

I. Introduction

1. Katribu welcomes the recommendations of the UPR process to the Philippine government in its session in 2012. These are relevant to indigenous peoples (IP), particularly those in relation to the issues of extrajudicial killings, impunity, security and paramilitary groups, and the rights to education, effective remedy, education, development and rights of human rights defenders. Notably, two recommendations directly pertain to IP, to ensure the rights of IP vis-à-vis economic activities, particularly mining, and to accede to the ILO Convention 169.
2. The Philippines enacted the Indigenous Peoples Rights Act (IPRA) in October 1997, an Act recognized by the international community as among the few progressive laws protecting the rights of indigenous peoples. In September 2007, the Philippines adopted the UN Declaration on the Rights of the Indigenous Peoples (UNDRIP).
3. The Government of the Republic of the Philippines (GRP) signed on August 7, 1998 the Comprehensive Agreement on the Respect for Human Rights and International Humanitarian Law (CARHRIHL). It was a comprehensive agreement between the GRP and the National Democratic Front of the Philippines (NDFP) to guarantee the protection of human rights of all Filipinos under all circumstances and to re-affirm and apply the International Humanitarian Laws in the conduct of the armed conflict between the two parties.

II. Implementation of the previous recommendations

A. ILO Convention 169 and IPRA: To ensure that economic activity, in particular mining, does not negatively affect the rights of IP

4. The GRP has not yet ratified the ILO Convention 169. Despite the enactment of the IPRA, IP all over the country continue to be subjected to various forms of human rights violations, as individuals and as collective peoples.
5. The inherent right of IP to ancestral land and natural resources therein are undermined by jurisprudence, Mining Act of 1995, Administrative Orders, several other domestic laws and national policies and the regressing implementation of the IPRA subsumed in the economic policies of the government.
6. The right to Free, Prior and Informed Consent (FPIC) legally protected under the IPRA, and stipulated in the UNDRIP and other UN instruments are manipulated and in many cases, through coercion and use of the military and paramilitary.
7. In July 2012, the Aquino administration came out with Executive Order No. 79 (EO 79)¹ which strengthened the abhorred anti-people Philippine Mining Act of 1995 and sustained the impunity of mining companies. EO 79 proclaimed a moratorium on all new mining applications, but excluded the 771 kinds of large-scale permits that were filed or approved prior to EO 79. In the pretense of streamlining government processes in granting mining permits, the GRP used the EO 79 and tried to override the resolutions by local governments

that have banned or issued moratorium against large-scale mining in the provinces of South Cotabato and Mindoro.

IPRA and the Collective Rights of Indigenous Peoples

8. From 2010 to 2016 IP organizations regularly submitted to the GRP proposals that called for reforms in the corrupt NCIP, review of IPRA and of the guidelines defining the free prior and informed consent (FPIC).
9. Based on recent experiences of the IP, the IPRA remains powerless in the face of widespread land grabbing, displacement and human rights violations, and a tool used by local and foreign capitalists. The NCIP served for the interest of corporations and operations of the military, exacerbating the violation of IP rights and sowing disunity among IP.
10. NCIP “consultations” only served as venues for a mining or energy company to convince IPs, as the companies present only the supposed benefits of the projects while concealing the destructive effects on the population and environment. Consultations have been exclusive, limited to those who would vote in favour of the project. There were also incidents where companies either bribed or threatened tribal leaders, and local government officials.
11. The Chevron geothermal project in Kalinga could have pushed through using a fraudulent FPIC process if not for the vigilance of IP communities. Chevron acquired the FPIC of the Dananao tribe in Tulgao in the concerned areas thru the facilitation of the NCIP, but it turned out to be that just a section of the tribe in another area was consulted, and selected participants were bribed by giving per diem and scholarship for their children. The FPIC was nullified after the concerned tribe protested. The project has reached an impasse.
12. Also in Kalinga, the NCIP “created” a Minanga tribe, which historically did not exist, and identified it as the tribe to negotiate with the company for a hydroelectric dam project. The IP elders then rejected this. In 2013, another case of FPIC violation in Kalinga was documented during the application of the Makilala Mining Company for a mining exploration where there was a deliberate exclusive consultation, involvement of fake council of elders and leaders (COEL), and failure to discuss the mining exploration project.
13. In Benguet, the NCIP and local government officials colluded in the “creation” of the COEL for the drilling operations of the Far Southeast Gold Resources Inc. (FSGRI). This COEL approved the P80 million-Financial and Technical Agreement (FTAA) with the FSGRI in June 2013, after more than a year of persistent opposition and barricade from IP residence.
14. The NCIP is also used as part of the counterinsurgency program Oplan Bayanihan. In Mindanao, the NCIP recognized as tribal leaders some IP individuals who are actively leading paramilitary groups. NCIP also participated in recruiting IP for paramilitary groups.

