State Criminalization and Impunity against Indigenous Peoples

Philippines Recognized as World Top-ranking Violator of Human Rights

The Philippines has been in the limelight these past few years for its alarming human rights record under the notorious autocratic regime of President Rodrigo Duterte. Since 2015, several international human rights watchdogs have listed the Philippines among the top human rights violators in the world. The Philippines had the 2nd highest number of killings of land and environmental defenders in the world in 2015 with 33 killings, 3rd in the world and highest in Asia in 2016 with 28 killings, 2nd highest in the world in 2017 with 48 killings, and highest in the world in 2018 with 30 killings.\(^1\) Since the “war on drugs” began in 2016, the number of extra-judicial killings in the country spiked with over 20,000 drug-related killings reported.\(^2\) In addition, the Philippines ranked 4th on a list of most dangerous countries in the world for civilians in 2019 due to “targeted attacks” arising from government policy resulting in reported deaths of nearly 490 civilians from January to June 2019.\(^3\)

Repeated concerns raised about the human rights situation in the Philippines by various organizations and UN procedures pushed the United Nations Human Rights Council (UNHRC) to pass a resolution on the Promotion and Protection of Human Rights in the Philippines in June 2019. The Resolution urged the Philippine government to “take all necessary measures to prevent extrajudicial killings and enforced disappearances, to carry out impartial investigations and to hold perpetrators accountable, in accordance with international norms and standards.”\(^4\)

Indigenous peoples are high up in the list of targets and victims of human rights violations. Killings, enforced disappearances, arbitrary arrest and detention, intimidation, persecution and violence against indigenous peoples and human rights defenders are increasing. This trend of indigenous peoples rights violations is expected to worsen as the government continues its tyrannical rule and pursues its neoliberal economic development program.

Indigenous Peoples Marginalized

Indigenous peoples in the Philippines comprise an estimated 10% and 20%\(^5\) of the country’s total population of 108 million\(^6\). There are more than 110 diverse ethnolinguistic groups including, among others, those collectively called Igorot in the Cordillera mountains of northern Luzon, the Lumad groups on the southern island of Mindanao, the Mangyan groups in Mindoro island, various indigenous groups in Palawan province, the Tumandok in Panay Island, the Agta-Dumagat-Remontado and Bugkalot in the Sierra Madre mountain range and scattered Ayta communities in central Luzon. Indigenous peoples in the Philippines have retained much of their traditional, pre-colonial culture, social institutions and subsistence economic activities, having resisted or evaded colonization until the 19th century. Many still live in remote areas with lack of access to basic social services and limited opportunities for education and political participation. Yet in many indigenous peoples’ territories are found valuable natural resources such as minerals, agricultural land, forests and rivers, which they have conserved, protected and sustainably managed for generations.\(^7\)
The Philippines has the Indigenous Peoples’ Rights Act (IPRA) of 1987, considered by the international community as a landmark legislation in the recognition of indigenous peoples’ rights. The IPRA recognizes collective and individual rights over ancestral lands and domains by providing for the issuance of Certificates of Ancestral Land and Ancestral Domain Titles (CALT / CADT). The IPRA promotes indigenous peoples’ cultural integrity, self-governance, the right to own and develop their ancestral lands/domains, and the right to free and prior informed consent (FPIC) for projects entering their territories. However, the National Commission on Indigenous Peoples (NCIP), which is the government agency responsible for implementing the IPRA, has failed in its mandate to uphold the interests, rights and welfare of indigenous peoples. The implementation of the IPRA, FPIC and land rights has been problematic and manipulated resulting to conflicts and violations of indigenous peoples’ rights.8

Indigenous Peoples’ Land and Resources Commoditized9

The current Philippine administration’s 10-point Economic Agenda and the Philippine Development Plan for 2017-2022 sets the policy framework for the commoditization of indigenous peoples’ land, territories and resources. The Build Build Build program of the government plans to implement some 4,000 infrastructure projects worth up to Php9 trillion within six years, funded mainly by foreign loans, which are likely to significantly inflate the country’s foreign debt. Government programs on mining, energy development, plantations, forestry, special economic zones and infrastructure are marking a clear path towards widespread land grabbing and displacement of indigenous peoples from their ancestral territories in violation of their right to self-determination.10

Water supply projects are among the priority projects under the Build Build Build program of the government. Two examples are the Chico River Pump Irrigation Project in Kalinga and the New Centennial Water Source-Kaliwa Dam project in Rizal and Quezon provinces. Both projects are being built in indigenous communities with potentially disastrous effects, to supply water to other areas outside the affected communities. Both are multi-billion peso projects funded by onerous Chinese loan agreements disadvantageous to the interest of the Filipino people. Both are staunchly protested and resisted by the affected communities and other organizations.

