

Mary Ann Manja 126

Intervention on Agenda 4
Expert Mechanism on the Rights of Indigenous Peoples
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By: **Mary Ann Manja Bayang**

It is an honor to speak before this august body.

I represent the Indigenous Peoples Rights Monitor, a network of indigenous peoples organizations and support groups, with the mandate of monitoring, documenting and reporting violations of human rights committed by the State and its agents against indigenous peoples and communities.

Thirteen years after the Indigenous Peoples Rights Act (IPRA) and two years after the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted, indigenous peoples in the Philippines continue to suffer from human rights violations. The Philippines continue to fail in its obligations under the UNDRIP and continue to violate the provisions of the IPRA, the very law which it passed to supposedly protect the rights of indigenous peoples. Ironically, this law is even manipulated to perpetuate violations of indigenous peoples' rights.

Indigenous peoples are rights holder, with an inextricable link to their lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired, and should not be treated merely as stakeholders. We have a right to self-determination of our political condition and to freely choose our economic, social and cultural development pursuant, among others, to Article 3 of the UNDRIP.

Contrary to Article 30, Article 10 and pertinent provisions of the UNDRIP, massive military operations continue in indigenous peoples communities. The Philippines state actively promoted and implemented its National Internal Security Plan on Indigenous Peoples which perpetrates military operations in indigenous people's lands and the persecution of indigenous peoples' activists. As a result of this State policy and the unabated military operations, indigenous peoples' communities have been subjected to forced evacuations especially of the Lumads in Mindanao, desecration and destruction of their sacred sites. Indigenous peoples have been subjected to various forms of human rights violations ranging from harassments, torture, rape against women, grave threats resulting to severe trauma among children, enforced disappearance and even assassinations of indigenous activists. Since 2001, IPRM was able to document 133 cases of extrajudicial killings of indigenous activists nationwide and one case of enforced disappearance.

The entry of mining and other extractive projects also result to severe militarization of indigenous communities which result to all forms of human rights violations. On January 6, 2008, intense military operations were conducted by the 73rd Infantry Battalion and the Army Scout Rangers in the remote areas of Talaingod, Davao Del Norte. Aerial bombings, army foot patrols, and combat operations greatly alarmed the Ata-Manobo

residents, causing them to flee their homes and seek refuge in the forests. Similar evacuations occurred in other indigenous communities because of military operations, causing forcing them to become internal refugees. The worse impacts fall on the women and children who suffer most in these situations.

Contrary to Article 32, Article 26 and other pertinent provisions of the UNDRIP, the right of indigenous peoples to their lands and territories and to free prior and informed consent, continue to be violated. Large scale mining activities continue in indigenous peoples territories, dams and other hydro electric projects are undertaken, logging is still conducted on indigenous peoples forests. The lands and resources of indigenous peoples continue to be desecrated.

Moreover, the right of indigenous peoples to FPIC is blatantly violated in the context of development projects being undertaken and which are planned to be undertaken in indigenous peoples' territories. The particular circumstances by which the self-determination rights of Indigenous Peoples are denied in the context of development projects vary from community to community. This can be grouped as follows:

A. Failure to identify or consult indigenous communities. There is a de-facto denial of the existence of indigenous communities. There is also a discriminatory treatment of migrant indigenous communities like in the case of the Ifugaos in Didipio, Nueva Vizcaya.

B. Failure to respect indigenous decision-making like in the case of the Gukom of the Seven Rivers or the judicial authority among the Subanons of Zamboanga. Representative institutions are undermined including ignoring decisions and rulings of indigenous authorities and legal structures. Geographic boundaries are imposed which are contrary to recognized boundaries of indigenous peoples territories. Prior decisions made by communities, dissent and lack of consensus are being ignored and national agencies are overwriting local governance laws.

C. Inadequate impact benefit agreements like in the case of the Kankanaey-Bago indigenous peoples in Bakun Benguet whose rice fields and lands were destroyed and abandoned by a mining company without due compensation to the owners of the land.

