

# **Indigenous Peoples' Agenda:**

## **A Challenge to the New Administration Under the Leadership of President Benigno Simeon Aquino III**

*Recalling* Article 7 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) which affirms the rights to life, physical, and mental integrity, liberty and security of person,

*Recalling* further Article 20 of the UNDRIP which asserts that Indigenous Peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secured in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

*Recalling* also general provisions of the Indigenous Peoples Rights Act (IPRA) that the state shall recognize, respect and protect the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national laws and policies. The state shall guarantee that members of the ICCs /IPs regardless of sex, shall equally enjoy the full measure of human rights and freedoms without distinction or discrimination. That the National Commission on Indigenous Peoples (NCIP), as mandated by law, shall protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions.

*Noting* various experiences of Indigenous Peoples in the past as regards their rights over their land, resources, territories and human rights which do not conform to existing standards of justice and fairness.

A National Conference on Asserting Indigenous Peoples Land Rights held from July 1 – 3, 2010 approved a Conference Resolution seeking the support of the government under the leadership of President Benigno Simeon Aquino III to respect, protect and fulfill the rights of Indigenous Peoples in all aspects of their well-being.

*Concerned* for real and positive change in the lives of Indigenous Peoples through a just exercise of their rights after they have suffered from historic injustice, dispossession from their lands, resources and territories and extra-judicial killings. Hence, in the urgent need to attain meaningful recognition, respect and promotion of the rights of Indigenous Peoples, we now call upon the leadership of the current government to address the following concerns:

## **1. On the National Commission on Indigenous Peoples (NCIP), titling of ancestral lands and domain, Free, Prior and Informed Consent and the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP)**

Cases from various indigenous communities from Luzon to Mindanao indicate that the NCIP, the primary government agency mandated to implement the Indigenous Peoples' Rights Act (IPRA), is not working effectively for Indigenous Peoples. In many parts of the country, the process that an indigenous community goes through to secure CADT/CALT takes too long, having to pass through a tedious and cumbersome process, not to mention expensive and burdensome requirements. In other accounts, there are CALT and CADT applications haphazardly approved<sup>1</sup> and some even went missing<sup>2</sup>.

The ADSDPP process is defective. This process should enable indigenous communities to develop their own plans for their ancestral domains. Instead, its implementation has only imposed an unnecessary additional governmental regulatory mechanism that impinges on the rights of self-determination of the Indigenous Peoples and deny them the right to define their own development priorities. The ADSDPP is being implemented for compliance sake, instead of coming up with meaningful plans that are identified by Indigenous Peoples themselves.<sup>3</sup> Moreover, the strict implementation of the 2006 FPIC Guidelines by the NCIP has caused severe impact on indigenous communities due to approved environmentally-destructive projects (like large scale mining) without the consent of affected communities.<sup>4</sup>

In this light, we call on the Aquino government to create an independent body to review the implementation of the IPRA, to evaluate the performance of the NCIP, including the Office of Southern Cultural Communities (OSCC) of the Autonomous Region of Muslim Mindanao. It is proposed that such review be undertaken with the active participation of Indigenous Peoples' communities. To strengthen the Aquino administration's key thrusts anchored on "Walang Mahirap Kung Walang Corrupt," we call for a total revamp of the NCIP in order to free the agency from its history of inefficiency and corruption. We further call on the Aquino government to ensure that free, prior and informed consent be obtained from genuine representatives of indigenous peoples.

## **2. Millennium Development Goals (MDGs) and Indigenous Peoples**

Indigenous Peoples' right to development has been largely denied and neglected by the government in the pursuit of economic growth.<sup>5</sup> As a result, Indigenous Peoples often lose out to more powerful actors - private corporations with interests in extractive industries, land speculators, among others. Indigenous Peoples are thus among the most impoverished groups<sup>6</sup> in our country.

We call on the Aquino government to give special attention to the plight of Indigenous

Peoples in terms of poverty reduction and eradication measures, improvement of basic social services and to implement the Millennium Development Goals and the Millennium Declaration to which the government is a signatory.