15. At the peak of the extra-judicial killings against IP in 2015 was a renewed call to revoke the IPRA as it has failed to protect the basic rights of the IP, especially against the economic policies of the government and laws such as the Mining Act of 1995.
16. The call to dismantle the NCIP became clearer and resounding because of issues of corruption, connivance with big businesses, and its silence against systematic repression against IP, idleness in protecting IP from killings, trumped-up charges, forced evacuations, attacks on indigenous schools, militarization of communities and other grave human rights abuses, including the bastardization of traditional indigenous systems with the formation of paramilitary groups.

“Development Aggression”

17. The overall economic strategy contained in the Philippine Development Plan 2011-2016 (PDP) reaffirmed the policies of liberalization, privatization, and deregulation as operationalized by the Public-Private-Partnership Program (PPP). It promotes land conversion into plantations, mining, infrastructure, real estate and tourism, which favor big and foreign businesses. The government has also turned over its obligation to provide basic social services, such as education and health, to private enterprises under the PPP.
18. The operation and numerous applications of large-scale mining by local and transnational corporations is the biggest threat to the right to ancestral land and self-determination of IP, while majority of the Filipino people are not benefiting from the industry. From 1997 to 2013, only 10% of the USD 32.7 billion gross production value of mining remained in the Philippines thru taxes, fees and royalties.
19. As of March 2015, there are at least 246 approved mining applications in areas occupied by IP covering an estimated 619,000.27 hectares of ancestral lands in the country².
20. From 2012 up to 2015, the following cases have been documented in indigenous communities affected by mining operations:
 - a. Adverse health and livelihood impacts and environment destruction caused by the operations of the Citinickel Mines and Development Corporation in Palawan; Philex Mining Corporation in Benguet and affecting adjacent provinces; and Oceana Gold Philippines Incorporated in Nueva Vizcaya.
 - b. Killings of at least 5 community members and leaders resisting the mining operations of Sagittarius Mining Incorporated in the quad-boundary of the provinces of Saranggani, South Cotabato, Sultan Kudarat and Davao del Sur; and killings and harassment against the Subanen people in the expansion areas of the Toronto Ventures Inc. Resource Development (TVIRD) in Zamboanga del Sur;
 - c. Harassment and filing of trumped up charges against community members of Nueva Vizcaya who were resisting the entry of the Royalco Resources Limited and the operations of the FCF Mineral Corporation, and against 97 residents of

Benguet who set up a barricade to stop the drilling operation of the Far Southeast Gold Resources Incorporated -Lepanto Consolidated Mining Company (LCMC).

