



**COMMISSION ON HUMAN RIGHTS**  
**REPUBLIC OF THE PHILIPPINES**

**SUBMISSION OF INPUTS FOR THE SPECIAL RAPPORTEUR ON FREEDOM OF  
RELIGION OR BELIEF, FOR HIS THEMATIC REPORT AT THE  
GENERAL ASSEMBLY**

**25 AUGUST 2022**

**Introduction**

1. The Commission on Human Rights of the Philippines (hereinafter the “Commission”)<sup>1</sup> submits its written inputs on the Indigenous Peoples and the right to freedom and belief, to the Office of High Commissioner for Human Rights (OHCHR), as a contribution to the Special Rapporteur on Freedom of Religion or Belief for his report at the General Assembly.
2. The inputs from the Commission took into consideration local and international reports from government, civil society, the media, and international non-governmental organizations. This submission also utilized the Commission’s own documentation of independent monitoring activities and statements, which were subjected to the internal deliberations of the Commission En Banc.

**Engaging the human right to freedom of religion or belief**

How would you describe the diverse systems of spiritual and religious traditions, customs, ceremonies, and ways of life of indigenous peoples? This may include but is not limited to intersection and interplay between different religions or belief systems. Does the terminology make a difference?

3. The indigenous peoples’ cultures and traditions vary from one another, these many groups specialize in many cultural expressions such as woodcarving, weaving, embroidery, etc. These tribes have a diverse way of life, some being land cultivators, hunters, and gatherers, and some mostly fisherfolks. All of these differences can be attributed to their geographic distinction from one another.

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<sup>1</sup> As the National Human Rights Institution (NHRI) of the Philippines, the Commission on Human Rights has the mandate vested by the 1987 Philippine Constitution and the Paris Principles to promote and protect the full range of human rights including civil and political rights, and economic, social and cultural rights. It has the responsibility to regularly report and monitor human rights situations and violations, and recommend steps in advancing the realization of human rights and dignity of all. The Commission has “A”-status accreditation from the Sub-Committee for Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI).

4. The geographic distinction is also recognizable in the manner in which these indigenous peoples are distinguished from one another. The indigenous groups in the mountains of northern Luzon are collectively known as Igorot, while the groups on the southern island of Mindanao are collectively called Lumad. There are smaller groups collectively known as Mangyan in the Visayas.<sup>2</sup>
5. A significant part of many indigenous peoples' cultures are the babaylans.<sup>3</sup> Babaylans are women who enjoyed power and influence in their tribes as the one who presided over rituals – varying from harvest rituals, birth to death, hunting rituals, wars to victory. They are healers, advisers, historians, and much more. These women are a reflection of strength in their tribes.<sup>4</sup>

What is the relationship between freedom of religion or belief, as protected in Article 18 of the UDHR and Articles 18 and 27 of the ICCPR, and the UNDRIP especially but not limited to Article 12?

6. The Article 18 of the UDHR<sup>5</sup>, Article 18<sup>6</sup> and 27<sup>7</sup> of the ICCPR, and the UNDRIP<sup>8</sup> all revolve around the pursuance and protection of the rights of the people to their own beliefs, to have or to not have a religion, as well as the right to change said religion based on one's personal beliefs. These upholds both the collective and individual rights of all human beings to enjoy all human rights and be able to express themselves without fear or repercussion and discrimination.

In your opinion, is the “freedom of religion or belief” framework in international human rights law appropriate or adequate for respecting, protecting and promoting this right for indigenous peoples? How have international human rights law mechanisms, regional human rights courts and domestic courts interpreted the right of freedom of religion or belief with regards to indigenous peoples? Are there any protection gaps and, if so, how could they be overcome?

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<sup>2</sup> Commission on Human Rights of the Philippines. (2017). 2017 National inquiry on the Human Rights Situation of the Indigenous Peoples in the Philippines. Accessible at <https://chr-observatories.uwazi.io/en/entity/242a1ffjh6c?page=1>

<sup>3</sup> Babaylan is the term used to describe the priestesses or shamans of indigenous tribes particularly in pre-colonial Philippines. Babaylans still exist today albeit their small number.