D. Undue influence, coercion and bribery are resorted to, which infringes on the right of indigenous peoples to freely decide for their welfare;

In view hereof, I would like to forward the following recommendations, taking a bulk of it from the calls and recommendations made during the International Conference on Extractive Industries and Indigenous Peoples on March 25, 2009 in Manila, Philippines that in order to ensure respect for the rights recognized in the UNDRIP, we call for:

1. A stop to the plunder of our lands, territories and resources;

2. A moratorium on further extractive industry projects that affect or threaten our communities, until structures and processes are in place that ensure respect for our human rights. The determination of when this has been realized can only be made by those communities whose lives, livelihoods and environment are affected by those projects;

3. Due process and justice to victims of human rights violations against indigenous peoples who strongly resist the entry of mining and other extractive industries in their lands and territories;

4. Review of all on-going projects that are approved without respect for our FPIC and self-determination rights;

5. Compensation and restitution for damages inflicted upon our lands, territories and resources, and the rehabilitation of our degraded environments caused by mining operations that did not obtain our FPIC.

Consequently, we call on the EMRIP to:

1. Conduct a study, with the participation of Indigenous Peoples, on the impact of mining and other extractive industries on them, by consolidating all recommendations, observations and decisions of UN Treaty and Charter bodies pertaining to the subject and identifying the measures taken by States to adhere to these;

2. Conduct a study, with the participation of Indigenous Peoples, on the implementation of the National Internal Security Plan on Indigenous Peoples, the counter-insurgency plans and the use of state forces in the advancement of the interests of transnational mining companies and the impacts on indigenous peoples and communities;

3. Elaborate mechanisms and procedures for States to implement the minimum standards set forth in the UNDRIP, including in particular Article 30 on military operations and Article 32 on the right to FPIC and to call on other UN procedures, mechanisms, agencies and bodies and other multi-lateral bodies to do likewise;

4. Demand for the strict implementation of International Humanitarian Laws and the UNDRIP in all military operations;

5. Establish practical procedures which provide indigenous communities with the opportunity to request the relevant UN agencies to assist them in the monitoring and provision of independent information on FPIC processes;

6. Demand the full and effective participation of Indigenous Peoples in all discussions and decisions pertaining to international agreements and conventions that address issues of biological diversity or climate change;

7. Emphasize the need to address the direct and indirect impacts of mining and other extractive industries on climate change, including those associated with mitigation measures;

8. Request that the Special Representative to the Secretary General on the issue of human rights and transnational corporations and other businesses, John Ruggie, to actively engage with impacted indigenous community through workshops addressing indigenous peoples rights and mining or other extractive industries, and together with other UN procedures, bodies and agencies, promote the enactment of legislation in home states of transnational corporations to provide for extraterritorial jurisdiction in relation to their activities;

9. Recommend that the World Bank Group and other International Financial Institutions (IFIs) update its operational directives and safeguard policies pertaining to Indigenous Peoples to include the right to FPIC, as required under the UNDRIP. Specifically to recommend to the Asian Development Bank (ADB) to include the requirement to obtain FPIC in its safeguard policies on Indigenous Peoples environment and resettlement;

10. Recommend that the World Bank Group and other IFI's immediately stop funding, promoting and supporting large scale mining and hydro electric projects on indigenous peoples lands, and to provide a timeline for ending of all such funding;

11. Recommend that the World Bank Group and other IFIs stop influencing the design of national policies in developing countries in a manner that promotes the interests of transnational mining corporations over the rights of indigenous peoples communities;

12. Recommend that the World Health Organization consider conducting a study on the impact of cyanide and heavy metals on the right to health of communities impacted by mining;

13. Address the urgent need for the genuine recognition of indigenous peoples' religious, cultural and spiritual rights, including their sacred sites, in the context of mining and other extractive industries;

14. Recommend that all bilateral trade agreements should guarantee that indigenous peoples' human rights are respected.

Let me end this intervention by quoting the famous adage that says, "Our Land is our life"; take it away from us, and you are taking the lives of our people, our children and the generations after us.

Danum id Tudey ya id Gedangan ay menlamnin et was-in di men lamlamnin ta maid mangmangwani en ate (Like the cool waters that spring from our mountains, let us go forth in peace and good health.)