

1. The Rural Missionaries of the Philippines – Northern Mindanao Region (RMP-NMR) is an inter-diocesan and inter-congregational organization of men and women religious, priests, and lay people. It primarily works to support the rural poor in attaining justice, freedom, access to commons and genuine agrarian reform.
2. The data analyzed and presented in this report has been gathered through its indigenous peoples’ rights monitoring network, Katungod Lumad Monitor, established under the Healing the Hurt, a project lead implemented by RMP-NMR in partnership with indigenous peoples’ organizations in the region. The project is aimed at contributing to the advancement of the rights and continued development of indigenous peoples consistent with the spirit and letters of the United Nations Declaration on the Rights of Indigenous Peoples. Most of the data had been previously released as urgent alerts or as fact sheets communicated to different local and international human rights organizations and networks.
3. We deeply value the recommendations that had been made in the 2<sup>nd</sup> Universal Period Review Cycle. We note, however, that to this day, the conditions of the indigenous peoples in the communities we serve have remained the same, if not worsened.

### **The Right of the Lumad to their territories**

4. The land is at the core of the indigenous peoples. Their identity, their cultural, political and economic activities are rooted in the land they have been living on for generations.
5. Philippine legislation, however, has allowed the legal displacement of the Lumad<sup>1</sup> from their territories. Foremost among these laws is unfortunately the Indigenous Peoples’ Rights Act (IPRA)<sup>2</sup>. While we acknowledge that IPRA is a product of years of struggle, the resulting law has several loopholes that have been used to make the law work against the indigenous peoples.
6. Under the IPRA, the National Commission on Indigenous Peoples is mandated to oversee the concerns of the Lumad. Among their mandates are to facilitate the land tenure instrument crafted for ancestral domains – the provision of the Certificate of Ancestral Domain Title – and the facilitation of the Free Prior and

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<sup>1</sup> The collective term used for the indigenous peoples of Mindanao

<sup>2</sup> Republic Act No. 8371 ‘An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/ Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes’

Informed Consent, a process designed to respect the indigenous peoples' right to self-governance and self-determination.

7. Cases in Mindanao show that securing the FPIC had simply equaled to securing a document from CADT-holders. This is problematic as there are still communities who have not secured titles for their lands, either unaware of the law or refusing to be tied to this law. The CADT limits indigenous communities – in their concept of ownership, their concept of domain.
8. In the municipality of Quezon in the Province of Bukidnon, for example, the Manobo-Pulangion had occupied the territory in centuries past. During the time of colonization, their lands were 'borrowed' from their forefathers by settlers who set up ranches. In the present time, the municipality is broken into several barangays. What is left for the Manobo-Pulangion to reclaim are non-contiguous lands. Their previous territory is now interspersed with plantations and private properties.
9. A CADT was released to the Manobo-Pulangion in Quezon through the Quezon Manobo Tribal Association in 1998. Datu<sup>3</sup> Ensubay had lived in the domain for eight years until he was informed that he was only borrowing the land he was living on as Bae<sup>4</sup> Lataran, a member of the head claimants of the CADT, will appropriate the land for other uses. Bae Lataran later leased it out to a pineapple plantation. In 2011, Datu Ensubay and his family moved to another CADT whose head claimant was his aunt, Bae Kayang Agdahan. However, the land was also leased out to non-indigenous individuals and they could be driven out anytime. Datu Ensubay, together with seven other clan leaders without lands, formed the Tribal Indigenous Oppressed Group Association (TINDOGA) to apply for a CADT previously occupied by a ranch and whose lease had already expired<sup>5</sup>.
10. Articles 8 and 28 of the UNDRIP stipulates for a mechanism that would help indigenous peoples get just compensation for or re-access their usurped lands. However, despite the existing IPRA Law, it is still difficult for indigenous communities to claim their lands especially if these are within the interests of companies.

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<sup>3</sup> *Datu* is the titular respect given to traditional – meaning, elected according to their customary law and formally given the assignation through a ritual – male leaders in indigenous communities.

<sup>4</sup> *Bae* is the titular respect given to traditional female leaders in indigenous communities.

<sup>5</sup> Rural Missionaries of the Philippines – Northern Mindanao Sub-region, Inc. Tracing Roots, Asserting Claims: The history of the Manobo-Pulangion and TINDOGA and its claim to its ancestral domain. July 2014.