Many hydropower projects are ongoing or planned in other ancestral territories that will displace more than 100,000 indigenous peoples from at least 106 villages. Aside from hydropower, geothermal energy will be harnessed by projects of American company Chevron and local company Aragorn Power and Energy in Kalinga province; the PRC Magma in the provinces of Benguet, Mt. Province, and Ifugao; and the Aboitiz Power Corp. in Pampanga, Zambales and in South Cotabato. Coal Operating Contracts (COC) have also been issued by the Department of Energy, which are encroaching on hundreds of thousands of hectares of ancestral lands in the sacred Andap Valley Complex of Surigao del Sur, in the provinces of Zamboanga del Norte, Zamboanga Sibugay, Sarangani, South Cotabato, Agusan del Sur, Agusan del Norte and Palawan.

Mining is still a major threat faced by many indigenous groups in different regions of the Philippines. All mining operations and applications are governed by the Philippine Mining
Act of 1995, a law that encourages foreign investments in mining. At present, 230 of the 447 approved mining applications are in ancestral territories, encroaching in at least 542,245 hectares of ancestral lands. These comprise 72% of the 748,590 hectares covered by all approved mining applications.

Decades-long mining operations of Benguet Corporation, Lepanto Consolidated Mining Co. and Philex Mining in the Cordillera have exploited the ancestral lands and resources of the Igorot people of Benguet province. Meanwhile, Nickel Asia Inc. has ongoing mining operations in indigenous communities in Isabela, Palawan and Mindanao. In addition, its subsidiary Cordillera Exploration, Inc., has filed several mining applications that are threatening the Cordillera and Ilocos regions. In southern Palawan, Pyramid Hill Mining Industrial Corp. has made aggressive moves to extract limestone and cement, while Benguet Corp. Nickel Mines, Inc. and its partner companies have destroyed lands occupied by Ayta, Igorot and Sambal populations in Santa Cruz, Zambales.

Australian mining giant OceanaGold Philippines, Inc. (OGPI) acquired the Didipio mine in 2006 through a merger with Climax Mining Ltd. The company commenced open pit mining operations in 2013, totally destroying the land and environment in the area. OceanaGold’s Financial and Technical Assistance Agreement (FTAA) with the Philippine government recently expired on June 20, 2019 prompting the company to apply for an extension of its agreement to operate. However, this move was met with strong resistance by the affected Ifugao indigenous people in Didipio, the local government of Nueva Vizcaya, indigenous peoples networks and environmental organizations, who vehemently called for a stop to the mining operation.

Today, agribusiness plantations pose a serious threat to indigenous peoples, especially in Mindanao and Palawan. At least 130,000 hectares of ancestral lands are occupied and controlled by giant local and foreign corporations for different kinds of monocrop plantations including banana, pineapple, oil palm, coffee and other crops. Plantations in Mindanao, including Sumitomo Fruit Corporation (SUMIFRU), DOLE and Del Monte have worsened the loss of livelihood, hunger and human rights violations. The use of banned pesticides has inflicted indigenous peoples living close to these plantations with respiratory, skin, and gastrointestinal diseases. Traditional crops such as coconut and banana are disappearing, incurring even more income losses for the indigenous farmers.

New agreements of the Philippine government with Malaysian and Indonesian entities have opened up at least 120,000 hectares for the expansion of oil palm plantations in Mindanao and Palawan. The CARAGA region, home of Manobo, Mamanwa and Banwaon peoples, remains to be the capital for oil palm production. Meanwhile in Palawan, the Pelawan people in Sofronio Espanola, Bataraza and Rizal are witnessing their forests and swidden farms slowly being converted into oil palm plantations.

Mega infrastructure projects and Special Economic Zones are another priority in Duterte’s Build, Build, Build program. The New Clark City (NCC), a special economic zone being set up entirely for business interests, covers more than 9,400 hectares encroaching on the ancestral lands of the indigenous Ayta in Tarlac, Pampanga and Zambales. Mega roads, such as the Clark-Subic Expressway and roads in Capas-Botolan, Davao del Norte-Bukidnon-
Agusan del Sur-Misamis Oriental, are also prioritized to serve the corporate interests of agribusiness plantations, mines and other big business ventures in ancestral territories.

