful occupation of the Moanobo-Pulangiyan tribe's ancestral land by Kiantig Development Corporation (KDC) and alleged violence and persecution of Manobo-Pulangiyan tribe and support groups members while taking part in a peaceful protest to reclaim their legally recognized land in Kiantig, Butong, Quezon, Bukidnon.**

According to the information received:

In 1986, Cesar Fortich Inc, a pineapple-growing agri-business, obtained a 25-year Forest Land Graze Management Agreement (FLGMA) from the Department of Environment and Natural Resources (DENR) without the free prior and informed consent of the indigenous peoples. On 5 June 1998, based on the FLGMA No. 122, the DENR and the National Commission on Indigenous Peoples (NCIP) issued a Certificate of Ancestral Domain Claim (CADC) No. R10-CADC-135. Based on the Philippine Constitution and other relevant laws, the CADC recognized the claim of the Moanobo-Pulangiyan tribe to over 958 hectares of land in Kiantig portions of Butong and San Jose, Quezon, Bukidnon.

The CADC-No. R10-CADC-135, under Section III - Other Special Conditions (B), states that an extra area of 1653 hectares shall be incorporated into the CADC area upon expiration of the existing DENR contracts, licenses, or permits within the additional area unless such contracts, licenses, or permits are revoked or cancelled prior. Such incorporation shall take place without the need for further application or processing. Subsection (D) of the same certificate states under DENR Administrative Order No. 93-02 and the Indigenous Peoples' Rights Act that contracts, licenses, or permits issued over the CADC area shall not be renewed without the free, prior and informed consent of the recipients.

In 2007, Cesar Fortich Inc. changed its name to Kiantig Development Corporation (KDC) and appointed the current Mayor of Quezon Bukidnon, as its general manager.

On 31 December 2018, the lease agreement of the agri-business corporation KDC in FLGMA No. 122 expired. On 31 January 2019, the Office of the Provincial Government and Natural Resources notified KDC that the permit of the parcel of land previously covered under FLGMA No. 122 covering 958 hectares had already expired. On 1 February 2019, NCIP served a notice for KDC to immediately vacate the parcels of land formerly covered by FLGMA No. 122 and LOT 8966, CAD-895-DCSD-140-023647.

From 20 and 31 May 2019, engineers from the NCIP installed ten Ancestral Domain Boundary Monuments (ADBMs) in Kiantig, Butong, Quezon, Bukidnon. On 18 July 2019, a KDC backhoe scrapped and removed two of the ADBMs identified as Malaigang 3 and Makatambad Lake. Five armed KDC blue guards accompanied the backhoe operator.

KDC has been notified of their loss of the right to continue occupying the portion of the domain, however, it has yet to vacate the land.

On 18 April 2022, in Quezon, Bukidnon, the Chairperson of the National Commission on Indigenous Peoples (NCIP) and Bishop Antonio Ledesma visited the tribe Manobo-Pulangiyan to conduct a dialogue on land repossession between the tribe and KDC. The meeting was held in the presence of the Mayor of Quezon Bukidnon and general manager and co-owner of KDC, and representatives from NCIP Bukidnon, the National Economic and Development Authority (NEDA), the Department of Interior and Local Government (DILG), and the Department of Environment and Natural Resources (DENR).

During said dialogue, the NCIP Chairperson allegedly recognized the tribe's right to enter the occupied area. Tribal members interpreted NCIP Chairperson's declaration as an official authorization to enter the site. During the meeting, representatives of the tribe shared with the authorities their plan of repossession of their land, asking for the participation of the Mayor of Quezon Bukidnon to avoid any conflict. The Mayor reportedly didn't reply to the invitation. Upon request of the NCIP, tribe representatives shared the activities they would conduct if they successfully reclaimed their land, including setting up houses since they are currently staying in their shanties beside the road due to forced evictions from their ancestral land.

In the afternoon of 18 April 2022, the tribe gathered in front of the KDC gate. They reportedly planned to enter but were hesitant as they saw armed security guards. Some KDC employees were allegedly holding wooden batons, and a container, which the tribe members believed contained chemicals, and was placed near the gate. One of the guards used a sprayer to spray the container's contents in different directions. Though the tribe members were not directly targeted, they later felt their eyes sting.

