



Franciscans Solidarity
Movement for Justice, Peace
and Integrity of Creation
(FSM JPIC)

Human Rights Council

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**Universal Periodic Review (UPR) of the
Republic of the Philippines**

Joint Stakeholders' Submission

Submitted by:

**Franciscans International
(NGO in General Consultative Status with ECOSOC)**

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**Franciscans Solidarity Movement for Justice, Peace and Integrity of Creation
(FSM JPIC)**

(Geneva, September 2016)

I Introduction

1. Franciscans International (FI) was founded in 1989 and has a General Consultative Status with the ECOSOC since 1995. FI supports Franciscans and partners working at the local and national levels and assists in bringing their concerns and expertise to the UN to address structural causes of human rights violations.
2. Edmund Rice International (ERI) is an international non-governmental organization, founded in 2005 and with Special Consultative Status with ECOSOC since 2012. ERI is supported by two Catholic Religious Congregations, the Christian Brothers and the Presentation Brothers. It works with networks of like-minded organizations and in the countries where the two congregations are present. ERI has a special interest in the rights of the child, the right to education and in eco-justice.
3. Franciscan Solidarity Movement for Justice, Peace and Integrity of Creation (FSMJPIC) is a movement of Franciscans religious congregations in the Philippines. FSM JPIC works to promote human rights, human dignity, social and environmental justice through pastoral and advocacy work throughout the Philippines.
4. The focus of the submission is on the rights of Indigenous Peoples, as impacted by extrajudicial executions, increasing militarization of their lands, and extractive industries, in particular the human rights situation of indigenous peoples in Bukidnon Province, some areas of Northern Mindanao Regions, Tampakan in South Cotabato, Didipio in Nueva Vizcaya and some other regions in the Philippines.

II The first two Universal Periodic Reviews of the Philippines, 2008 and 2012

5. At its first Universal Periodic Review, the Philippines Government accepted the recommendation to intensify its efforts to carry out investigations and prosecutions on extrajudicial killings and punish those responsible, as well as to completely eliminate torture and extrajudicial killings.¹ At its second Universal Periodic Review, the Philippines Government accepted recommendations on preventing human rights violations by the Armed Forces of the Philippines (AFP), eliminating extrajudicial killings, investigating all allegations of extra judicial killings and bringing the perpetrators to justice, promoting measures to disarm and dismantle private armed groups, establishing monitoring mechanisms to guarantee compliance on this, continuing human rights education for officials dealing with vulnerable groups, and respecting the rights of Indigenous Peoples². This submission expresses our concerns over continuing extrajudicial executions and the failure to act on these recommendations, in some parts of the Philippines

¹ A/HRC/8/28/Add.1; 25 August 2008. Page 2 para 2 (e & (f)

² A/HRC/WG.6/13/L.10, 31 may, 2012, pp 14 –20, pars 129.1, 129.13-17, 129.25, 129.28-32, 129.44.

III Data collecting process:

6. The data and information collected for this report came from visits and immersions in 2016 by staff of local NGOs based in the Philippines, who are in partnership with Edmund Rice International and Franciscans International.
7. Verbal testimonies were collected for this report from conversations with community leaders, children and families, volunteer teachers, and local staff of partner NGOs, based in the North Mindanao region, on the human rights violations they have faced.

IV Present instruments for the promotion and protection of human rights

8. The Philippine Government has ratified the UN international Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of Racial Discrimination. It also supports the UN Declaration on the Rights of Indigenous Peoples.
9. The Philippine Constitution has a Bill of Rights for the respect of Civil and Political Rights. The Philippines Government has created a Commission on Human Rights (CHR) as the monitoring body for cases of human rights violations.
10. On October 1997, The Government's Indigenous Peoples Rights Act (IPRA) for the recognition of the rights of Indigenous peoples was enacted. The Free Prior and Informed Consent (FPIC) of Indigenous peoples was made a requirement for any project or activities implemented in Indigenous territories, or any project that may have adverse impacts on them. Soon after its enactment, the constitutionality of IPRA was challenged in court. The law was upheld by the Supreme Court in December 2000 with an affirmation of the prior right of the State over natural resources, while Indigenous peoples have stewardship rights over their land and resources.
11. On the other hand, laws that violate the collective rights of Indigenous peoples are also being implemented. For example, the Mining Act of 1995 allows 100 per cent foreign ownership of mineral lands and the eviction of Indigenous communities. The Philippine government has claimed that the mining industry is a boost to the national economy, and that it contributes to employment generation. However, data would show otherwise. As of 2015, the mining contribution to the country's Gross Development Product (GDP) is P84.2 billion, or a mere 0.7%. This has been consistent from 2012-2015. This is the same for mining contribution to total employment at an average of 0.6-0.7% of the labor force from 2011-2015.
12. The National Integrated Protected Area Systems (NIPAS) provides restrictions to Indigenous peoples in their own ancestral domains if they are declared as National Parks; the Forestry Code declares lands with a slope of 18 per cent or over as public lands, thus making Indigenous communities in mountainous areas squatters on their own lands.