### **3. The GRP and the MILF Peace Talks and the Bangsa Moro Juridical Entity (BJE) and the GRP and the NDF Peace Talks**

In the past GRP-MILF Peace Talks, the Indigenous Peoples of Mindanao or Lumads have not been given meaningful and sufficient representation as a party and stakeholder to the talks, inspite of the fact that the BJE claimed by the Bangsa Moro includes the ancestral domain and lands of Lumads. Historically, Lumads and Muslims in Mindanao have forged peace pacts that govern their relationships and territorial boundaries.<sup>7</sup>

In relation to peace negotiations other than the GRP-MILF Peace talks, Indigenous groups in non-Bangsamoro regions urge the Aquino government to resume peace negotiation with the National Democratic Front; to address the roots of the armed conflict affecting Indigenous Peoples; to implement agreements forged by both parties such as the CARHRIHL; and ensure that Indigenous Peoples' rights and concerns are considered in their second substantive agenda on CASER, which should include the collective rights of Indigenous Peoples.

We call on both parties, the Government of the Republic of the Philippines (GRP) and the Moro Islamic Liberation Front, to recognize the peace pacts forged through history between different Indigenous Peoples and Muslims in Mindanao. We also call on the GRP, MILF and NDFP to establish or create an appropriate body to ensure the effective participation of indigenous peoples across the country. Members of this body should be selected by Indigenous Peoples themselves.

### **4. Human Rights Violations**

Indigenous Peoples are particularly susceptible to human rights abuses. Under the Arroyo administration, innocent civilians, including indigenous peoples, have been victims of extra-judicial killings and enforced disappearances, resulting in the disintegration of families and causing fear in indigenous communities.<sup>8</sup> Under the new administration, three Dumagats were killed last July 19, 2010 in Montalban, Rizal. The military has also been implicated in cases of violations of human rights, especially since they conduct military operations and are present inside Indigenous Peoples' communities, disrupting their daily lives.<sup>9</sup>

We support the commitment of President Benigno Simeon Aquino III to probe the string of extra-judicial killings committed under the Arroyo administration and to go after

perpetrators of extrajudicial killings in the country. We call on the Aquino government to immediately implement the recommendations of the UN Special Rapporteur on the human rights and fundamental freedom of indigenous people during his 2002 Philippine Mission<sup>10</sup> and the Philippine Indigenous Peoples ICERD Shadow Report.<sup>11</sup>

We further call on the government to dissolve Oplan Bantay Laya, a blueprint for impunity because it does not distinguish combatants from non-combatants; bring justice and indemnify victims of human rights violations; and free political prisoners illegally arrested by the Arroyo government.

## **5. Mining and Other Development Projects**

The Arroyo administration aggressively promoted large-scale mining in the country, which has caused untold suffering to indigenous peoples who live in mineral-rich lands.<sup>12</sup> As a result of this policy, the genuine process to secure a free, prior and informed consent (FPIC) of indigenous communities has been bastardized, manipulated and, in some instances, disregarded.<sup>13</sup> Mining has not brought development to indigenous communities. Rather, mining-affected communities have experienced dislocation from their territories, suffered harassment and abuse, and the degradation of their ecosystems.<sup>14</sup>

We call on the Aquino government to declare a moratorium on large-scale mining and conduct a review of existing mining policies in the country. We further call on the government to exclude indigenous people's sacred sites, critical watersheds and sanctuaries from mining and other development projects. We also call on the Aquino government to require mining companies to rehabilitate degraded and mined-out areas, and compensate indigenous peoples affected by landslides, erosions and sinkholes. We further call on the Aquino government to ensure that the genuine free, prior and informed consent of indigenous peoples be obtained before other development projects such as mega hydro electric dams are brought into their communities.

## **6. Conflicting Laws**

Even with the passage of the Indigenous Peoples Rights Act (IPRA), the collective rights of indigenous peoples, especially their rights to ancestral land, continue to be violated. One reason is the number of conflicting laws and policies pertaining to ownership, control, management and development of land and resources. While the IPRA recognizes Indigenous Peoples' rights to ancestral lands and domains, laws like the Mining Act of 1995, Forestry Code, Fisheries Code, and NIPAS Act, among others, create loopholes and allow extractive industries and government agencies to violate and dilute the rights of Indigenous Peoples vested by the IPRA.