**Lake Sebu Massacre**

One of the biggest grabbers of ancestral land in Mindanao is David M. Consunji Inc. (DMCI) that has several Integrated Forestry Management Agreements (IFMA) and logging concessions covering at least 102,954 hectares of the ancestral lands in the sacred Daguma Mountain Range in the South Cotabato, Sultan Kudarat and Saranggani provinces. Despite the expiration of some of its licenses, DMCI is using its investment defense forces to aggressively expand its agribusiness plantations, commercial tree farms and mining operations in Sultan Kudarat, South Cotabato and Zamboanga peninsula.

Silvicultural Industries, Inc., a DMCI company, failed to come to an agreement with Datu Victor Danyan and his group to continue its operations through a renewal of its IFMA. This led to the massacre of 8 members of the T’boli and Dulangan Manobo community by soldiers of the 27th and 33rd Infantry Battalion of the Philippine Army (IBPA).

On 3 December 2017, the soldiers peppered bullets on the houses of the T’boli and Dulangan Manobo in Sitio Datalbong, Barangay Ned, Lake Sebu, South Cotabato. The shooting killed Datu Victor Danyan Sr., Victor Danyan Jr., Artemio Danyan, Tho Diamante, Pato Ceralbo, Mateng Bontal, and Samuel Angkoy. Wounded were Bosing Danyan and Jeffrey Danyan. The victims were all active members of the organization Kilukasku-United to Protect the Ancestral Domain of Dulangan Manobo and T’boli in South Cotabato who had planted food crops to reclaim their ancestral land.

The military claimed that the incident was a “legitimate encounter with the New People’s Army (NPA).”

**Land Rights Defense and Human Rights Defenders Criminalized**

These extractive and destructive projects have forced the affected indigenous communities to fight and defend their lands and territories. As they organize and muster their strength to withstand the onslaught of development aggression, they are attacked by State forces, policies and institutions. They are criminalized for defending their rights to land and branded as anti-development, terrorists and communist fronts. They are accused of trumped-up criminal charges and vilified through distribution of false propaganda in social media. They are subjected to violence and intimidation as the State attempts to quell their resistance and silence their protests.

Indigenous peoples rights defenders safeguarding their ancestral domains from plunder are frequent victims of criminalization. Targeted indigenous organizations, their leaders and members are vilified, and legal cases of trumped-up charges filed against hundreds of innocent civilians. Some have been arrested and detained, while others have had to go through a long process of court litigation for the false charges filed against them.

**Abduction and Detention of Datu Jomorito Goaynon**

Abduction and detention of Datu Jomorito Goaynon
Datu Jomong is a traditional Higaonon leader, Chairperson of Kalumbay Regional Lumad Organization of Northern Mindanao and vice chairperson of Kalumaran, the alliance of indigenous peoples in Mindanao. He was arrested on January 28 together with peasant leader Ireneo Udarbe while inside a passenger jeepney at a checkpoint mounted by the 4th Infantry Division just outside the Army headquarters. Both were on their way to a meeting to prepare for a scheduled dialogue with the Commission on Human Rights concerning abuses committed by the Army’s 65th Infantry Battalion.

The arrest was staged as both Goaynon and Udarbe were abducted by combined elements of the Army and the Criminal Investigation and Detection Group of the Philippine National Police. The “arrest” was played out before the public along the highway a few hours later, this time with planted evidence of explosives and firearms inside their bags. Trumped-up charges of illegal possession of firearms and explosives, rebellion, and violations under the Human Security Act were filed against Goaynon and Udarbe.

Dismissal of the case led to the release of Udarbe. However, Datu Jomong continues to be detained as the military have filed additional charges of kidnapping and human trafficking against him.

**Military and Paramilitary Forces Mobilized**

The Philippine government is clamping down on legitimate dissent, continuing similar offensives of previous administrations but in a much more comprehensive and vicious way. The State machinery is implementing the counter-insurgency Operation Plan Kapayapaan and Oplan Kapanatagan with its “Whole of Nation” and “IP-centric” approach. The military are particularly targeting indigenous organizations and communities with the notion that indigenous communities are safe havens of revolutionary groups.