V Introduction to Indigenous peoples in the Philippines

13. Estimated numbers of Indigenous peoples in the Philippines are around 12-15 million, or 15 percent of the total population. They occupy more than 10 million hectares of the total landmass of 30 million hectares and belong to 110 ethno-linguistic groups. Indigenous peoples are one of the most impoverished sectors in the country and suffer from multiple types of human rights violations. This submission covers four areas of human rights violations suffered by Indigenous people in some areas of Mindanao as well as communities in Nueva Vizcaya: politically motivated killings, militarization of the ancestral territories of Indigenous peoples, the violation of their collective rights to land and natural resources, and negative impacts on their rights from extractive industries, exacerbated by climate change.

VI Politically Motivated Killings of Indigenous Peoples and Continuing Threats to Indigenous Leaders and Community Members asserting their Collective Rights

14. During the Arroyo administration, killings have occurred in several regions of the country, with the Lumads of Mindanao and the Igorots of the Cordillera being the most targeted groups. While the victims represent many different professions, NGO workers, local government officials, church workers, and members of Indigenous leadership structures have been especially targeted because of their political beliefs or their defense of their collective rights against government projects and policies. The 120 victims include thirteen (13) women, four of whom were pregnant, and sixteen (16) minors.
15. On October 8, 2012, Juvy Capion, was shot dead in her home by national military forces along with her sons aged 13 and 6, in Kiblawan, Davao del Sur. A Bla'an woman leader, whose husband was also an active leader, she actively opposed the encroachment of SMI-Xtrata mining operations in their ancestral domain. The military men, members of the 27th Infantry Battalion of the Philippine Army, admitted that the killings of Juvy and her 2 children were "operational lapses." Four years since the killings, the Court Marshall which is conducting the hearings against the military men, has yet to reach a verdict.
16. On December 7, 2013, Cheryl Ananayo Pugu-on of Brgy. Didipio, Nueva Vizcaya, was a victim of violence as she defended their rights and her communities' rights against the atrocities committed against them by mining companies, and openly opposed mining operations. She was the daughter of an active community woman leader opposing the Oceania Gold mining in their area. Cheryl, who seemed to have been caught in a land dispute, was shot dead, inside a vehicle, with her infant on her lap. Her 4-year-old daughter who was sitting behind the vehicle, witnessed the killing.
17. On April 23, 2014, as documented by a local NGO, based in Northern Mindanao, there were two frustrated extra-judicial killings of Indigenous peoples, two cases of indiscriminate firing and strafing directly targeting 145 families. This was followed by 23 cases of destruction of properties (where 23 families had their houses destroyed, with some burnt and looted by the paramilitary forces), five cases of families being driven from their land and banned from returning, and violations of the collective right to land of 145 families from one clan, and seven

families from other clans. These attacks were perpetrated by paramilitary forces under the command of Jun Zapanta, on April 23, 2014.

18. On September 1, 2015, at KM16, Han-ayan, Barangay Diatagon, Dionel Campos (Chairman of the Malahutayong Pakigbisog Alang Sa Sumusunod or MAPASU), Emiritu Samarca (Executive Director of the Alternative Learning Center for Agricultural and Livelihood Development or ALCADDEV) and Datu Bello Sinzo were killed by the AFP (Armed Forces of the Philippines) and paramilitary group called Alamara. This happened in front of hundreds of residents of at least six sitios who were earlier ordered out of their homes by gunmen of the Magahat militia around 4 a.m. for not signing the document to allow a mining company to do exploration in their land.
19. On July 30, 2016, Lumad communities in Bukidnon were again harassed by another paramilitary group called NIPAR, headed by Aldy “Butsoy” Salusad. This attack resulted in the death of Makinit Gayoran, a three-month pregnant woman, and gunshot wounds to several children and community members of the Tigwahanon tribe of Sitio Tibugawan and Sil-angon, Barangay Kawayan, San Fernando, Bukidnon. Butsoy Salusad’s paramilitary group, NIPAR, was positioned at the top-hill of the community, who had a wedding ceremony at that time when Salusad’s group mercilessly attacked the community. The Indigenous people were forced to seek refuge in the city of Valencia and Malaybalay in Bukidnon.
20. The systematic extra judicial killings of Indigenous peoples and the continuing threats to Indigenous leaders have additional adverse social impacts. These incidents have resulted in more conflicts, fear and mistrust among Indigenous communities, which is weakening Indigenous systems of cooperation and solidarity. Because of the chilling effect of the killings, it also weakened the Indigenous people’s movement for the respect and recognition of their collective rights. (More information on this is found in the Philippine Report of the UN Special Rapporteur on Extra-judicial Killings, Professor Philip Alston, who was on an official visit to the Philippines in February 2006).