We urge President Aquino to call for a review of laws in conflict with IPRA and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in order to ensure the respect, recognition, protection and fulfillment of the individual and collective rights of indigenous peoples.

In view of the forgoing, we the undersigned respectfully present this resolution and seek your full support to recognize, uphold and promote the rights of indigenous peoples in the light of the considerations presented in this resolution.

*Adopted and signed this 9<sup>th</sup> day of August 2010 during the Celebration of the World's Indigenous Peoples' Day in the Philippines held at the University Hotel, UP Diliman Campus, Quezon City.*

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## Endnotes:

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- <sup>1</sup> In Metro Baguio, there are cases where midnight titles and controversial titles were issued as cited by Mr. Giovanni Reyes in his study, "Anatomy of Baguio Midnight Title." The paper was presented during the Baguio Centennial Conference at University of the Philippines Baguio, 2009.
- <sup>2</sup> In 2004, the Kanawan Aytas submitted an application to NCIP for a Certificate of Ancestral Domain Title (CADT) covering approximately 10,000 ha of land. Unfortunately the CADT application is still pending despite submission of the ADSDPP to the provincial office in 2008. At present, the ADSDPP document is nowhere to be found in both NCIP and Department of Agrarian Reform (DAR) Offices. This information was shared by a participant to the National Conference on Asserting Indigenous Peoples' Land Rights held in Ridgewood Residence, Baguio City on July 1-3, 2010. This experience of the Aytas in Morong Bataan was documented and is included in their current study on "Systems and Practices in Protecting, Utilizing, and Benefit Sharing of Natural Resources and Traditional Knowledge of Kanawan Aytas in Morong Bataan."
- <sup>3</sup> Many of the contents of the ADSDPP are lifted from municipal development plans and do not reflect Indigenous Peoples' development perspectives and priorities. Presently, many of the ADSDPP have not been implemented because of the lack of financial and material resources. Critiques by civil society organizations pointed out that ADSDPPs are being formulated to entice market-driven investments as observed in the drafted "Indigenous Peoples Master Plan," currently being finalized by NCIP, contrary to the subsistence economy of indigenous peoples.
- <sup>4</sup> It was observed that most of the complaints of indigenous peoples addressed to NCIP is the manipulation, if not, non-observance of the FPIC guidelines which is supposed to protect indigenous communities from land dispossession and dislocation. Under the 2006 NCIP Guidelines on FPIC, large-scale mining are allowed in Indigenous Peoples' territories as long as these territories are not in the Master List of NCIP. Since 1999, NCIP equated non-application of Indigenous Peoples for the recognition of ancestral domain title as non-existence of Indigenous Peoples. Such practice has eventually led to question the sincerity of NCIP in the implementation of its mandate, not only by indigenous peoples themselves, but also from civil society organizations and indigenous peoples' advocates.
- <sup>5</sup> According to the United Nation's "State of the World's Indigenous Peoples," there are over 370 million indigenous peoples in some 90 countries living in all regions of the world. Their situation in many parts of the world is critical. Poverty rates are significantly higher among indigenous peoples compared to other groups. While they constitute five per cent of the world's population, they are 15 per cent of the world's poor. Most indicators of well-being show that they suffer disproportionately compared to non-indigenous peoples.
- <sup>6</sup> In the Philippines, poverty continue to rise due to inequitable distribution of wealth. As a consequence, it is the poor and marginalized who pay the heaviest cost. As part of the marginalized groups, Indigenous Peoples lag behind in access to quality education and health services and also suffer from discrimination in terms of employment and income.
- <sup>7</sup> The Indigenous Peoples in Mindanao and Palawan who were delegates to the Mindanao-Palawan Indigenous Peoples' Consultation on the Bangsamoro Juridical Entity (BJE) held at Manresa Conference Center in Cagayan de Oro City on August 24-27, 2008, have declared their unified views and recommendations on the peace talks, ancestral domain and the Cagayan De Oro Declaration on the MOA on Ancestral Domain of the GRP-MILF Peace Panel. The conference was attended by more than 200 indigenous leaders from the different tribes. The declaration can be accessed from [http://www.tebtebba.org/index.php?option=com\\_content&view=article&id=29:cagayan-de-oro-declaration-on-the-moa-on-ancestral-domain-of-the-grp-milf-peace-panel](http://www.tebtebba.org/index.php?option=com_content&view=article&id=29:cagayan-de-oro-declaration-on-the-moa-on-ancestral-domain-of-the-grp-milf-peace-panel)