- d. FPIC violation of the Makilala Mining Company (MMC) for its mining exploration and the connivance of the NCIP to deny the complaints of the community.
21. Along with mining, the state likewise aggressively pushing for agri-plantations and energy projects.
22. As of January 2016, there are at least 289 hydropower projects and 15 geothermal projects that have been awarded which are encroaching IP territories.
23. An estimated 17,000 Tumandok people are threatened of dislocation by the Jalaur River Multipurpose Dam to be built in Iloilo. No genuine FPIC were conducted with the Tumandok affected by the mega dam project.
24. Three of the 16 geothermal projects approved by the government in the Cordillera region are owned by Chevron. The community has rejected the FPIC secured by Chevron in Kalinga as it was manipulated and fake.
25. In Misamis Oriental, hundreds of Higaonon were displaced with the encroachment of the A. Brown Company Inc. (ABCI) in 2,000 hectares of their ancestral lands. Many IP suffered from loss of livelihood, hunger, diseases attributed to the use of US-banned pesticides carbofuran (Furadan) and glyphosate, and were also subjected to harassment and violence by the plantation's security guards.
26. On March 10, 2011, the ABCI security guards interrogated, tortured, and illegally detained 2 Higaonon men who are members of Pangalasag, the IP organization actively opposing the company's encroachment into their ancestral land. On October 12, 2012, Gilbert Paborada, Pangalasag chairperson was shot dead. Paborada had received death threats since 2011 from ABCI officials and security.

B. Paramilitary groups: To revoke the EO 546 and continue the promotion of measures to disarm and dismantle private armed group

27. The Executive Order 546 (EO 546) issued in July 2006 served as the basis for the creation and use of paramilitary groups. The Task Force Gantangan (TFG) was also established as a special operations group for Lumad³ under the Eastern Mindanao Command. It creates and recruits paramilitary groups among the Lumad with the aim of defending government projects. The TFG is known for conscripting Lumad into tribal warrior groups for intelligence gathering and military operations against the NPA, including suspected supporters.
28. Aside from causing human rights atrocities, Gantangan bastardizes indigenous socio-cultural practices and defense systems, such as the *pangayaw*. Traditionally intended to

defend Lumad territory from encroachment and destruction, the *pangayaw* was used for counter-insurgency and security for businesses, commonly harming other Lumad resisting development aggression.

29. The formation and recruitment of indigenous peoples to paramilitary groups to protect corporate interests as “investment defense forces” (IDF) in 2008 continued as another phenomenon exacerbating the violation of the rights of IP.
30. In November 2010 and October 2011 the EO 546 was reinforced as the Aquino administration mandated the strengthening of paramilitary groups as force multipliers for counter insurgency operations and to protect mining sites. The later was made in response to a tactical offensive of the NPA against three mining companies in Surigao del Norte where mining had caused much devastation in the ecosystem and people’s livelihood.
31. In Zamboanga del Sur, the SCAA (Special Civilian Armed Auxiliary) under the 1st Infantry Division terrorized the Subanen and other residents of Bayug town in preparation for the mining operations of the TVIRD. The SCAA forcibly entered homes, demolished and burned down houses. In February 2012, a team that was to verify the incidents was harassed and prevented by the SCAA to go to the area.
32. The SCAA also currently acts as the IDF for the South Davao Development Company and the Sirawai Plywood & Lumber Corporation in Zamboanga del Norte and Zamboanga Sibugay.
33. In Mindanao, 34 paramilitary groups continue to sow terror in the Lumad and peasant communities and schools, and harass IP opposing so-call development projects. Among these are the Bungkatol Liberation Front (BULIF), the New Indigenous People’s Army for Reform (NIPAR) under the 8th IB, the Alamara under the 1003rd IB, and the Lumadnong Pakigbisog sa Caraga (LUPACA) and Magahat Bagani Force in Caraga Region.
34. The paramilitary groups are linked to at least 29 of the reported 87 killings of Lumad from January 2012 to August 2016.
35. The killing of Jimmy Liguyon on March 5, 2012 in Bukidnon has been pinned to Aldy “Butsoy” Salusad, leader of the NIPAR. Liguyon was killed over his refusal to sign an agreement that would allow the entrance of a mining company in the Matigsalog ancestral domain.
36. The killing of a tribal leader Datu Bello Sinzo, chairperson of a provincial Lumad organization Dionel Campos and the executive director of a Lumad high school Emerito Samarca in Surigao del Sur was brutally executed by the Magahat Bagani Force as part of the military operations of the 75th IB.
37. Despite the issuance of warrants of arrest for Salusad and 3 of the 35 perpetrators of what became known as Lianga Massacre in Surigao del Sur, they remain to be free and

continuing sowing terror in IP communities. The group of Salusad killed 5 other IP leaders from January 2012 to August 2016.