VII Escalating Militarization of Indigenous Peoples’ Territories

21. Indigenous peoples in the Philippines also suffer from militarization of their territories, resulting to the violation of their individual and collective rights. Militarization of Indigenous communities includes the permanent physical basing of the Philippine military within ancestral territories, regular conduct of military operations, including unwarranted searches of houses, imposition of food blockades, curfews and other restrictions.
22. Dr. Chaloka Beyani, United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons, stated during his fact-finding visit on the said issues that “The displaced IPs made it clear that it is their (AFP) presence and that of the paramilitary groups in their communities that continues to create anxiety amongst the Indigenous communities. Schools have reportedly been closed and/or occupied by the AFP or Alamara, hampering the access to education of Indigenous children. It is clear to me that existing legislation and institutions, including the exemplary Indigenous Peoples Rights Act cannot provide adequate protection

from displacement unless fully implemented in practice. Specific provisions on the rights of Indigenous peoples should be included in the IDP Law.”

23. Manolita Galvez of Zamboanga del Norte and the Bla'an women of Tampakan, South Cotabato, also became victims to violence perpetrated by mining companies in their quest to take their lands and homes away from them. Manolita and her family were hauled out from her home. The garden where she grew vegetables for food for her family was bulldozed by TVI. This forced her, along with the other families, to leave and move around Mindanao, searching for new homes and livelihood. The Bla'an women and their children were always the first ones to be victimized or killed during military operations against their community which had declared “flague” or war against the mining company and any members of the government security forces.
24. On August 19, 2016, Amy Pond, a 64-year old Coordinator of the Rural Missionaries of the Philippines - Southern Mindanao Region (RMP-SMR) was arrested by elements of the CIDG (Criminal investigation and Detection Group) while she was on her way from the Living the Gospel Renewal Center at Archbishop Reyes Avenue, Lahug Cebu City, at noon time, after attending a 3-day religious assembly.

VIII Violation of the collective rights of Indigenous Peoples to their land and natural resources

25. On April 23, 2014, the Lumads were expecting that they would finally be installed in the 28 hectares of land they claimed, as Manobo-pulangihon people under the Tribal Indigenous Oppressed Group Association (TINDOGA), one of the eight claimants of the Ancestral Domain at Botong, Quezon, Bukidnon under CADT (Certificate of Ancestral Domain Title) number R10-QUE-0712-159, along with three other clans belonging to Team B1. They had gathered outside their shanties fully expecting triumph after years of hard struggle for their ancestral domain.
26. Present at the event were representatives from the National Commission on Indigenous Peoples (NCIP), local government unit of (LGU) Quezon, Fundador Binahon, Paul Abalde (Municipal Administrator – Quezon, Bukidnon), Carlito Anglao (Barangay IP Mandatory Representative), and Iladio Anglao (IP Municipal Mandatory Representative), together with five personnel from the Philippine National Police requested by the LGU, giving it an illusion of legitimacy. TINDOGA's high hopes eventually turned dim as they learned that they will be installed not on an area of arable land, where they can subsist on agricultural production, but on a hilly and rocky portion of the 622-hectare domain.
27. From Kasibu (Nueva Vizcaya), MacArthur (Leyte), Salcedo (Eastern Samar), Manicani Island (Guiuan, Eastern Samar) and Tampakan (South Cotabato), there are many stories of how mining operations drastically changed the livelihood and access to food of the communities which brought further distress upon women. In Kasibu, the appearance and spread of brothels and videoke houses which provide entertainment services to migrant miners lure women to provide entertainment services as a means to earn a living with the disappearance of their sources of food and livelihood. Fish kills in 2012 due to magnetite mining operations in

MacArthur, Leyte, being done half a kilometer away from Lake Bito denied the communities their source of food and livelihood. Safe drinking water in Salcedo has become scarce due to contamination, and this has led to skyrocketing prices of water for sale, so that a gallon costs up to PhP 200.00 including costs incurred for transportation. Farms, forests, and other coastal resources were compromised in Manicani Island and Tampakan, causing communities to lose their homes as well as access to food, medicine, and livelihood.