11. The struggle of TINDOGA is an example of the indigenous communities' difficulty of competing with capital interests. In March 2013, TINDOGA members attempted to enter their claimed ancestral domain. However, they were shot at and driven away by the ranch guards. In February 2014, they held a camp-out at the municipal office of Quezon, Bukidnon. This resulted to a survey of their lands and their temporary installation<sup>6</sup>. It was only the following year that they were officially given their CADT. However, the ranch guards would still, from time to time, enter their lands and indiscriminately fire at them while they are working on their farms<sup>7</sup>.
12. In contrast to the plight of TINDOGA is the story of the Sinangguyan agrarian reform beneficiaries' case<sup>8</sup>, wherein the local government was supporting an indigenous group in their move to reclaim their land that had already been distributed to small farmers through the Comprehensive Agrarian Reform Program. The Manobo clan of the Aboy-Daguiwaas was accompanied with private guards who destroyed the houses of the farmers and forcefully installed the clan in the area. It is of note, however, that the Aboy-Daguiwaas clan had already reclaimed part of their ancestral domain earlier but had leased out the land to Lapanday Foods Corporation.
13. On another level, head applicants of the CADT are the only ones who need to sign documents allowing for projects to get into their ancestral lands collectively owned by the community. This procedure has been exploited by companies, going through amenable indigenous groups to access their lands. It has resulted in factions within indigenous communities.
14. The killing of Datu Jimmy Liguyon in 2012 by a paramilitary group the New Indigenous Peoples' Army for Reform (NIPAR) is an example of this factions among indigenous leaders. He was, according to his family, being forced by NIPAR to sign documents allowing the inclusion of the community he leads to be part of the development plan of the San Fernando Tribal Datus Association (SANMATRIDA), which would bring in a large-scale mining company in the Manobo-Matigsalug community of San Fernando, Bukidnon<sup>9</sup>. NIPAR leaders were allegedly part of SANMATRIDA<sup>10</sup>. Since Datu Jimmy continued to refuse and

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<sup>6</sup> Ibid.

<sup>7</sup> See Annex 1: Urgent Alert on TINDOGA harrassment

<sup>8</sup> See Annex 2: Fact Sheet on the Sinangguyan case of land grabbing

<sup>9</sup> Ina Alleco Silverio. Killed indigenous leader Jimmy Liguyon's family continue fight for justice. Accessed from: <http://bulatlat.com/main/2012/04/19/killed-indigenous-leader-jimmy-liguyons-family-continue-fight-for-justice/> on 19 September 2016

<sup>10</sup> H. Marcos C. Mordeno. Paramilitary group accused of harassing sitio folk in Bukidnon town. Accessed from: <http://www.mindanews.com/top-stories/2012/03/paramilitary-group-accused-of-harassing-sitio-folk-in-bukidnon-town/> on 19 September 2016

instead joined protest actions against mining, he was killed. This was also the statement of Alde Salusad as told by witnesses.

15. The case had already been brought to the national government offices. With the help of then DILG Secretary Jesse Robredo, a warrant of arrest had been released for the head of the paramilitary group, Alde Salusad. Until now, however, the warrant has not been served, the state forces reasoning that the paramilitary group was either too powerful or difficult to track. It must be noted that the father of Alde Salusad, Benjamin 'Nonong' Salusad, is himself a member of the Civil Armed Forces Geographical Unit under the 8<sup>th</sup> Infantry Battalion of the Philippine Army.
16. This unresolved was the start of a string of other killings perpetrated by the paramilitary group over the years. The group would threaten or kill anyone who was against them. Salusad also declared all who were against them and were generally against mining as members of the New People's Army, insisting that they are legitimate targets in counter-insurgency operations of the military in which Salusad and his men also take part in. To date, Salusad and his men have killed at least four individuals – two of them indigenous leaders, strafed an entire community, and caused three major evacuations<sup>11</sup>.

### **Right to Life: Protection as Civilians**

17. Under Article 30 of UNDRIP, Military operations should be known – and given consent to – by the community. They should first prove that there are indeed rebel activities in the ancestral lands before they can enter – should they use the premise that it is for the nation's security. However, in the cases documented by the Katungod Lumad Monitor, the indigenous peoples are put on the defensive, they are the ones who are burdened with the task of proving that they are not guilty of any form of rebellion. Because of military operations, the activities – economic and cultural – of the Lumad in their own ancestral domain have been hindered.
18. The military operations have hindered the IPs from going to their farms, disrupting their cultural practices, fearing they would be accused of being members of the NPA. Three members of the Higaonon community in Claveria, Misamis Oriental were held by the military overnight on September 28, 2015. According to their accounts, they were gathering orchids in the forest, which is one of their sources of income, when a group from the 58<sup>th</sup> Infantry Battalion doing operations passed by them. They were hogtied, interrogated, and beaten

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<sup>11</sup> See Annex 3: Summary of extrajudicial killings of IPs in Mindanao

overnight, forced to give information on the whereabouts of the NPA. The three were released after they signed a document they were not able to read<sup>12</sup>.