III. Developments since the UPR 13th Session

38. The counter-insurgency program of the Aquino administration, Oplan Bayanihan implemented since January 2011, is no different, if not more treacherous, than the Oplan Bantay Laya (2001-December 2010) of the Arroyo administration. While Oplan Bayanihan purports to work within the human rights framework, on the contrary, it puts lives of civilians in danger through its strategy of “community for peace and development” and the deployment of military engineering brigades that will be implementing development projects. The strategy of community development under the auspices of the Armed Forces of the Philippines (AFP) endangers civilians, strips off otherwise civilian functions from the civil bureaucracy with high probability that development programs will be utilized with non-development objectives.
39. In 2015, peoples’ rights organizations have found out from government presentations the “Whole of Nation Initiative” (WNI) believed to be originally from the Office of the Presidential Adviser on the Peace Process (OPAPP), shows a concerted effort by various government agencies carrying out the Oplan Bayanihan. The WNI contains in it a presentation on the Indigenous Peoples Centric approach (IP Centric).
40. The WNI identifies IP communities, particularly the Lumad in the Eastern Mindanao, as areas of the New People’s Army⁴ (NPA). It has states that in Eastern Mindanao “74% of the NPA are IP”, and that “90% of the NPA bases are in ancestral domains”. This targeted region in the WNI coincide with the region and communities severely affected by militarization.
41. The WNI also follows the overall interagency approach of the Oplan Bayanihan, and actively involves the National Commission on Indigenous Peoples (NCIP) and government agencies on Social Welfare, Education, Justice and others with the counter-insurgency program in the focus region.
42. Manifestation of the IP Centric approach is the use of paramilitary groups, specially those formed with traditional IP terms such as the Alamara and Bagani (warrior); continuing impunity, as the perpetrators of the killings, especially those with warrants of arrest, remain free and continuously sowing terror in IP communities; filing of trumped up charges against human rights defenders; conduct of civil-military operations (CMO), COPD and encampment of IP communities; and building of new public schools nearby existing community schools along with continued threats and harassment against these schools, teachers, students and parents.
43. Inaugurated on June 30, 2016, Pres. Rodrigo Duterte is still continuing the implementation of Oplan Bayanihan.

Extra-judicial Killings and Attacks Against Human Rights Defenders

44. From January 2012 to August 2016, there have been 98 extra-judicial killings⁵ against indigenous peoples, 9 are female and 9 are indigenous children. Out of 98 victims, 87 are Lumad from Mindanao.
45. From July 2010 to June 2016, the Aquino administration committed at least 102 extrajudicial killing against IP, 87 are Lumad. Under the current Duterte Administration, the military, paramilitary and private security forces of landlords have killed 9 IP. Eight of them are Lumad.
46. A commonality among victims is that they were vocal opponents of destructive mining projects, oil palm plantations, militarization, or had criticized government neglect and corruption.
47. Cristina Morales Jose is a Mandaya woman and leader of the Barug Katawhan⁶ that held one of the biggest protests of IP and peasant typhoon survivors to demand just relief and rehabilitation held in Compostela Valley. She also exposed the corruption in the Department of Social Welfare and Development for the relief and rehabilitation of the areas, and the food blockades conducted by the military during the relief operation. In March 4, 2013, Cristina Jose was shot three times by motorcycle-riding gunmen. She died on the spot.
48. Extra-judicial killings continue in the Tampakan Gold and Copper Project site in Southern Mindanao. The AFP created the Task Force KITACO under the 1002nd Infantry Brigade (IBde), composed of the military, paramilitary and private security forces to protect the areas of the Tampakan mining project and against the Blaan people's *pangayaw* (tribal war) against Xstrata-SMI. The 26th IBPA strafed the home of Blaan woman leader, Juvy Capion, killing her and her two young sons. Three months later, Kitari Capion, a leader and warrior of the Blaan tribe was killed by members of the 1002nd IBde. A few months later, *Datu* Anting Freay, 60, and his son, Victor, 16, died when the 39th IB strafed their home.
49. Filing of trumped up charges has also become a trend especially against IP activists and human rights defenders. At least 68 IP who are members or leaders of IP and farmers organizations have been filed with trumped up charges.
50. Thirty-seven leaders of MAPASU have been charged with rebellion, frustrated murder, arson, illegal possession of firearms and explosives and malicious mischief. MAPASU is active in the struggle against militarization and large-scale mining in the Surigao del Sur. The MAPASU members were being implicated in an NPA attack in a police station in April 2011. The police filed the complaints in 2012.
51. Policemen in plainclothes arrested Jalandoni Campos, then chairperson of MAPASU, on March 23, 2013. He was released two days later after his colleagues held vigil outside the Tandag City Jail where he was detained. Dionel Campos who was the next chairperson of MAPASU after Jalandoni, was killed on September 1, 2015 in front of his children and their community.

