



INSTITUTE OF HUMAN RIGHTS

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PROF. RAPHAEL PANGALANGAN
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Office of the United Nations High Commissioner for Human Rights

Dear Prof. Pangalangan,

Good day!

This letter is a supplement to the initial letter submitted by the University of the Philippines Institute of Human Rights (UP IHR), dated 26 February 2024, regarding the Human Rights Council resolution 51/35 entitled “Technical assistance and capacity-building to address the human rights implications of the nuclear legacy in the Marshall Islands.” In particular, the UP IHR seeks to reinforce the third input, which highlights the disproportionate effects of nuclear testing on the environment, Indigenous peoples (IPs), and local communities in the Marshall Islands.

As mentioned in the first letter, it was submitted that the nuclear legacy in the Republic of the Marshall Islands and other countries highlights the disproportionate effects of the environmental disruptions resulting from nuclear testing. Even though the last nuclear test occurred in 1958, its harmful impact on the Islands exists to this day – particularly on the groups and families that were displaced and forcibly exiled from their homes: the islands of Enjebi, Enewetak, Rongelap, Rongerik, and Bikini. What was meant to be a mere temporary leave from the Marshall Islands became years of living across different islands with varying unlivable conditions, years of starvation, and incompatibility with their prior lagoon-based culture. All this was happening, too, as their ancestral home was in the process of being destroyed.

Thus, proponents of relocation and other remedial measures need to adopt and enforce the rights of IPs to free, prior, and informed consent (FPIC). All peoples have the right to self-determination and freely pursue economic, social, and cultural development. In the context of IPs specifically, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) recognizes the right of IPs to give or keep their consent for any activity affecting their lands, livelihood, and rights.

For consent to be free, it must be voluntarily given without coercion or manipulation; for it to be prior, it must have been sought before any activity commenced; and for it to be informed; and for it to be informed, the community who is to give consent must know of the engagement and be made aware of any pertinent information regarding it that could affect



INSTITUTE OF HUMAN RIGHTS

their community, whether in a beneficial or harmful way. In the situation of the Bikini islanders, however, none of these elements were present. Then-United States President Harry S. Truman had declared the need for joint testing of nuclear weapons and that Bikini would be the proving ground before even contacting the islanders to determine whether or not such testing would be acceptable. Worse, once Commodore Ben H. Wyatt, the military governor of the Marshall Islands, visited the island, he merely told the community therein that they would only be leaving their atoll temporarily "so that the US could begin testing atomic bombs for "the good of mankind and to end all world wars." Such a pronouncement did not give way to the informed consent sought in the internationally recognized principle.

The FPIC procedure provides for effective representation and participation in the drafting of policies that affect the rights of IPs, particularly over their ancestral lands. In the Philippines, the Indigenous Peoples' Rights Act (IPRA), enacted to promote the rights of IPs across the country, defines FPIC as the consensus of all members of the IPs to be determined following their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community. This process plays an essential role in determining whether or not private or public persons may conduct activities on or with the view of influencing IPs' ancestral domains; indeed, no certification may be issued by the National Commission on Indigenous Peoples for any department or governmental agency to issue, renew, or grant any concession, license or lease, or enter into any production-sharing agreement, without the FPIC of the IPs concerned.

Indigenous Peoples must have priority rights in developing or exploiting any natural resources within the ancestral domains; doubtlessly, the Bikini islanders of the Marshall Islands deserve the same treatment and level of participation in policies and programs by which they are so impacted. The same applies to those who are similarly situated in the other islands.

The UP IHR also wishes to reiterate that efforts to remediate the effects of nuclear testing should also focus on the marginalized groups because their social and economic standing prevents them from adapting to the disruptions. This includes situations involving those who face intersectional concerns. These include, among others, Indigenous women and children who are doubly or triply affected by their indigeneity, sex, and economic standing. Climate justice necessitates recognizing these sectors' distinctiveness and full and effective participation.

Thank you very much.

Truly yours,


RAYMOND MARVIC C. BAGUILAT