President Duterte’s declaration of martial law in the whole of Mindanao saw intensified military operations and repressive attacks against the Lumad. Military might is augmented by armed paramilitary groups and “investment defense forces“ that protect corporate interests. To date, at least 20 paramilitary groups continue to exist, terrorizing indigenous communities in Mindanao. Some members of these paramilitary groups have existing warrants of arrest against them for the extrajudicial killings of Lumad leaders, but they freely move around and have been sighted in military activities, combat operations and press conferences.

There are a total of 62 individuals extra-judicially killed, 20 victims of frustrated killings, and 2 documented torture among the indigenous peoples since Rodrigo Duterte assumed presidency in 2016. Most of the incidents were perpetrated by riding-in-tandem, military units, and members of paramilitary groups or private goons of landlords and multinational companies that plunder indigenous peoples’ ancestral lands.

**Tejero and Gallego Killing**

On 24 January 2019, 36th IBPA fired indiscriminately at six Manobo farmers in Km 16, Barangay Diatagon, Lianga Surigao del Sur. The victims were on their way home from
hauling abaca fiber in their farms. Four of them escaped but Emel Tejero and Randel Gallego went missing. The community searched for them for 6 days and were surprised to find them dead in Sitio Neptune in the same barangay. The military owned the killing but lied through their teeth saying that the victims were NPA members. Residents of the community staunchly oppose military presence in the area to protect coal mining companies Benguet Corporation, Great Wall Mining, and Abacus Coal among others.

### Mayumi Killing
On 2 March 2018, suspected elements of Citizen Armed Force Geographical Unit (CAFGU) assassinated Ifugao Peasant Movement (IPM) Leader Ricardo Mayumi at his house in Sitio Angadal, Ambabag, Kiangan, Ifugao. Prior to his death, Mayumi and nine other members of IPM received a picture of gamong, an Ifugao death blanket as a death threat due to their fierce opposition to the Quadriver Mini Hydro Dam project proposed by Ayala and Sta. Clara Power Corporation in Tinoc, Ifugao.

Military and paramilitary operations sow terror and subject indigenous communities to violent attacks like bombing, strafing and harassment. Whole communities and thousands of Lumad in Mindanao have been forced to evacuate, abandoning their homes, schools, farms, animals and properties for fear of their lives.

### Forced Evacuation
On July 30, 2018, around 1,607 evacuees from 14 Manobo communities in Lianga and San Agustin, Surigao del Sur were forced to leave their homes in Brgy. Diatagon because of ongoing military threat, harassment and intimidation.

In another incident on August 27, 2018, the Army’s 10th Infantry Division conducted aerial bombing strikes in Sitio Malid, Brgy. Dagohoy, Talaingod, Davao del Norte. This was just 500 meters away from a Lumad school in Sitio Tibucag, endangering the children holding classes inside the rooms of Salugpungan Ta Tanu Igkanogon Community Learning Center (STTICLC). Gunshots were also heard for at least 30 minutes.

The intense military operations and bombings in Lumad communities have led to forcible evacuation of residents. At least 26 incidents of forcible evacuations were documented in the first three quarters of 2018, where up to more than 35,000 Lumad fled their homes due to military operations under martial law in Mindanao.

A campaign for the forced surrender of indigenous and other activists is ongoing in different regions of the country. The military red-tags activists, listing their names in a list of rebels. They are then advised to surrender and clear their names in order to avoid arrest. They are made to take an oath and swear to “return to fold of law” accompanied by media hype. Most of these fake surrenders are not rebels but mere members of local organizations and communities who assert their legitimate rights to ancestral lands against the incursions of big business operations and militarization in their communities.

In March 2018, the Armed Forces of the Philippines announced that more than 4,000 NPA members had surrendered. However, most of the 4,000 ‘surrenderees’ are residents of
Lumad communities who were summoned, deceived and forced to sign a piece of paper and made to pose for a photograph holding a military-issued firearm.

**Fake Surrender**

On March 5, fifteen members of the Tribal Indigenous Oppressed Group Association (TINDOGA), along with other members of the community, were called to the house of Datu Santiano Abdahan Jr. The meeting was attended by six soldiers of the 8th IBPA and 22 unnamed members of the Citizen Armed Force Geographical Unit (CAFGU). The residents were “invited” to surrender, if not, criminal cases would be lodged against them. Those who will “surrender” would be trained as new paramilitary members and would be enrolled in a livelihood project. The military also interviewed residents, forcing them to give names of other people to add to their “wanted list”. The soldiers said that joining rallies was enough for any resident to be considered an NPA member.