In the evening on the same day, the Bishop went to Kiantig, Butong, Quezon, Bukidnon to peacefully negotiate with the KDC security guards for the

repossession activity of the Manobo-Pulangiyon tribe in the area. However, the KDC reportedly did not allow him into the property to negotiate.

In the morning of 19 April 2022, members of the Manobo-Pulangiyon tribe gathered in Kiantig, Butong, Quezon, Bukidnon for the repossession of their ancestral land occupied by KDC. The tribe invited the Commission on Human Rights (CHR), the NCIP, the Armed Forces of the Philippines (AFP), and the Philippine National Police (PNP) to take part in the activity to assure the peacefulness of the march. No representatives from both the CHR and NCIP attended the meeting. Members of the 4th Infantry Battalion of the AFP and the PNP came and stayed near the KDC gate. Before the start of the march, the PNP vehicle was seen leaving the area.

Approximately 500 members of the tribe, including older persons, children, and women, peacefully marched from the highway toward the unplanted area to reclaim their land. The person heading the march was holding a white flag to be placed in the area. Also, they carried on carpentry tools to build shanties along with bamboo poles and tarpaulin.

A participant in the march recorded on video the presence of three men in civilian clothes holding a sack that is believed to have contained firearms. There were also uniformed KDC security guards armed with shotguns. The tribe members and the support groups thought the guards had come to negotiate with them. At least five people suffered gunshot wounds during the shooting perpetrated by KDC guards. Charita Del Socorro and Rebecca Labahan were brought to Quezon Hospital, Hernanie Didilusan J. Arroyo, Robert E. Dabatean, were brought to Bukidnon Provincial Hospital. One of the wounded people decided to have the bullet removed in his hometown. The people in the area scampered in different directions. Some were reportedly wounded from falling while running.

On the morning of 20 April 2022, the Scene of the Crime Operatives (SOCO) arrived at the area. The KDC security guards reportedly did not allow them to enter but asked them to wait because they needed to ask permission. Later in the afternoon, the SOCO was allowed to enter, but the scene had already been bulldozed and fenced with the bamboo poles that were left in the area during the incident. Because the area had already been covered with soil, SOCO's search activities for evidence were hindered, and only one piece of ammunition was found at the crime scene.

The alleged incident occurred during the 2022 presidential election campaign, a time at which the use of firearms is strictly prohibited through a gun ban.

While we do not wish to prejudge the accuracy of these allegations, we are extremely concerned by the reported violence and harassment against the Manobo-Pulangiyon, resulting in the injury of several tribe members during their peaceful assembly and march in April this year.

We are further concerned that the Philippines, for more than 30 years, has been leasing the Moanobo-Pulangiyon tribe's ancestral territory to businesses without obtaining their free, prior, and informed consent. While noting that your Excellency's Government has taken some recent steps for the restitution of the land occupied by

KDC, we are concerned that today Moanobo-Pulangiyan tribe is still displaced from its ancestral land and forced to live in a precarious and oppressive situation without any restitution or compensation.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on measures taken by your Excellency's Government to carry out an immediate, impartial, and independent investigation into the incident, including the use of firearms against Manobo-Pulangiyan tribe on 19 April 2022. Please provide further information on the findings of the investigation should it already have been completed, and particularly if an individual or group were held accountable. If no investigations have been conducted, please explain why.
3. Please provide information on the measures taken to protect the victims, their families, and support groups, including remedies provided to them.
4. Please provide information on measures taken by your Excellency's Government to ensure restitution of the Manobo-Pulangiyan tribe's ancestral lands.
5. Please provide information on any steps taken by your Excellency's Government to ensure that the Manobo-Pulangiyan tribe has access to effective, adequate and timely remedies for more than 30 years of occupation of their ancestral land without their free, prior and informed consent.
6. Please highlight the steps that your Excellency's Government has taken or is considering taking to protect against human rights abuses by business enterprises domiciled in its territories, including human rights due diligence, in accordance with the UN Guiding Principles on Business and Human Rights (UN Guiding Principles).
7. Please provide information on measures taken or envisaged to protect the Manobo-Pulangiyan tribe against human rights abuses as necessary for their eventual return and attainment of durable solutions in their ancestral lands.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will

be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

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

José Francisco Cali Tzay
Special Rapporteur on the rights of Indigenous Peoples

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Cecilia Jimenez-Damary
Special Rapporteur on the human rights of internally displaced persons

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the applicable international human rights norms and standards.