<sup>4</sup> Abenes, R. (August 2015). The Genealogy of Male Domination in the Philippines. Baybayin vol 1. Accessible at [https://www.researchgate.net/publication/327139304\\_Genealogy\\_of\\_Male\\_Domination\\_in\\_the\\_Philippines](https://www.researchgate.net/publication/327139304_Genealogy_of_Male_Domination_in_the_Philippines)

<sup>5</sup> Article 18 of the Universal Declaration of Human Rights (UDHR) states that all people have the right to their own beliefs, to have a religion, have no religion, or to change it.

<sup>6</sup> Article 18 of the International Covenant on Civil and Political Rights (ICCPR) states that everyone shall have the right to freedom of thought, conscience and religion and that no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

<sup>7</sup> Article 27 of the International Covenant on Civil and Political Rights (ICCPR) states that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

<sup>8</sup> The UNDRIP states that all indigenous peoples have the right to fully enjoy as a collective or as individuals, all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and the rest of international human rights law.

7. The freedom of religion or belief framework in international human rights law is not adequate for the pursuance of a comprehensive movement in respecting, protecting, and promoting the rights of indigenous peoples. Despite the current framework, there is little progress in terms of respecting, protecting, and promoting IP rights. There are many instances of continuous violation of free, prior, and informed consent (FPIC) requirement by both the state and the non-state duty bearers. Furthermore, there remains issues on land-grabbing, extrajudicial killings, and other human rights violations being committed against indigenous peoples all over the Philippines.<sup>9</sup>
8. Indigenous peoples show higher rates of poverty, homelessness and malnutrition, they lack access to resources and services particularly in terms of health, and this is one major gap in the protection of indigenous peoples. Providing adequate budget to institutions for indigenous peoples can be a significant step towards the pursuit of our overarching goal<sup>10</sup>. As it stands the relevant government institutions in the Philippines remain with little budget and thus little capability to create meaningful change in the long run.

### **Mapping lived experiences of indigenous peoples**

Are there laws, policies and practices that discriminate against indigenous peoples in enjoying their spiritual and religious traditions, customs and ceremonies, use and control of ceremonial objects including through repatriation, religious and cultural sites, contrary to a human right-based approach? They may include but are not limited to undue restrictions on the above; forced assimilation, forced conversion and forced removal of children; discriminatory and compulsory registration requirements; restrictions on the freedoms of association and movement; or restrictions on parents teaching their children. Are there reports of impunity for these practices?

9. Under the Philippine Constitution, the state (a) recognizes and promotes the rights of indigenous peoples within the framework of national unity and development<sup>11</sup>; (b) protects their rights to their lands to ensure their economic, social, and cultural well-being<sup>12</sup>; and (c) recognizes, respects, and protects their rights to preserve and develop their cultures, traditions, and institutions<sup>13</sup>. This mandate is aligned with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). However, the challenges for government to effectively implement this obligation were exacerbated during the pandemic.
10. Throughout the COVID-19 pandemic in the Philippines, reports of discrimination have been prevalent in indigenous communities. Survey results found that the pandemic has

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<sup>9</sup> Supra Note 1

<sup>10</sup> *Id.*

<sup>11</sup> 1987 Constitution, Article II, Section 22.

<sup>12</sup> *Id.*, Article XII, Section 5.

<sup>13</sup> *Id.* Article XIV, Section 17.

increased the multiple inequalities already affecting indigenous women and girls in terms of limited access to health services, continuous discrimination against them through disregard of their traditional health knowledge and practices, and lack of fact-based information about COVID-19 and vaccination<sup>14</sup>.

11. The exclusion and marginalization of IP, especially of women and girls, are often the result of multiple forms of discrimination. They are also discriminated against on the grounds of sex and age, economic status, and location. The lack of disaggregated data on indigenous peoples, their ethnicity and other disaggregation such as the number of indigenous women and girls in the Philippines has been prohibitive for a deeper look in terms of gender expressions and identities. Current research, policy development processes and decision making are led by non-indigenous peoples and without proper consultations with indigenous communities.<sup>15</sup>
12. Some of the main issues confronting indigenous women are high levels of poverty; low levels of education and literacy; limitations in the access to health, basic sanitation, credit and employment; limited participation in political level and the prevalence of domestic and sexual violence.<sup>16</sup>
13. In a report, indigenous people had expressed frustration in the enforcement of customary laws, such as IPRA<sup>17</sup>, within their ancestral domains.<sup>18</sup> This matter is accordingly brought before in the CHR National Inquiry report. In its recommendations, arbitration services should be conducted in a more accessible and culturally appropriate manner rather than an adversarial and highly technical litigation.<sup>19</sup>
14. There is a growing number of reports of extrajudicial killings involving human rights defenders and environmental activists as a result of red-tagging activists for their affiliations with the IPs. Hence, the fear of having any affiliation with the indigenous