52. Genasque Enriquez, secretary general of the KASALAO regional Lumad organization in Caraga, was filed with murder and multiple frustrated murder by elements of the 11th Special Action Company and 75th IB. The case is in connection with an NPA ambush against soldiers in July 2012.

53. Targeting IP human rights defenders is not just confined in Southern Philippines. In November 2012 of a list of “Municipality of Tinoc Target Persons” was released. This openly accused 28 persons as being communist rebels. Among those in the list were Jude Baggo and William Bugatti who are both members of the KARAPATAN a human rights watchdog. Unknown gunmen killed Bugatti in March 2014, while Baggo who was continuously receiving death threats needed to leave his work for sometime.

Militarization, Forced Evacuation and Attacks on Schools

54. The escalation of military operations in ancestral lands had in several cases led to forcible evacuation. From January 2012 to May 2016 Katribu had monitored 54 instances of forced evacuations of Lumad involving approximately 23,262 individuals.

55. Repeated military operations in communities pose serious threats to the mental and physical health of residents. In 2016 alone, 3 Lumad children have died in evacuation centers due to diseases. Evacuees also suffered subhuman conditions in evacuation centers.

56. Public schools are still widely inaccessible for indigenous communities. Nine out of 10 Lumad children have no access to education, according child rights organization Salinlahi. The lack or absence of basic education has further marginalized the IP.

57. Through the collective efforts of the community, IP organization and non-governmental organizations, appropriate alternative learning systems or schools were set up to provide education for children and adults.

58. These schools taught their children and the entire community how to develop their livelihood and also revived their cultural heritage, including their language. The communities covered the MAPASU were able to practice their right to self-determination as indigenous communities thru their education, self-subsistence economy, strong unity and governance.

59. However, these initiatives are under constant threat due to the counter-insurgency military operations that also openly targets these schools. Intense and repeated military operations have disrupted the lives of the IP and resulted to a long list of human rights violations.

60. On August 28, 2015, elements of the 75th IB and 36th IB encamped the Lumad villages in Brgy. Diatagon, Lianga, Surigao del Sur for what they said a “mission”. On September 1, 2015, three leaders of the community were massacred – the newly elected MAPASU chairperson, a traditional community leader, and the ALCADDEV executive director who have served the Lumad communities for over a decade. The Magahat paramilitary group,

which was formed, armed and trained by the military and whose members are also kin of the victims, was employed to accomplish this mission. This has forced the community to again leave their homes and evacuate in the Tandag City Sports Complex where at least 2300 IP stayed for one year. After the massacre, the military continued to occupy their communities until the end of August 2016. Some houses, livelihood and school facilities were vandalized or intentionally destroyed.

61. The sustained advocacy of the Lumad and their advocates from the national to the international arena despite harassments of the military and paramilitary groups, and the positive developments in the peace talks between the government and the National Democratic Front of the Philippines (NDFP), paved the way for the Lumad evacuees in Tandag City to finally reclaim their ancestral lands back on September 2, 2016 and to start rebuilding their livelihood, houses and schools.
62. Other similar cases have also happened in 10 other provinces in the Eastern Mindanao region.