We would like to refer your Excellency's Government to articles 1, 6 (1), 9, 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Philippines on 23 October 1986, which provide for the right to self-determination, the right to life, the right to liberty and security of person, and the rights to freedom of peaceful assembly and of association.

The General Comment 36 of the Human Rights Committee highlights that the duty to protect the right to life requires States parties to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence including displaced persons. It further states that "the duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity". The measures called for to address adequate conditions for protecting the right to life include, where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions.

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by the Philippines on 15 September 1967, guarantees the right to equality before the law and the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution. It is worth recalling that any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life constitute racial discrimination (Article 1). The Convention further requires States to implement affirmative measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, with a view to guaranteeing them full and equal enjoyment of all human rights and fundamental freedoms (Article 2). In addition, States have a responsibility to combat and eradicate prejudices and other forms of racial discrimination and to promote, through education and other means, understanding, tolerance and friendship among nations and racial or ethnic groups (Article 7).

We furthermore wish to refer to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007 with the affirmative vote of the Philippines. We would like to emphasize that this instrument provides an authoritative statement of international human rights standards related to Indigenous Peoples. The UNDRIP elaborates upon existing binding rights in the specific cultural, historical, social and economic circumstances of Indigenous Peoples. These fundamental human rights include equality and non-discrimination, life and

personal integrity, culture, health and property, all of which are recognized in the principal human rights treaties ratified by the Philippines and mentioned above. In particular, we would like to recall article 7 of the UNDRIP which provides that Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. Article 26 asserts the right of Indigenous Peoples to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. Article 10 establishes 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. Article 28 establishes that Indigenous Peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

UNDRIP states in Article 32 that Indigenous Peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources and that States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. Article 32 also affirms that States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impacts.

We wish to recall that the International Covenant on Economic, Social and Cultural Rights (ICESCR) in its article 11(1) recognizes the right of everyone to an adequate standard of living, including the right to an adequate housing. Interpreting the right to adequate housing in its General Comment No.4, the Committee on Economic, Social and Cultural Rights said it should not be viewed in a narrow or restrictive sense such as merely having a roof over one's head, but rather it should be seen as the right to live somewhere in security, peace and dignity.

We also recall that in her 2019 report A/74/183, the former Special Rapporteur on the right to adequate housing stated that understood from an indigenous perspective, the concept of home is not just about a built structure where one lives, but is about one's place on the planet, defined through one's lands, resources, identity and culture; and urged to recognize both individual and collective human rights claims to housing and land, territories and resources.

We would further like to recall that articles 21 and 22 of the ICCPR guarantee the rights of peaceful assembly and of association, and note that "no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others."

We would also like to refer your Excellency's Government to the 1998 Guiding Principles on Internal Displacement, which are of particular relevance to the case at hand, as they establish that all authorities shall respect their obligations under international law, including human rights and humanitarian law, to prevent and avoid conditions that might lead to displacement of persons. We, moreover, stress that according to the Guiding Principles, every human being shall have the right to be protected against being arbitrarily displaced from his or her home including due to gross human rights violations, discrimination and fear of persecution (Principle 6). The prohibition of arbitrary displacement includes displacement in cases of large-scale development projects, which are not justified by compelling and overriding public interests (Principle 6(2c)). As stated in Principle 3, national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons. We would like to particularly draw your attention to Principle 9, which highlights that States are under a particular obligation to protect against the displacement of Indigenous peoples and other groups with a special dependency on and attachment to their lands. Principle 10 recalls that every human being has the inherent right to life, and that internally displaced persons shall be protected in particular against murder, summary or arbitrary executions, and prohibits acts of violence against internally displaced persons who are not participating in hostilities. All wounded and sick internally displaced persons should receive any medical care or attention they require (Principle 19).

Finally, we would like to make reference to the UN Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in resolution 17/4 of June 2011. In particular, we would like to refer to Principle 1, which holds that States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises, and Principle 2, which states that States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations.