

Mandate of the Special Rapporteur on the rights of indigenous peoples

REFERENCE: AL Indigenous (2001-8)
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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the rights of indigenous peoples pursuant to Human Rights Council resolution 15/14.

In this connection I would like to bring to the attention of your Excellency's Government information I have received regarding the **alleged harassment and displacement of B'laan indigenous communities in Davao del Sur by members of the Philippine Army.**

According to the information received:

On 19 April 2013, a unit of the 39th Infantry Battalion, Philippine Army landed by helicopter at Sitio Tah Canten, Malawanit, Magsaysay, Davao del Sur, Philippines. Armed confrontations between the New People's Army (NPA), a Maoist guerrilla organization, and the army battalion ensued. It is alleged that since its deployment in the area, the army maintained a presence in local B'laan indigenous villages despite the armed confrontations having occurred far away from those villages. Members of the military allegedly harassed and conducted interrogations of B'laan indigenous villagers based on the unsubstantiated suspicion that they were either supporters or members of the NPA. The continued military presence and harassment allegedly resulted in 522 indigenous B'laan members evacuating the villages of Purok 6 and Purok 7 (Sitio Blazan).

According to the allegations, indigenous villagers who in the following days attempted to return to their lands to cultivate and harvest their crops in order to support their families were prevented from doing so by the army. The soldiers reportedly told villagers that keeping them out of the area was necessary in order

to protect them from the crossfire between the army and the NPA. However, it is alleged that even after the fighting between the army and the NPA ended in the region, the villagers were still prevented from returning to their homes. The inability of B'laan villagers to tend to their crops in the days immediately following their evacuation allegedly resulted in the loss of corn, peanut and other crops that they depend on for their livelihood.

According to the information, members of these affected villages eventually returned to their homes. However, the risk of further displacement persists because the military allegedly is still present in their villages and they are still harassing the B'laan villagers. It is alleged this ongoing military presence and harassment is unwarranted given the current lack of confrontations with the NPA in the area.

Efforts by the affected B'laan communities to contact Government authorities, particularly the mayor of Magsaysay, Davao del Sur, in order to raise their concerns about this situation following this recent military operation have allegedly been unsuccessful. It is alleged that the mayor's representatives have met instead with army officials. Furthermore, according to the information, members of the affected B'laan communities have not yet obtained reparations for their displacement or for the loss of their traditional crops.

I would like to draw the attention of your Excellency's Government to relevant international standards that are applicable to the issues brought forth by the above allegations and information. In particular, I would like to refer to the United Nations Declaration on the Rights of Indigenous Peoples adopted by the General Assembly on 13 September 2007 with a favorable vote by the Philippines.

As stated in article 7(1) of the Declaration, "Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person". Article 10 establishes that "Indigenous peoples shall not be forcibly removed from their lands or territories." The right to traditional land occupation is also upheld by Article 26 which states "Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired" and that "Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired." Furthermore, article 30 states that "Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned."

I would also like to refer to the joint urgent appeal dated 28 December 2012 which I sent to your Government along with the Special Rapporteur on the promotion and

protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women, its causes and consequences. The joint urgent appeal concerned alleged reports of killing, harassment, threats and stigmatization of human rights defenders, including indigenous rights defenders. Among the many victims listed in that communication, were B'laan indigenous persons in Santa Cruz, Davao del Sur and Mindanao who were allegedly killed by members of the Philippine Army due to their work in defense of indigenous rights, with one incident possibly implicating members of the 39th Infantry Battalion. Therefore, the information contained in the present communication raises grave concerns over a possible pattern of human rights violations committed by military officials against B'laan and other indigenous peoples that needs to be thoroughly investigated by your Government.

Further, as I continue to clarify the information contained in this communication, I would be interested in knowing your Excellency's Government's views on the accuracy of the information contained in this letter, and I would be grateful to receive any additional information your Government may deem relevant. In particular, I would like to know about:

1. Whether any investigations have been undertaken in relation to the alleged actions of members of the 39th Infantry Battalion of the Philippine Army against B'laan indigenous communities in Malawanit, Magsaysay, Davao del Sur in April 2013, and the results if any of those investigations.

2. Whether members of the Philippine Army are still present in the B'laan villages in Malawanit, Magsaysay, Davao del Sur. If so, please explain the reasons for their continued presence and the measures that are being taken to ensure that military personnel do not engage in any possible violations of the human rights of the B'laan village inhabitants.

3. Whether any measures have been taken by your Government to address the alleged impacts suffered by the 522 indigenous B'laan members from the villages of Purok 6 and Purok 7 (Sitio Blazan) as a result of the presence of the army in those villages which allegedly lead to their evacuation and subsequent loss of traditional food crops. Has any form of compensation been given to the affected B'laan villagers?

I would appreciate a response within sixty days. I undertake to ensure that your Excellency's Government's response will be taken into account in my assessment of this situation and in developing any recommendations that I may make for your Excellency's Government's consideration pursuant to the terms of my mandate to contribute to overcoming obstacles to the enjoyment by indigenous peoples of their human rights.

Please accept, Excellency, the assurances of my highest consideration.

James Anaya
Special Rapporteur on the rights of indigenous peoples