



May 18, 2016

Secretary of State John Kerry
U.S. Department of State
2201 C St. NW Washington, DC 20520

Dear Secretary Kerry:

We are writing to request your urgent attention to the misuse of anti-trafficking laws by the Government of the Philippines to harass indigenous Lumad leaders who have assisted community members to flee military violence perpetrated by the Philippine Army and associated paramilitary groups. Because of their work supporting the evacuation from active conflict zones in Mindanao, the Philippine Government and its armed forces are pressing baseless, unwarranted criminal human trafficking charges against Josephine Pagalan and dozens of other leaders from indigenous peoples' communities, church workers and others working for civil society organizations.

Ms. Pagalan, along with two other leaders from Lumad communities in Mindanao, recently visited Washington and met with officials at the State Department and Congress where they shared their peoples' and their own experiences living in communities that are torn apart by violence between the Armed Forces of the Philippines (AFP) and other armed groups. Though Mindanao is a resource rich, fertile land, indigenous peoples' communities have been plagued by poverty stemming from exclusionary government economic development policies that are often in conflict with indigenous peoples' rights, customs and beliefs. Prioritizing large-scale mining and agriculture development projects, the Government has over time displaced many Lumad communities deep into isolation in the mountains of Mindanao. There, the Philippine Government has largely ignored them; failing to provide even the most basic services like education. So to fulfill these most basic needs, many indigenous peoples' communities warmly welcomed churches, missionary groups and NGOs to help them build schools, train teachers, improve farming, and to learn to exercise their legally protected right to self-determination, such as the right to Free, Prior, and Informed Consent.

Then around 2012, the Philippine Government concentrated its long-standing counter-insurgency operations in the remote regions of Mindanao where the Lumad live. Transferring in military leaders with long track records of human rights abuses, the AFP and its growing number of deputized paramilitary forces have been replicating counter-insurgency strategies pioneered by now-indicted General Jovito Palaparan.¹ U.N Rapporteur for Extra-judicial Executions, Phillip Alston, and other U.N. agencies have long criticized the AFP counter-insurgency program as contrary to international law.²

¹ Ecumenical Advocacy Network on the Philippines. *The Path to Promotion in the Armed Forces of the Philippines: Vilification Campaigns, Human Rights Abuses, and Impunity*. June 2015, Available at <http://www.eanp.org/resource-materials.html>

² Report of the U.N. Special Rapporteur for Extra-judicial executions, Phillip Alston. A/HRC/8/3/Add.2 (16 April 2008), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/130/01/PDF/G0813001.pdf?OpenElement>

This has resulted in repeated “large scale and smaller scale displacement” becoming a “pattern of life” for many Lumad.³ According to the UN Special Rapporteur for the Human Rights of Internally Displaced Persons, “The situation clearly demonstrates the massive and potentially irreversible impact of the on-going conflicts on displacement of such vulnerable communities who are often caught up in the conflict and suspected of involvement with armed groups.”⁴ When the Lumad are displaced by conflict, “. . . responses by both national and regional government authorities were routinely inadequate.”⁵ Rather, they must rely on support provided by churches, indigenous peoples’ organizations and other civil society groups.

However, the Philippine government has been attempting to systematically dismantle these support organizations, which it accuses of supporting rebels, by pursuing criminal charges against them. Using the “fog of war” as an excuse, the AFP along with its partners in the Philippine National Police (PNP) use rumors and accusations as “evidence” of wrongdoing by many in the communities where they were operating. Taking advantage of a justice system described in the State Department’s 2015 Human Rights Report as “weak and overburdened” with “lengthy pretrial detentions”, the AFP and others in the Philippine government pursue those it suspects of sympathizing with the rebels with myriad legal charges, including trafficking-in-persons, as a means for ending their political, social, economic and moral support to some Lumad communities. A strategy first implemented through the Philippine government’s Inter-Agency Legal Action Group, U.N. Special Rapporteur Alston called for an end to the Government’s abusive legal strategy nearly a decade ago.

On September 1, 2015, Ms. Pagalan and about 150 members of her village in Surigao del Sur were rounded up and forced to watch a paramilitary unit assassinate two leaders of their village while a unit of the Philippine Army watched from a distance of about 50 m. A third leader was found hacked to death in one of the tribal school buildings. Ms. Pagalan and the whole community was threatened with deadly force if they did not evacuate and she, her 4 children, and 3000 others evacuated to an outdoor sports stadium in the provincial capital of Tandag City, about 90 km from their village, where they still reside. They survive on assistance from the local government, church groups and NGOs.

Because of their leadership in the evacuation Ms. Pagalan and 16 others were charged with trafficking-in-persons and child endangerment. According to the information sheet, the AFP took into custody two children, who were later joined by their mother, shortly after the evacuation. Soon thereafter, the two children filed a criminal complaint against many of the village leaders and local school officials alleging that they were traffickers attempting to fraudulently induce them and others to join the NPA and holding them against their will at the evacuation center.