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<sup>14</sup> Commission on Human Rights of the Philippines (2022, April 20). Sectoral Monitoring on the Situation of Indigenous Women and Girls during the COVID-19 Pandemic. Accessible at [2022.-Sectoral-Monitoring-on-the-Situation-of-Indigenous-Women-and-Girls-During-the-Pandemic.docx](#)

<sup>15</sup> *Ibid.* pp.

<sup>16</sup> Commission on Human Rights of the Philippines, Social Realities Affecting the Economic, Social and Cultural Rights (ESCR) of Indigenous Women in the Philippines, 2019 as cited in the Written Statement for the Virtual Day of General Discussion on the Rights of Indigenous Women and Girls. See: <https://chr.gov.ph/written-statement-for-the-virtual-day-of-general-discussion-on-the-rights-of-indigenous-women-and-girls/>

<sup>17</sup> Section 15 of IPRA states that “The ICCs/IPs shall have the right to use their own commonly accepted justice systems, conflict resolution institutions and peace building processes or mechanisms and other customary laws and practices within their respective communities as may be compatible with the national legal system and with internationally recognized human rights.”

<sup>18</sup> Commission On Human Rights Of The Philippines (2018). Written Statement Of The Commission On Human Rights Of The Philippines For The 11th Session Of The Expert Mechanism On The Rights Of Indigenous Peoples. Accessible at <https://drive.google.com/drive/folders/1Dtrvh3iMJzsk5Wb-Zk8ijvmuhuuL2yu1>

<sup>19</sup> *Id.*

communities and resulting in a continuous polarization of the IPs from the majority of the population.<sup>20</sup>

Is there any data or trends regarding other obstacles that indigenous peoples have faced based on their actual or perceived religion or spirituality? If not, why is this data not available? If so, provide details. This may include experiences of violence, hostility or discrimination (e.g. in education, employment, healthcare, housing, justice system, personal laws). How have historical injustices against indigenous peoples and external forces, such as the COVID-19 pandemic and climate change, exacerbated these challenges?

15. Children from indigenous tribes have faced discrimination in mainstream schools not only from their peers but also from their educators. Lumad schools or IP schools are established so that the indigenous peoples can enjoy their right to education in a manner that enriches the distinct socio-cultural reality of IP communities. That being said, the continuous red tagging of these schools have led to violence and harassment. On July 8, 2019, the DepEd Region XI had called for the closure of all 55 Salugpongan schools. The memorandum held an accusation that the IP schools in question did not follow the DepEd curriculum and have been teaching ideologies that are anti-government in nature. On the September of the same year, DepEd had released a resolution ordering the closure of the mentioned schools<sup>21</sup>.
16. The persecution of IP schools persisted, and with the occurrence of the COVID-19 pandemic more schools have closed. Nearly all of the 215 IP schools in Mindanao have been closed down, affecting thousands of children who are now studying in makeshift mobile schools that have been set up by volunteer institutions. These makeshift schools, however, still face harassment and red tagging.<sup>22</sup>
17. The Department of Education is not as inclusive as expected to be, especially in considering the current situation of the IP. Despite the existence of its 2019 National Policy Framework on Learners and Schools as Zones of Peace,<sup>23</sup> Lumad schools are not considered in its policy on making schools free from the presence of armed men, may it be government affiliated or not.<sup>24</sup>

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<sup>20</sup> Wachenje, B. (2020, July 29). Defending Tomorrow | Global Witness. "The Philippines has become even deadlier for activists since 2018, having been consistently named as one of the worst places in Asia for attacks against defenders" <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/>

<sup>21</sup> Colina, A. (October 2019). DepEd-Davao orders permanent closure of Salugpongan schools. MindaNews. Accessible at <https://www.mindanews.com/top-stories/2019/10/depd-davao-orders-permanent-closure-of-salugpongan-schools/>

<sup>22</sup> Nolasco, M., & La Vina, T. (2021). Luman schools and the right to education. Inquirer. Accessible at <https://opinion.inquirer.net/140876/lumad-schools-and-the-right-to-education>