19. On April 27, 2016, 27 armed men, who introduced themselves as members of the Philippine Military, arrived in the Talaandig community in Sitio Kaulayanan, Lirongan, Talakag, Bukidnon. Some of them went to the house of Michael Sib-ot, demanding that he surrender the guns he allegedly kept. Scared, Michael ran out of his house, but he was killed. Other members of the military also opened fire at a 6-year old child, Edjan Talian, when he arrived after fetching water. Another set of military men went to the house of Romel Talian and also forced him to surrender his allegedly kept guns. The military left the community bringing with them Romel Talian and the relatives of Edjan. They wanted the mother and grandmother of Edjan to sign a settlement, which they refused. They also pressured the mother of Romel to force her son to sign a statement saying he was the one who shot Edjan and Michael.
20. In the *Whole of Nation Initiative* briefing of the Philippine Army, they have stated that 74% of the New People's Army members are indigenous persons<sup>13</sup>. This has given the military a mindset that the Lumad they meet during their operations are NPA. This effectively robbed the indigenous individuals protection against attacks of military operations – including violence perpetrated by military auxiliaries and paramilitary groups.
21. The Geneva Conventions and its Protocols stipulate that in situations of armed conflicts - of either international or non-international character - a distinction must be made between civilians and fighters. Civilians are never legitimate target for shooting and doing so is a war crime. It is also considered a war crime if a party to a hostility is using civilians as defense shields.
22. In another incident in August, 2015, five members of the Manobo community in Barangay Mendis, Pangantucan, Bukidnon were massacred. The military, who had earlier encountered members of the New People's Army retreated to the nearest house of a Manobo family. There, they ordered all the inhabitants, who were then cooking corn, to go out. They were all shot, including a blind 70-year old man, Datu Herminio Samia. Samia's grandson was the lone survivor, having ran as soon as the military started killing his relatives<sup>14</sup>.

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<sup>12</sup> See Annex 5: Fact Sheet on Forcible Evacuation and Displacement in Claveria, Misamis Oriental

<sup>13</sup> Powerpoint presentation on the Whole of Nation Initiative available at [http://www.interaksyon.com/assets/documents/WNI%20and%20Serbisyo%20Carava\\_Brief%20\(sdc%20xi%20presentation\\_Dr%20%20\(1\).pdf](http://www.interaksyon.com/assets/documents/WNI%20and%20Serbisyo%20Carava_Brief%20(sdc%20xi%20presentation_Dr%20%20(1).pdf)

<sup>14</sup> See Annex 6: Excerpt of the Fact-Finding Mission Report on the Pangantucan Massacre

23. In the Philippine Internal Security Plan, the Oplan Bayanihan<sup>15</sup> enlists the participation of civilians in maintaining peace in their communities supposedly under the Community Organizing for Peace and Development (COPD). However, this has become forced especially among the Lumad communities the military and its auxiliary (both formal and unrecognized) units have accused of being supporters of the New People's Army.
24. In December 2014, village captain and traditional leader Datu Necasio Precioso was killed by suspected members of a paramilitary group working with the 26<sup>th</sup> Infantry Battalion of the Philippine Army in San Luis, Agusan del Sur. Prior to his death, Datu Angis had been in an argument with Master Sergeant Andres Villaganas after the military called for members of the Banwaon community for interrogation. During the interrogation, Villaganas accused them of supporting the NPA. Datu Angis defended them and stated his opposition of the further recruitment of their community members under the COPD<sup>16</sup>.
25. The organization of Tagdumahan was established after the community decided they needed an unarmed force to defend them. However, their position regarding the protection of their ancestral lands and the consequent refusal to submit under any leadership that wishes to open up their natural resources to large-scale extractive operations has resulted in their continued subjection to military harassments.

### **Discrimination in public services**

26. The discrimination of the Lumad communities has affected their access to the Philippine justice system. In some cases, they are not admitted into government offices simply because they are not properly dressed – i.e. no shoes, dirty clothes<sup>17</sup>. Often, they need non-government organizations or volunteer individuals to help them navigate around government establishments.
27. The Lumad seldom receive services at evacuation and protest camps set up in the middle of urban centers, often in front of local government establishments. Instead of addressing the problem of evacuees – often the presence of paramilitary groups in their communities – they view the evacuees as the

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<sup>15</sup> Internal Peace and Security Plan of the Armed Forces of the Philippines implemented under the government of former President Benigno Aquino III.