Ms. Pagalan and her colleagues are not alone. On May 12, 2015, the Philippine Government’s Criminal Investigation and Detection Group, an inter-agency body responsible for coordination between the PNP and the AFP, filed criminal trafficking-in-persons charges against 15 people working for church organizations, missionary groups, and other civil society organizations for assisting more than 700 Ata Monobo from Talaingod, Davao del Norte, evacuate to a church compound in Davao City. On June 17, 2015, twenty-two leaders of Church groups, indigenous peoples’ organizations and

³ Statement of the U.N. Special Rapporteur on Human Rights of Internally Displaced Persons, Chaloka Beyani on the conclusion of his official visit to the Philippines, 21 to 31 July 2015, *available at* <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16280&LangID=E>

⁴ Id.

⁵ Id.

human rights workers were charged with attempted murder, and many other charges after assisting 400 members from a Blaán community, including 200 children, evacuate after military encounters in and around their villages. Also in July 2015, three members of the Aggay and Malaweg tribes in Cagayan Valley were abducted from their villages by the AFP and taken to military camp in Lasam, Cagayan Valley and another 26 were charged with kidnapping and homicide of two AFP officers and a member of an AFP supported paramilitary force. By September 2015, the Government added an additional 40 defendants to the criminal complaint, including nearly every leader from progressive church groups and indigenous peoples' organizations.

These actions by the Philippine government are subverting laws intended to combat trafficking-in-persons, all for improper political ends. They also call into serious doubt the effectiveness of the Government's domestic anti-trafficking programs and the overall commitment by the Government to combat trafficking-in-persons. While we support efforts to put actual traffickers in jail, within the last year 52 have been wrongfully charged with trafficking-in-persons and child endangerment and another 66 were charged with homicide and other serious crimes for their work with internally displaced indigenous peoples (as compared to the total of 292 cases of trafficking investigated by police in 2015). Also, though the 2015 Trafficking in Persons (TIP) report noted that the Philippine government "made strong efforts to provide anti-trafficking training," we are concerned about the increasing creative misuse of anti-trafficking laws by the Government against leaders of civil society organizations and indigenous peoples' communities like Ms. Pagalan. We also fear that under these conditions any further pressure by the State Department for increasing "convictions" for trafficking may create perverse incentives for the AFP and PNP to continue its aggressive pursuit of wrongful criminal charges against Ms. Pagalan and others like her unless action is taken to bring the creative misuse and abuse of laws to an end.

Making the violations even more egregious, Internally Displaced Persons (IDPs) are particularly vulnerable to trafficking, and in the Philippines, "indigenous peoples have been particularly vulnerable to conflict induced displacement in many regions, particularly in Mindanao."⁶ Though the State Department's Human Rights Report for 2015 recognizes that the "lack of integration of indigenous peoples in political and economic structures" and "mistreatment of internally displaced persons (IDPs)" are persistent, on-going violations, it is important to recognize the active role that the Philippine government and its armed forces play in perpetuating these violations. Also the 2015 TIP report highlights conflict-induced trafficking as a serious problem,⁷ and according to the UN Rapporteur Beyani,

"Indeed it was evident to me that the Government's response to conflict induced displacement in locations such as Zamboanga and Cotabato differs significantly to its commendable response to disaster and climate change induced displacement elsewhere."⁸

As explained clearly and succinctly by UN Rapporteur Beyani, **"A viable, inclusive and comprehensive peace process is essential to removing the causes of displacement and to stabilizing the situation in the region."**

⁶ Id.

⁷ State Department. 2015 Trafficking-in-Persons Report at 279. ("Women and children -- many from . . . conflict-areas in Mindanao . . . and internally displaced persons are subject to domestic servitude, forced begging, forced labor in small factories, and sex trafficking. . .")

⁸ Statement of the U.N. Special Rapporteur on Human Rights of Internally Displaced Persons, *supra n. 3*.

Over the coming months, the US military will deepen its ties to the Armed Forces of the Philippines as part of the Enhanced Defense Cooperation Agreement signed in 2014 and begin to embed itself into AFP facilities across the Philippines. One of these potential new collaboration sites is located in the homeland of the indigenous Lumad peoples adjacent to the heart of the conflict zones in Mindanao, and another is an airfield whose C-130 transports can reach the conflict zones in less than an hour. By housing U.S. troops on bases located in or near active conflict zones, the U.S. Government will wrongfully provide the AFP with a veneer of legitimacy and moral support for a counter-insurgency strategy that relies on extra-judicial executions, disappearances, and legal harassment of civilians. Over the past decade, while the US has prioritized military support for the AFP over promoting peace initiatives underway in the Philippines, more than 1,000 people have become victims of extra-judicial executions and the feelings of isolation and anger that have pulled many in Mindanao into armed conflict has grown. Therefore, we believe it vital that the U.S. Department of State change its policies towards the Philippines by demonstrating its unequivocal support for peace initiatives necessary to bring an ultimate end to the human rights crisis in Mindanao.

The EANP requests the following:

1. The State Department Office to Monitor and Combat Trafficking-in-Persons must urgently raise concerns to the Philippine government about the misuse of laws to combat trafficking-in-persons against Josephine Pagalan and others attempting to provide vital services in Lumad communities.
2. The State Department should down-grade the Philippines to Tier 2 Watch List until it is able to demonstrate that it will no longer misuse laws to combat trafficking-in-persons,
3. U.S. Government must demonstrate unequivocal support for success of all peace initiatives by pressing the Philippine Government to renew peace negotiations with the CPP-NPA (and other armed groups). A resolution to armed conflict(s) is a necessary first step to ending the root causes of displacement and combating trafficking in Mindanao.

Sincerely,

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