<sup>23</sup> Department of Education's 2019 National Policy Framework on Learners and Schools as Zones of Peace. Accessible at <https://www.deped.gov.ph/2019/11/11/november-11-2019-do-032-s-2019-national-policy-framework-on-learners-and-schools-as-zones-of-peace/>

<sup>24</sup> Kurt Dela Peña. (2021, November). Lumad teachers asks DepEd: "What about us?" on their concern regarding the police presence inside a school in Pangasinan. Accessible at <https://newsinfo.inquirer.net/1517342/as-concern-aired-over-armed-police-in-pangasinan-school-lumad-teacher-asks-what-about-us>

18. The National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) has continuously claimed Lumad schools (Salugpongan and Alternative Learning Center for Agricultural and Livelihood Development Schools) as “major source of recruitment” for members of the New People's Army (NPA).<sup>25</sup> On February 24, 2022, 5 volunteer teachers from Save Our Schools Network who were tagged as members of the NPA were slain in the same region where 55 Lumad schools were ordered to be permanently closed.<sup>26</sup>

Where such experiences are complex and intersectional, how do factors such as gender, sexual orientation, age, or disability or other status shape them? This may include but is not limited to violence and discrimination against Indigenous women, girls and LGBT+ persons in the name of a religion or belief system.

19. The state must provide means to access basic resources and services to the people. Despite this, there is a lack in the gathering and disaggregation of data in terms of IP women, children, elderly, disabled, and displaced. These data are important in order to figure out the best way to provide services and resources as is stated in their rights.<sup>27</sup>
20. The “no home birthing” policy that has been enacted by the Department of Health is something that does not benefit the women in indigenous communities. IP women have the right to partake in traditional healthcare as provided in their tribe, this includes birthing methods. Not to mention, the ancestral lands of the indigenous tribes are secluded and will require long travel before reaching birthing facilities, this travel can be dangerous – even fatal – to both the mother and the child within her.<sup>28</sup>

Does commercialization and/or homogenization of certain indigenous peoples’ cultures, traditions, and histories affect their religion or spiritual practices?

21. The commercialization of IP cultures and traditions is a challenge to its preservation and protection. The cultural and historical heritage of the IPs through their rituals, ceremonies, and garbs should be properly respected whilst still spreading public awareness on such matters. The performances or expressions of their culture for romanticised and aesthetic purposes can deteriorate the authentic importance and gravity of said cultures and traditions. That being said, the control, presentation, and distribution of Filipino indigenous cultures should be decided upon the affected Indigenous communities themselves after a genuine free, prior and informed consent, in order to provide them with the avenue to preserve their culture.<sup>29</sup>

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<sup>25</sup> Sadongdong, M. (2021, March 6). Vice chairperson of NTF-ELCAC is happy with the closure of schools for indigenous peoples. Accessible at <https://mb.com.ph/2021/03/06/esperon-happy-with-closure-of-npa-infiltrated-lumad-schools/>

<sup>26</sup> Gallardo, F. (2022, February 25). Four volunteer teachers for schools for indigenous peoples were slain in Davao de Oro. <https://www.rappler.com/nation/lumad-teacher-booc-others-slain-davao-de-oro-military/>

<sup>27</sup> Supra Note 1.

<sup>28</sup> *Id.*

<sup>29</sup> Section 16 of IPRA states that, “Indigenous culture shall not be commercialised or used for tourism and advertisement purposes without the free and prior informed consent of the indigenous peoples concerned. Where consent is alleged, the NCIP will ensure that there is free and prior informed consent.”

22. The indigenous communities, IPs from the northern Luzon in particular, have always been a victim of having their culture and traditions being commercialized and even exploited. In a recent incident in June of 2022<sup>30</sup>, the indigenous tribes of Cordillera called out a pageant committee for misusing their garment as a costume in the event which has then led to sexualizing their culture.
23. Despite the existence of the National Commission on Indigenous People, the IPs have continuously expressed their disappointment at being misrepresented, particularly by the non-indigenous peoples which results in a drastic negative effect on their cultures and histories (exploitation of their ancestral lands and traditions).<sup>31</sup> There are also no penalties and/or sanctions to people who violate or disrespect such communities.<sup>32</sup>

Are there any key trends or incidents of State-sponsored violence against indigenous peoples (e.g. genocidal activities, mass internment, reproductive control, forced displacement or other imposition without free, prior, and informed consent, and killings)?