IV. Conclusion

63. The key to long lasting peace for indigenous peoples is the protection of their **inherent, prior, existing and inalienable right to their ancestral territories** and its indivisible, inter-related and interdependent **right to self-determination**. These rights are protected in the domestic law and several international declarations and conventions.
64. The Philippine government has failed to comply with its human rights obligations to indigenous peoples as enshrined in the UNDRIP and all the UN Human Rights instruments that it has signed. The Philippine government has failed to protect indigenous peoples from “development aggression”. It has promoted and facilitated the entry of big businesses, violating the inherent and prior right to ancestral land and the right to a genuine FPIC and using investment defense forces. The Philippine government has targeted IP communities in its counter-insurgency program. It is promoting and supporting paramilitary groups who are notoriously acting without restraint in dealing with legitimate grievances. No prosecution and conviction has been lodged against perpetrators of human rights violations, leading to the conclusion that the government is tolerating impunity among its security forces. The government is not taking concrete steps to address forced evacuation.

IV. Recommendations to the Philippine Government

65. Katribu restates its call for the Philippine government to implement the recommendation of the UPR 13th session to dismantle and disarm the paramilitary groups through the revocation of the Executive Order 546 that protects their existence.
66. Katribu restates the specific recommendations of Special Rapporteur Philip Alston and the UPR 13th session to work towards complete elimination of torture and extrajudicial killings, and to conduct speedy and effective mechanism to prosecute and convict perpetrators of human rights violations.

67. Carry out prompt and effective investigation of the human rights violations committed against IP. Starting with the cases that have been documented by human rights organizations, ensure that all responsible for these violations, including officers under whose command such abuse occurred, be prosecuted.
68. Abandon counter-insurgency program Oplan Bayanihan and pull out state forces in indigenous communities. Seriously pursue peace negotiations with the National Democratic Front of the Philippines to pave the way in addressing the roots of the conflict. Implement the Comprehensive Agreement on the Respect for Human Rights and International Humanitarian Law (CARHRIHL) to ensure civilians and combatants declared hors d combat are protected in the course of armed conflict.
69. Respect and support the community schools established by the Lumad and their support groups as vital centers for education, cultural heritage and self-determined development. Stop the encampment and vilification of community schools and revoke the Department of Education Memo 221 that supports these attacks against the schools and self-determination of IP.
70. Cease from using indigenous systems and practices, and social services for counter-insurgency programs.
71. Implement the recommendation of the Special Rapporteur Chaloka Beyani in his country visit to address the complex causes of the displacement of the IP including militarization, natural or man-made disasters and resource development.
72. Katribu restates the specific recommendation of UPR 13th Session to issue a standing invitation to all United Nations Special Rapporteur and Working Groups, specifically, to the Special Rapporteurs on Indigenous Peoples Rights and on Human Rights Defenders.
73. Recognize and uphold the prior rights of indigenous peoples and revoke discriminatory legislation and doctrines, and with urgency the Mining Act of 1995, and enact the People's Mining Bill.
74. Conduct a comprehensive review of the Indigenous Peoples Rights Act, highlighting the experiences of the indigenous peoples since its enactment.
75. Investigate the National Commission on Indigenous Peoples on cases related to corruption, connivance with business interests, manipulation of FPIC processes, and participation in counter-insurgency programs.
76. Cancel awarded permits or projects that has acquired its FPIC through manipulation, deception or coercion, or has violated the rights of IP.

77. Ratify the ILO Convention 169 pertaining to Indigenous and Tribal Peoples in Independent Countries

¹ Entitled 'Institutionalizing and Implementing Reforms in the Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources'

² Based on Katribu's analysis of the data on the Approved Mining Tenements from the Mines and Geosciences Bureau under the Department of Natural Resources accessed in March 2015.

³ Lumad is a collective term referring to the indigenous peoples in the island of Mindanao.

⁴ NPA is an armed revolutionary group and member of the National Democratic Front of the Philippines (NDFP)

⁵ See Annex I

⁶ Barug Katawhan is an organization of the survivors of the Typhoon Pablo, the strongest typhoon that hit Mindanao in November 2012.