The conduct of operations and illegal searches by military and para-military operatives have caused damage to and confiscation of properties. Lumad indigenous peoples schools have been destroyed and forcibly shut down, their teachers harassed and/arrested, preventing indigenous children from accessing educational services in their own communities. Some students of indigenous peoples schools have even been tortured.

**Torture of 5 MISFI Students**

On 18 November 2017, five students of Mindanao Interfaith Services Foundation Inc. (MISFI) aged 15-16 years old were heading to their farms when they were chanced upon by 15 army soldiers from the 19th IBPA. The two male students were beaten and forced to guide the military to an NPA camp. The minors failed to offer answers and were made to choose whether to be shot running or while sitting down. The girls cried so loud until help from passersby arrived. The military were not penalized for the torture of students.

The following table summarizes the figures on human rights violations committed against indigenous peoples in the Philippines during President Rodrigo Duterte's administration from July 2016 to November 2019:

<table>
<thead>
<tr>
<th>Violations</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
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<td>17</td>
<td>15</td>
<td>10</td>
<td>50*</td>
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<td>4</td>
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<tr>
<td>Frustrated Extrajudicial Killing</td>
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<td>3</td>
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<td>13*</td>
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<td>Illegal Arrest and Detention</td>
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<td>6</td>
<td>4</td>
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<td>Illegal Search and Seizure</td>
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<td>Physical Assault and Injury</td>
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<td>Demolition</td>
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<td>Violation of Domicile</td>
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<tr>
<td>Destruction of Property</td>
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<td>Threat, Harassment, and Intimidation</td>
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<td>Food and Other Economic Blockade</td>
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<tr>
<td>Fake Surrender</td>
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<td>Involuntary Servitude</td>
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<td>Use of Civilians in Police and/ or Military Operations as Guide and/ or Shield</td>
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<td>Use of Schools, Medical, Religious, and Other Public Places for Military Purpose</td>
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<td>Restriction or Violent Dispersal of Mass Actions, Public Assemblies, and Gatherings</td>
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<td>Forcible School Closure</td>
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<td>Aerial Bombardment</td>
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<td>Violence Against Women</td>
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<td>Trumped-up Charges</td>
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<td>Surveillance</td>
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<td>Hamletting</td>
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<td>Vilification</td>
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<td>Right to Freedom of Association</td>
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Source: Karapatan Monitor 2016 -2019
*Incomplete data

The Law and Judiciary Weaponized

The Human Security Act of 2007 (HSA), also known as the An Act to Secure the State and Protect our People from Terrorism, was passed purportedly to protect life, liberty, and property of Filipinos from acts of terrorism. However, instead of protecting the people from acts of terrorism, the law has been used to criminalize dissent and justify the perpetration of human rights violations against Filipino citizens including indigenous peoples. The HSA defines “terrorism” as a list of crimes “that sow or create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand.” The nebulous definition of terrorism fails to give fair notice to citizens as to what is considered a terrorist act. Worse, it is so ambiguous that law enforcers are given extensive and arbitrary discretion in its enforcement. 21

In addition to the HSA, the whole arsenal of State instrumentalities - the military, police, national government agencies, local government units, including the justice system –are being used as weapons against indigenous peoples. With the establishment of the Inter-Agency Committee on Legal Action (IACLA) in October 2017, the Philippine government has become overly aggressive and conscientious in filing trumped-up charges against hundreds of indigenous leaders, activists, progressive lawmakers, NGO workers and human rights defenders. The IACLA has legitimizied and systematized political repression and persecution of vocal critics of the Duterte regime and innocent civilians alike.22

One form of criminalization is the use of the justice system to file trumped-up charges and to issue search warrants and warrants of arrest against human rights defenders. Criminal
charges are being filed against indigenous peoples including illegal possession of firearms and explosives, murder, rebellion, destruction of properties, extortion and kidnapping. Most of these cases are related to indigenous peoples’ active defense of their land, territories and resources.