24. The conflicting interest between the state and the indigenous peoples with respect to land use has resulted in some IP communities losing their ancestral domains, despite the unwavering struggle to retain the land. As witnessed in the past years, the fight over natural resources between the IPs and the government has led to political, social, and economic marginalization and in most cases, the IPs are most disadvantaged in the long run.<sup>33</sup>
25. The Philippine government revised the Philippine Mining Act of 1995<sup>34</sup> to encourage foreign investors. This law had been an issue of controversy for IP communities as many of the mineral-rich areas in the Philippines overlapped the land owned by indigenous population. Court battles had then been ensued between Ips (some of whom were displaced during the process of court litigation)<sup>35</sup>—and the Philippine government. Mining has led to the relocation, physical displacement, and resettlement of Ips, thus posing a

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<sup>30</sup> Malasig, J. (2022, June 15). Cordilleran politician and representative frowns at how “bahag” was presented in male pageant. Accessible at <https://interaksyon.philstar.com/trends-spotlights/2022/06/15/219570/teddy-baguilat-frowns-at-how-bahag-was-presented-in-male-pageant/>

<sup>31</sup> Cabato, L. (2022, August 10). Various IP groups call for the abolition of NCIP for “not doing its job, mandate.” and for being a “consistent peddler of fake news” Accessible at <https://mb.com.ph/2022/08/10/ip-groups-slam-ncip-for-not-doing-its-job-mandate/>

<sup>32</sup> Tobias, J. (2022, August 9). IPs asking for the government to work on better protection of their rights through having penalties and sanctions to violators of their culture. Accessible at <https://www.philstar.com/nation/2022/08/09/2201145/cordillera-ips-assert-ownership-bahag-indigenous-culture-against-misuse>

<sup>33</sup> Dacanay, J. O. (2020, May). THE STRUGGLE OF PHILIPPINE INDIGENOUS PEOPLES. *International Journal of Advanced Research (IJAR)*, 8((05)), pp. 1263-1270. <https://zenodo.org/record/3940356>

<sup>34</sup> Former Philippine President Fidel Ramos signed “An Act Instituting a New System of Mineral Resources Exploration, Development, Utilisation, and Conservation”—the Philippine Mining Act—into law in 1995. The pro-mining law was a clear attempt to spur foreign direct investment and boost the economy.

<sup>35</sup> The Philippine Mining Act of 1995 | Environment & Society Portal. Environment And Society. <https://www.environmentandsociety.org/tools/keywords/philippine-mining-act-1995>

risk to the lives of those without shelter or any form of accommodation. The Philippine government has not been keen on protecting the rights of IP, in its overturning of the decision to prioritize the anti-mining crowd.

26. Throughout the years there have been multiple cases wherein the military forces attacked IPs, many of which have been justified by the military as an encounter against the armed wing of the Communist Party of the Philippines (CPP), the New People's Army (NPA). Back in August of 2015, the Armed Forces of the Philippines (AFP) allegedly killed five members of an IP family in Bukidnon, this included two children aged 13 and 17.<sup>36</sup> The military had released a statement saying that the victims had been part of the rebel group, this is something that the NPA denied.<sup>37</sup>
27. In September of 2015, members of a paramilitary group killed Emerico Samarca, the executive director of the Alternative Learning Center for Agricultural and Livelihood Development (ALCADEV), which is a learning institution that provides education to IP children. After his death, at least 10 houses and a Lumad school had been burned to the ground. This resulted in 2,000 indigenous residents to flee from their homes.<sup>38</sup>
28. In 2015, the IPs from the Ata-Manobo tribe from Davao Del Norte found shelter in UCCP Haran after instances of harassment and shootings in their ancestral land. The infiltration of their ancestral land has resulted in multiple IP casualties, including children and the elderly. The evacuees reported that the Armed Forces of the Philippines (AFP) and the Alamara's<sup>39</sup> presence in their ancestral land had resulted to militarization within their ancestral lands, closure of schools, encampment of soldiers in schools, forced recruitment to the Alamara, rape, EJKs, harassments, and displacements.<sup>40</sup>
29. The harassments that the IPs have been experiencing did not ease with the changing of administration. Rather, the harassment against IPs have only increased. President Duterte's support to addressing issues with violence, particularly the issue regarding the communist rebels, has resulted in many human rights violations against IPs. Additionally, there have also been cases of massively militarization of indigenous communities in this administration. Many link this to the existing development projects as well as the Build, Build, Build (BBB) program, stating that these projects would benefit the removal of the indigenous tribes from their ancestral lands. An instance to prove this would be the establishment of the New Clark City which covers a land area of 9,450 hectares and has