<sup>16</sup> See Annex 7: Fact Sheet on the death of Necasio 'Angis' Precioso

<sup>17</sup> From the media statement of Pigyayungaan (an indigenous peoples' organization in Malaybalay City, Bukidnon) against the Kaamulan celebrations while a Talaandig community has set-up camp in front of the Provincial Capitol Grounds. The statement cited the difficulty of getting even a police blotter for the killing of the Talaandig members because their relatives of the victims were not allowed into the government offices for wearing inappropriate clothes.

problems. Instead of extending services, government establishments pressure the evacuees to leave – not giving them access to nearby toilets, giving minimal support if at all, and even bribing them with payment just to force them to go back to their dangerous communities<sup>18</sup>.

28. The government has also implemented a cash transfer program, which gives incentives to the indigenous families to put their children to school and for the women to avail of the services of the health centers. However, there are no support provisions that made these services accessible to the indigenous communities.

29. Despite the increase in the expenditure in education, there are remote indigenous communities that are still not reached by public institutions. Alternative learning institutions are not protected by the state and are in some cases attacked by state forces or paramilitary groups<sup>19</sup>.

### **The Right to Self-Governance and Self-Determination; Access to Justice**

30. The Department of Interior and Local Government released a memorandum<sup>20</sup> pursuant to the provision under the IPRA's Implementing Rules and Regulations for a mandatory representative from the indigenous communities in all policymaking bodies and in local legislative councils.

31. While the allocation of seats for indigenous peoples in local governments is positive, the effectiveness of their representation is questionable. In Misamis Oriental, traditional indigenous leaders in the province questioned the appointment of the first provincial mandatory representative. According to their letter of complaint to the provincial government<sup>21</sup>, the self-nominated mandatory representative had committed atrocious rights violations against IP communities in Claveria, Misamis Oriental. Moreover, the *datus* of other municipalities<sup>22</sup> were not informed of his election. Only those who had been reached by the NCIP were able to cast their vote or give their endorsement.

32. There is also the danger of the forced mediation of mandatory representatives who do not necessarily represent the interests of the communities. The case of

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<sup>18</sup> Statement of Unity of the evacuees (English version) at <http://www.rmp-nmr.org/articles/2016/06/16/statement-unity-evacuees-camansi-and-tapol>

<sup>19</sup> See Annex 4: Summary of Threat, Harassment, and Intimidation cases against indigenous peoples in Mindanao

<sup>20</sup> DILG Memorandum Circular 2010-119

<sup>21</sup> copied to the Kalumbay Regional Lumad Organization

<sup>22</sup> among them all the council members of the Kalumbay Regional Lumad Organization from Misamis Oriental

Balangas Anlamit, a Manobo who was killed during a military operation in San Fernando, Bukidnon, was settled by Nonong Salusad, a member of the CAFGU<sup>23</sup>. For the death of Anlamit, the military paid the family a horse. In the case of the Pangantucan massacre, the mandatory representative of Pangantucan tried to arrange with the military. The family, however, refused to negotiate.

### **Recommendations**

33. Revoke legislations that have been used against the indigenous communities – notable of all, the IPRA of 1997 and replace this with a law that genuinely recognizes the rights of indigenous peoples especially their right to self-determination.
34. Conduct investigations of all unresolved cases, especially the extra-judicial killings, with the participation of civil society and indigenous peoples' organizations. Suspend military officials involved or accused of involvement in human rights abuses for the duration of the investigation and until his or her name is cleared.
35. Pull out state forces from indigenous communities, and secure the communities' FPIC when conducting military operations.
36. Disband, disarm and arrest leaders and members of paramilitary groups. Forbid companies to secure the services of investment defense forces / private militias in ensuring their operations in ancestral domains.
37. Respect the Comprehensive Agreement on the Respect for Human Rights and International Humanitarian Law and other international laws that ensure the protection of civilians in situations of armed conflicts.
38. Democratize consultation with indigenous communities in all decision-making bodies from the local to the national levels, not limiting their representation to mandatory representatives in government units. This should especially be done in the drafting of economic plans that have impact on their ancestral domains.

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<sup>23</sup> The widow of Balangas Anlamit was interviewed for the RMP-NMR produced video documentary, *Gikan sa Ngitngit nga Kinailadman* where she narrated that during the ritual, Salusad was sprayed by the offered chicken's blood, a sign that Salusad himself was one of the perpetrators of Anlamit's death.