**DOJ Petition for Proscription**

After the cancellation of peace negotiations between the Government of the Republic of the Philippines (GRP) and the National Democratic Front of the Philippines (NDFP), the Department of Justice (DOJ) filed in February 2018 a petition for proscription of the revolutionary Communist Party of the Philippines – New People’s Army (CPP-NPA) as terrorist organizations under the Human Security Act of 2007. The petition listed 657 individuals as alleged leaders and members of the CPP-NPA. At least 56 names in the list are indigenous persons including prominent indigenous peoples’ rights activists, 61 human rights defenders, 38 personalities involved in the peace negotiations, 16 political prisoners, eight deceased persons, and two disappeared activists. The named individuals have become easy targets of vilification, surveillance, probable freezing of their assets and properties, or even arrest, detention and extra-judicial killing. The list also includes several aliases, John Does and Jane Does, which could be replaced at any time with names of anyone the military chooses to prosecute.

The petition for proscription triggered widespread expressions of support for the people included in the list from civil society organizations, UN agencies and even governments. A few personalities filed their respective motions in court for the removal of their names on factual and legal bases, which were approved. Before the Court could act on all other motions, the DOJ filed an amended Petition on January 3, 2019 cutting the list down to eight persons and removing most of the 657 names. However, the threat of reprisal against the named individuals remains serious.

**Cordillera Women Human Rights Defenders**

Five women activists in the Cordillera were subjected to repressive attacks by the 7th Infantry Division of the Armed Forces of the Philippines (AFP) Northern Luzon Command. The case arose when a Department of Justice (DOJ) investigation charged Sarah Abellon-Alikes, Sherry Mae Soledad, Joanne Villanueva, Rachel Mariano, Asia Isabella Gepte and Shirley Ann Angiwot along with 18 other individuals for frustrated murder and multiple attempted murder in relation to a gun-firing incident that occurred in Sitio Mabileg, Brgy. San Ramon, Sigay, Ilocos Sur in August 4, 2017. Another case charged them with 10 counts of attempted homicide related to a firefight that occurred in Salcedo, Ilocos Sur on July 22, 2017. The women had to find the means to bail themselves out to avoid incarceration while facing the long-running legal process in the court.

Such political persecution has endangered the lives and security of the women human rights defenders, who all belong to legal and legitimate organizations working for the promotion and respect of indigenous peoples rights. All are advocates for peace, and working to support marginalized communities. Three of these women are mothers with young children.

One of the 5, Rachel Mariano, an indigenous community health worker, was detained in the provincial jail at Bantay, Ilocos Sur for almost a year since September 18, 2018 for additional
non-bailable charges of murder, frustrated murder and attempted murder. She was accused of participating in an armed encounter between New People’s Army and 81st Infantry Battalion of the 7th Infantry Division of the Armed Forces of the Philippines (AFP) on October 15, 2017 in Patiacan, Quirino, Ilocos Sur.

After losing her liberty and having to bear jail conditions for 12 months, Rachel Mariano was acquitted of all charges of murder and released from prison. She is now free but continues to face the other trumped up charges filed against her in the court.

**Government Bureaucracy Militarized**

It is notable how President Duterte has militarized the civilian government bureaucracy by appointing retired military officers to head several government agencies. The president has so far appointed 73 former military and police officials into civilian positions in 46 government agencies including the Department of Social Welfare and Development (DSWD), Department of Environment and Natural Resources (DENR), Department of the Interior and Local Government (DILG), National Irrigation Administration (NIA), National Commission on Indigenous Peoples (NCIP), among others.

In addition, the President issued Executive Order 70 (EO 70) creating the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC), which is composed of more than 50 national government agencies. EO 70 is an attempt to harmonize the government’s security forces with civilian agencies in addressing the communist insurgency. The NTF-ELCAC aims to quell the armed conflict in the Philippine countryside and stop the flow of support from city-based legal organizations through joint counter-insurgency operations involving the Philippine Army, the Philippine National Police and government agencies. What is most alarming is that the NTF-ELCAC is holding briefings all over the country maligning prominent indigenous leaders and peoples’ organizations as communists and terrorists. Powerpoint presentations are being shown by different government agencies all over the country spreading misinformation and vilifying civil society organizations as legal fronts of the CPP-NPA, thereby undermining their legitimacy and credibility and putting them at grave risk.

**Justice Denied with Impunity**

The declaration of Martial Law in Mindanao and de facto martial rule prevailing in other regions of the country exacerbates the total lack of protection mechanisms and access to justice for human rights defenders. Marginalized groups are denied justice under a judicial system that is inherently skewed in favor of the rich and powerful. Anything is possible under the rule of force and climate of impunity prevailing in the country today.