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<sup>36</sup> Conde, C. H. (2015, September 8). Dispatches: Killings of Philippine Tribal Members Spark Public Furor. Human Rights Watch. Accessible at <https://www.hrw.org/news/2015/09/08/dispatches-killings-philippine-tribal-members-spark-public-furor>

<sup>37</sup> Manlupig, K. (2015, August 25). "5 killed in Bukidnon were civilians"- NPA. Rappler. Accessible at <https://www.rappler.com/nation/103688-5-killed-bukidnon-civilians-npa/>

<sup>38</sup> Spear, L. (2015). A 'Civil War' Is Being Waged Against Indigenous Tribes in the Southern Philippines, Rights Groups Say. Accessible at <https://time.com/4028811/philippines-lumad-mindanao-indigenous-military-war-killings/>

<sup>39</sup> Alamara is the term that is used when referring to paramilitary groups organised by the AFP. Rep. Nancy Catamco. This term has been used by lumad leaders which reside within the UCCP compound.

<sup>40</sup> Supra Note 19



displaced thousands of indigenous Aeta and Magansti people and will displace even more.<sup>41</sup>

30. The administration of President Rodrigo Duterte has become publicly vocal in expressing their dissent over the operation of Lumad schools. In 2017 after his State of the Nation Address, he openly threatened institutions that are currently operating without DepEd's permit to be bombed by the Armed Forces, the Philippine Air Force in particular.<sup>42</sup>

Is there any data or trends related to the propagation of hate and hate crimes against indigenous peoples, whether online or offline, and the impact on their human rights? Examples may include: (a) specific acts of or incitement to violence or discrimination by individuals or political, vigilante, or paramilitary groups that target indigenous peoples; and (b) spreading of prejudice and negative stereotyping of indigenous peoples, including by the media, politicians, academics, and other public figures.

31. The red tagging of IPs and its communities has been more prevalent since the Duterte administration's open support to the use of violence against any individual alleged to be a supporter or a member of the NPA. Particularly in social media wherein posts accusing IPs of armed rebellion are being spread easily despite the lack of verifiable sources. Various IP organizations have been tagged as sympathizers and even members of the NPA. The red tagging does not end at IP organizations, even education facilities catering to the IP youth have faced a multitude of accusations. The accusations that are widespread in social media includes accusing IP schools to be a breeding ground for terrorists, stating that the schools are training facilities that teach the young to partake in armed rebellion against the government. These unfounded accusations, in many cases, had led to arrests, EJKs, and even upfront killings by the state-agents and police officers citing that the alleged criminal fought back.<sup>43</sup>

32. In the year 2020, there had been 92 cases of red tagging of IP human rights defenders and members of indigenous communities, aside from this, there was also more than 200 cases of undocumented and unnamed individuals who was also red tagged. There were also 28 Indigenous Peoples organizations, 25 support organizations, and seven IP schools that had been red tagged during the same year. In total, 178 IP learning facilities had been closed.<sup>44</sup>

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<sup>41</sup> Beltran, B. (2020, January 08). Philippines' 'Smart City' Threatens Tribal Displacement. The Diplomat. Accessible at <https://thediplomat.com/2020/01/philippines-smart-city-threatens-tribal-displacement/>

<sup>42</sup> Nonato, V. F. (2017, July). Human rights defenders demand President Duterte to retract threat to bomb Lumad schools. Accessible in <https://newsinfo.inquirer.net/917434/duterte-told-retract-threat-to-bomb-lumad-schools>

<sup>43</sup> Commission on Human Rights of the Philippines. (2018, March 2). Statement of the Commission on Human Rights reiterating the call to investigate all "nanlaban" cases. Accessible at <https://chr.gov.ph/statement-of-the-commission-on-human-rights-reiterating-the-call-to-investigate-all-nanlaban-cases/>

<sup>44</sup> Indigenous Peoples Rights International (2021, August 10). 2021 IPRI Criminalization Report: The Philippines. Accessible at <https://www.iprights.org/news-and-events/news-and-features/2021-ipri-criminalization-report-the-philippines>

