Submission

Intervention in relation to Agenda Item 3: Study on best practices and examples in resolving land disputes and land claims, in relation to the National Commission on Indigenous Peoples (Philippines)

Submitted by: Cordillera Peoples Alliance (CPA), Innabuyog, BAI National Network of Indigenous Women in the Philippines, Kalijunan ng Katutubong Mamamayan ng Pilipinas (KAMP), Kusog sa Katawhang Lumad sa Mindanao (Kalumaran) and TUMANDUK

Endorsed by: Asia Indigenous Peoples Caucus

Thank you, Madam. Chair, for this opportunity to raise some pressing issues that we, indigenous peoples in the Philippines, face in relation to the National Commission on Indigenous Peoples (NCIP). The NCIP was established as “the primary government agency in the Philippines responsible for the promotion and protection of the rights and well-being of the indigenous peoples, the recognition of their ancestral domains… with due regard to their beliefs, customs, traditions and institutions.” (Indigenous Peoples Rights Act 1997)

However, our experience during the past 17 years of existence of the NCIP clearly shows that the NCIP has not fulfilled its supposed mandate. Rather, it has served as an instrument to facilitate the entry of destructive projects into our ancestral domains, denying us our right to self-determination and self-governance in accordance with our indigenous socio-political institutions. The NCIP has been instrumental in the manipulation of the process of free, prior and informed consent, facilitating development aggression into our territories. The NCIP has been silent regarding the abuse of our collective rights as indigenous peoples and the violation of our basic human rights through militarization, extrajudicial killings, enforced disappearances, harassment, forced evacuation and other human rights violations against indigenous peoples.

To highlight a few examples:

1. Many ancestral domains remain unrecognized by the State despite efforts of indigenous peoples to file applications for Certificates of Ancestral Land and Ancestral Domain claims. As of December 2008 only 96 CADTs had been issued, covering 2.7 million hectares. After 11 years of the IPRA’s implementation, less than 8% of the estimated 7.5 million area of ancestral domains had been registered. Yet, during the same period, the Government moved rapidly and aggressively to secure rights over indigenous lands for foreign mining companies and other business enterprises, issuing around 175 Certificates for development projects in indigenous lands. A mining company can get the approval to extract the mineral resources from and operate in an ancestral domain in less than 4 months, while a community must wait 6 years or even more for its rights over its own ancestral domain to be recognized.

2. NCIP manipulated the FPIC process for exploration of the huge Tampakan Mining project of Glencore-Xstrata-SMI in Mindanao, setting up fake tribal councils and undermining the customary decision-making processes of the affected Blaan communities. The company has spent huge amounts of money for community projects and for training of NCIP, army and paramilitary personnel, thereby unduly influencing the FPIC process. There has been a long history of conflict in the project site, resulting in at least 10 extra-judicial killings since 2002 including the massacre of a pregnant B’laan woman and her 2 children by military elements.

3. In Sofronio Española in Palawan, a series of mining companies were given permits to operate in the ancestral domain of the Pelawan indigenous peoples, despite serious violations of FPIC processes by the NCIP and the company. Violations include ‘consultations’ conducted by the NCIP with chieftains instead of the communities, active campaign by NCIP and local government officials to convince the people to consent to mining operations, conduct of soil sampling and environmental profiling by Citinickel Mining Corporation within Mt. Gimbalen.
without the knowledge of the community and Pelawan traditional leaders, and the illegal transfer of FPIC from an old company to a new one without consultation and consent.

4. In the Cordillera region, in Guinaang, Pasil, Kalinga, the NCIP provincial office deceived the people into signing a resolution of consent in favor of the Makilala Mining Project of Freeport-Macmoran, without providing the necessary information for the community to make an informed decision. Even though the Guinaang tribe already has its own Council of Elders, the NCIP created a fake council of elders to represent the tribe and manipulated the resolution of consent. Thus, tribal leaders petitioned the NCIP to issue a temporary restraining order against the FPIC process, yet the NCIP claims that there are no FPIC process irregularities.

5. Among the Iraya Mangyan in Abra de Ilog, Mindoro, the voice of the opposition was not reflected in the final MOA between the community and the Agusan Petroleum and Mineral Corporation (APMC). Signatures of people were taken from attendance sheets during consensus-building meetings and were used to show approval of the MOA. The company and NCIP held the MOA signing outside the community, in another province away from the eyes of the people.

6. Human rights violations against indigenous peoples under the administration of President Aquino have alarmingly increased. From June 2010 to April 2014, there have been 44 indigenous peoples killed, including 6 children; 18 incidents of forced evacuation in 5 provinces; 16 incidents of harassment and encampment by the military in indigenous people’s schools; and numerous cases of political vilification and filing of charges against indigenous leaders and organizations. Yet, the NCIP has not acted to defend indigenous peoples from these violations.

The extent of NCIP’s faults has reached a point where the indigenous peoples of the Philippines are now calling for a dissolution or dismantling of the NCIP. Our organizations have submitted numerous documents and reports to various UN bodies, including the UNPFII, EMRIP, CERD and UPR that show how the NCIP has been remiss and irresponsible in the implementation of its express mandate to protect and promote indigenous peoples rights. Included in these official submissions to the UN are our concrete recommendations in relation to the NCIP. We now summarize our key recommendations as follow:

1. Recognize indigenous peoples right to our ancestral lands and domains.
2. Ensure independence of the FPIC process through non-intervention by the NCIP, the company and military. Ensure that all necessary information for proper decision-making is provided to the community. Avoid using funds and projects to influence the FPIC process. Give primacy to the indigenous community’s decision making systems, customary laws and recognized tribal councils over the NCIP-facilitated FPIC process.
3. We urge the Philippine government to Repeal the Philippine Mining Act of 1995, revoke Executive Order 79 and support the passage of an alternative mining law in Congress that will uphold the rights of indigenous peoples, and re-orient the mining industry to pursue a strategic and systematic national industry.
4. Stop militarization of indigenous communities and human rights violations, including extrajudicial killings, enforced disappearances and harassment of indigenous peoples, leaders, human rights defenders and their advocates. Immediately bring the perpetrators of human rights violations to justice, ensure indemnification for the victims and end the culture of impunity.

Thank you Madam. Chair.

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