Even lawyers and judges have not been spared from the attacks against dissenter by the government. A case in point is the killing of Judge Mario Anacleto Bañez of Ilocos Sur, which is perceived as a reprisal for his decision on the case of indigenous human rights worker, Rachel Mariano.
On November 5, 2019 Judge Bañez was shot to death by unidentified gunmen while on board his vehicle in Barangay Mameltac, San Fernando, La Union. Barely 2 months earlier, on September 4, 2019, Judge Bañez had acquitted Cordillera health worker, Rachel Mariano, against whom the army had filed charges of murder and attempted murder. Mariano was accused as a New People’s Army (NPA) rebel who masterminded an ambush of members of the 81st Infantry Battalion in 2017 in Quirino, Ilocos Sur, where one soldier died.

The case was heard in the court of Judge Bañez. In his decision, Judge Bañez condemned the killing, but said: "It would be more deplorable and unfair to convict the accused of all these serious crimes charged against her upon the quality of the evidence adduced by the prosecution." Judge Bañez added that Mariano’s job was not subversive. “The function of a health program coordinator is to promote and build a community-based health programs in the far-flung areas of the Cordillera. They trained community health workers to serve as frontliners for the safeguard of health in these far-flung areas,” he said.

Civil Liberties Lawyers Condemn Attacks on Lawyers and Dissenters

Excerpt from the Statement of Concerned Lawyers for Civil Liberties (CLCL), Nov. 29, 2019

In the past year alone, trumped-up charges against fellow lawyers Vice President Leni Robredo, Chel Diokno, Florin Hilbay, Erin Tañada, Ted Te, and other lawyers, as well as religious personalities, were filed for supposed sedition and other criminal acts. An unfounded PNP complaint for several offenses, including kidnapping, was filed against Neri Colmenares, a human rights lawyer critical of President Duterte’s human rights policies. Earlier this year, public interest lawyers Kathy Panguban and Joe Begil, who only zealously represented their peasant clients’ interests, faced ludicrous kidnapping and arson charges, respectively, which were eventually dismissed. Senator Leila De Lima, an outspoken critic of the administration, has been unjustly detained for more than 1000 days.

This is within the context of escalating killings since President Duterte took office on June 30, 2016. On November 5, 2019, Judge Mario Anacleto Bañez was the sixth judge killed under the Duterte administration, and the 43rd member of the [legal] profession fatally shot since July 2016. None of these killings have been successfully prosecuted, and all remain open investigations. Many of the killings, like that of human rights lawyers Ben Ramos and Anthony Trinidad are believed to be related to or reprisals for taking on cases or positions for clients charged with crimes related to rebellion or drugs, or of government critics, such as journalists, political opposition leaders, and human-rights defenders.

A climate of fear and impunity pervades amidst the administration’s attempts to intimidate the opposition and demonize dissenters.

Indigenous Peoples Movement Galvanized

The onslaught of development aggression and criminalization against indigenous peoples under a climate of repression and impunity in the whole country has had a galvanizing effect on the peoples’ movement. Collective actions of indigenous peoples are still very much alive as seen in recent community barricades to stop OceanaGold’s destructive mining
operations, in numerous demonstrations to protest the construction of the Kaliwa dam, in
the Bakwit schools asserting the right of indigenous peoples to education under extreme
conditions of evacuation, in the annual Cordillera Day celebrations, in the Manilakbayan of
Lumad organizations, and in the countless other collective expressions of indigenous
peoples’ self-determination and agency.

As Ama Macliing Dulag, Cordillera hero, martyr and leader of the struggle against the
destructive Chico River dams said:
“What is the most precious thing to man? Life! If life is threatened, what ought a man do?
Fight! This he must do, otherwise he is dishonored. That will be worse than death. If we do
not fight and the dams push through, we die anyway. If we fight, we die honorably. Thus I
exhort you all, kayaw (struggle)!”

The indigenous tradition of honorable resistance to defend the land was born centuries ago
by the ancestors of indigenous peoples. This spirit lives on until today and is manifested in
the vibrant indigenous peoples movement in the country in the defense of land, life and
self-determination.

Recommendations for action:

1. Respect indigenous peoples’ rights to land and territories.
2. Repeal or amend all laws that disregard indigenous peoples’ rights to land, territories
   and resources.
3. Respect free prior and informed consent (FPIC) as part of the right to self-determination
   rather than merely a procedural requirement.
5. Justice for all victims of human rights violations. ***

Endnotes:

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