IX. Extractive industry and adverse impacts of climate change on indigenous people

28. Today, indigenous people still depend on their environment as the source of their livelihood as well as traditional remedies for health issues. In addition, natural hazards such as landslides and floods caused by mining activities pose security risks to communities living nearby. With the adverse effects of climate change occurring in levels greater than decades ago, these threats against ecosystems which are sources of food, livelihood, and medicine as well as human communities are aggravated as they become more exposed to intensified weather events such as typhoons and droughts, without healthy ecosystems as shields.
29. The presence of extractive corporations operating in the Philippines presents risks for the human right to the highest attainable health standards for affected communities. Mining activities have negatively affected the right to health in several accounts. These health-based impacts, which can be associated with the release of dust or chemicals into the air, water or soil, are particularly prevalent in the contexts where heavy metals enter [...] water sources as a result of mining. Health risks brought about by mining operations are magnified by the lack of adequate State service for medical care in the indigenous communities³.
30. The impacts of climate change include more and frequent rainfall, stronger and more typhoons. In areas where mining operates within watershed areas, these stronger typhoons caused massive devastation in downstream communities. The typhoons Sendong (December 2011) and Pablo (December 2012) had a heavy toll in the downstream communities, including the Manobo and Mandaya communities. Mining in the upstream of Compostela Valley has been identified as the main culprit for such devastation.
31. Brgy Didipio in Kasibu, Nueva Vizcaya, and Tampakan, South Cotabato, face human health and security risks as mining operations destroy natural resources and take no responsibility for the consequences. Dust has filled the surroundings of Brgy. Didipio as a result of the destruction of homes, forests, and mountains for mining operations. Furthermore, the Didipio River has been reported to have increased toxicity levels as a result of heavy metal concentration spewed by the mines. The mining area in Tampakan sits on a fault line, which increases the risk that seismic activity will lead to spilling of the mine tailings dam and the contamination of flood waters with toxic mine waters.
32. At present, the Philippines is considered as one of the most vulnerable countries to climate change. According to the 2014 Maplecroft report, Philippines ranks 9th in the most vulnerable countries. Meanwhile, as of 2015, there are overlaps of areas covered by mining tenements and areas considered high risk and vulnerable to the impacts of climate change – flooding and

³ INEF, Misereor, Fastenopfer, Brot fuer Alle, *Human Rights Impact Assessment of the Tampakan Copper-Gold Project*, 2013, p. 47

landslides.⁴ This poses real danger in the lives of the communities, particularly the most vulnerable sectors within these – the women and children.

20. Recommendations to the Government of the Philippines:

- 1. To implement the recommendations of the UN Special Rapporteur on the Human Rights of Internally Displaced Persons, Dr. Chaloka Beyani, as a matter of urgency and priority, following his visit to the Philippines.**
- 2. To review the Mining Act of 1995 and other laws, that may directly impact negatively on Indigenous Peoples, in order to ensure the respect and recognition of their collective rights and pass the Alternatives Mineral Management Bill for a more rationale, nationalist, equitable, community-focused, sustainable, human rights-based exploration and utilization of our natural resources.**
- 3. To revoke policies which are being used to legitimize harassment and attacks on community resisters, rights defenders, and indigenous leaders, such as the Investment Defense Force.**
- 4. To establish an independent body to certify whether the process of determining Free Prior and Informed Consent (FPIC) of Indigenous people is done in accordance with the principles, substance and processes as defined by UN Declaration on the Rights of Indigenous Peoples (UNDRIP).**
- 5. To establish a complaints mechanism to address the violations related to FPIC and to provide appropriate measures for redress for Indigenous people.**
- 6. To conduct regular dialogues with Indigenous leaders and families of victims on concrete measures undertaken to address human rights violations of Indigenous peoples and to discuss key issues related to the respect for the rights of Indigenous peoples.**
- 7. To provide adequate access for Indigenous People to basic services such as health, education and protection of their socio-economic and collective rights.**
- 8. To seek technical assistance from the international community in implementing the recommendations given in the Philippine Reports of the UN Special Rapporteurs.**
- 9. To seek technical and other forms of support from the international community in implementing of the UN Declaration on the Rights of Indigenous Peoples.**
- 10. To review the existing FPIC guidelines to ensure an inclusive, transparent and democratic process and provide budget allocation for the FPIC process.**

⁴ De Vera, Dave. PAFID Maps 2015.

- 11. To provide effective access to justice and grievance mechanisms to the victims of human rights violation including violations involving mining corporations.**
- 12. To strengthen the role of National Commission on Human Rights in monitoring, processing and investigating cases of human rights violations by mining companies and other extractive industry.**
- 13. To pursue and support the creation of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights as mandated by the UN Human Rights Council Resolution 26/9 which the Philippine government supported.**
- 14. To reframe the entire corporate mining industry into an industry that fulfills nationalist agenda of development, which put at its core equity, gender justice, and the transformation of the lives of the people, particularly the most marginalized.**
- 15. To conduct a study on the short and long term impacts of extractive projects, especially mining, on human rights.**
- 16. To develop and adopt specific strategies on adaptation to and mitigation of the impact of climate change, while protecting the human rights of the Indigenous peoples through an inclusive, transparent and participative consultation on these strategies.**