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[&catid=51:ip-declarations](#)

<sup>8</sup> In a report by the UN Special Rapporteur on extrajudicial summary or arbitrary executions Philip Alston in 2007, there have been many extrajudicial executions of leftist activists in the Philippines over the past six years which have eliminated civil society leaders, including human rights defenders, trade unionists and land reform advocates; intimidated a vast number of civil society actors; and narrowed the country's political discourse. The full report on "Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development" can be accessed from [http://www.stopthekillings.org/stknpv2/files/A-HRC8-Philippines\\_Advance.pdf](http://www.stopthekillings.org/stknpv2/files/A-HRC8-Philippines_Advance.pdf)

<sup>9</sup> Among the indigenous victims of extra-judicial killings during the Arroyo administration are: Marcus Bangit, Alice Claver and Nicanor de los Santos. The political prisoners are Angela Doloricon (Kankanaey) and Ray-om. An indigenous victim of enforced disappearance is James Balao, an Ibaloi-Kankanaey activist, abducted by State security forces on Sept. 17, 2008. He remains missing until today.

<sup>1</sup> <sup>0</sup> The full report was presented by Mr. Rodolfo Stavenhagen, Special Rapporteur on the human rights and freedom of indigenous people, during the 59<sup>th</sup> Session of the UN Commission on Human Rights under item 15 of the provisional agenda. The report can be accessed from [http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/568f8e64e2800006c1256cf7005d2593/\\$FILE/G0311521.pdf](http://www.unhchr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/568f8e64e2800006c1256cf7005d2593/$FILE/G0311521.pdf)

<sup>1</sup> <sup>1</sup> The report was submitted to the Committee on the Elimination of all Forms of Racial Discrimination during its 73<sup>rd</sup> session on August 28, 2009. The full report is available online from [http://www2.ohchr.org/english/bodies/cerd/docs/ngos/PIP\\_Philippines75.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/ngos/PIP_Philippines75.pdf)

<sup>1</sup> <sup>2</sup> Indigenous Peoples' unified stand on extractive industries, which include mining, was clearly expressed in the Manila Declaration during the International Conference on Extractive Industries and Indigenous Peoples on March 23-25 2009 held at The Legend Villas, Metro Manila. The event was attended by indigenous peoples and support organizations from 35 countries around the world. You may see the full document from [http://www.tebtebba.org/index.php?option=com\\_content&view=article&id=46:international-conference-on-indigenous-peoples-a-extractive-industries&catid=73:international-conference-on-extractive-industries-&Itemid=57](http://www.tebtebba.org/index.php?option=com_content&view=article&id=46:international-conference-on-indigenous-peoples-a-extractive-industries&catid=73:international-conference-on-extractive-industries-&Itemid=57)

<sup>1</sup> <sup>3</sup> Since FPIC is integral to the full and effective participation of indigenous peoples in development, Tebtebba conducted a study in 2006 to look into the FPIC implementation, describe and analyze the current legal and conceptual framework and the actual practice of free, prior and informed consent in the context of Indigenous Peoples' communities affected by corporate projects particularly those that involve resource extraction. Results of the study showed inconsistencies and violations committed relative to the conduct of FPIC. Six sites were chosen for the study - of the six cases, four were on mining, the rest on hydro power development and quarrying and processing plant.

<sup>1</sup> <sup>4</sup> In a follow-up report by Robert Goodland and Clive Wicks on mining in the Philippines, their report showed, through a mapping exercise, that there was an overlap of mining locations, both existing and proposed, with indigenous ancestral domains, watersheds and areas of environmental importance, all of which are critical for agricultural and food security in the Philippines. The full report, entitled "Mining or Food?" was published in 2009 by the Working Group on Mining in the Philippines.