33. In President Duterte's televised address on the evening of November 30, 2020, he alleges that 75% of NPA combatants are members of Lumad tribes. He warns the indigenous peoples of their possible extinction should they continue fighting for the communists. He adds that he is not red tagging anyone, instead, he is identifying them as communists.<sup>45</sup>
34. Public officials, particularly those who have served under the administration of President Duterte, have been very vocal in dismissing the existence of IP as a 'cover up' for the communists. On February 19, 2021, Communications Undersecretary Lorraine Badoy claimed that Lumad only refers to a certain tribe in Cebu and not all tribes in Mindanao.<sup>46</sup> This, in effect discriminated and defamed most of the tribes in Mindanao as being collectively members of the the National Democratic Front (NDF) of the CPP-NPA.<sup>47</sup>

Are there any human-rights based restrictions on traditional or cultural practices of indigenous peoples that are undertaken in the name of the religion or spirituality of indigenous peoples?

35. There have been many instances of enforced closures of IP schools which hinder the enjoyment of the right to education of children from indigenous tribes.<sup>48</sup> The IP schools allow the children to not only learn the mainstream curriculum set by the DepEd but also provides an avenue for the tribe to continue the sharing of traditions and culture to the next generations in a more organized manner. The red tagging and harassment that these schools are experiencing restricts the children from learning and robs them of a peaceful learning environment conducive of productivity and sharing of knowledge.
36. The lack of access to basic resources and services lowers the standard of living in the tribes significantly. Partnered with the generalized health restrictions to the public which ends up impeding their rights to partake in traditional practices<sup>49</sup>.

### Good practices

Are there any examples of good practice – whether at the international, national or local level – where State and non-State actors (including indigenous individuals, groups and organisations, the UN human rights system, international organisations, civil society organisations, religion or belief leaders and influencers) have taken effective measures to protect and promote freedom of religion or belief of indigenous peoples, including efforts to prevent, mitigate and respond to

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<sup>45</sup> Kabiling, G. (2020, December 1). Duterte refutes red tagging but warns that rebels, even women fighters, will likely die in clashes with gov't troops. Manila Bulletin. Accessible in <https://mb.com.ph/2020/12/01/duterte-refutes-red-tagging-but-warns-that-rebels-even-women-fighters-will-likely-die-in-clashes-with-govt-troops/>

<sup>46</sup> VERA Files. (2021, March 4). The Communications Undersecretary denies the existence of Lumad, falsely claiming that 'communists' coined the term. Accessible at <https://verafiles.org/articles/vera-files-fact-check-badoy-denies-existence-lumad-falsely-c>

<sup>47</sup> The usage of the Bisayan term "Lumad" was accepted when the word was used in Article XIII Sec. 8 (2) of the Republic Act 6734 in distinguishing ethnic communities from the Bangsa Moro in Mindanao. Accessible at [https://lawphil.net/statutes/repacts/ra1989/ra\\_6734\\_1989.html](https://lawphil.net/statutes/repacts/ra1989/ra_6734_1989.html)

<sup>48</sup> Supra Note 21

<sup>49</sup> Supra Note 1

violations of the right and to revitalise their traditions and customs? Are there any positive measures to ensure effective participation of indigenous peoples in cultural, religious, social and public life, including but not limited to where indigenous peoples have organised themselves to this end and to bring an end to discrimination in all its forms.

37. Indigenous peoples' rights are expressly addressed in four sections of the 1987 Constitution. One provision addresses the requirement for recognition and promotion of the rights of indigenous cultural communities.<sup>50</sup> Indigenous peoples' ancestral land and domain rights, and their relationship with customary law, are to be guaranteed. Congress was provided with the power to provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.<sup>51</sup> The protection of indigenous peoples' land rights were made subject to 'national development policies and programs,'<sup>52</sup> which in turn balanced the IP's rights to be considered in the formulation of national plans and policies.<sup>53</sup>

38. The Philippines enacted the Indigenous People's Rights Act of 1997 (IPRA) or Republic Act No. 8371, which recognizes, advocates, and safeguards the rights of indigenous peoples and their surrounding cultural communities. The legislation ensures the regard for the intrinsic character and unique identity of IP within the country, by acknowledging past historical injustices and implementing policies that comply with international standards. The protections of IPRA, as a whole, may be categorized into four (4) sections, namely: rights to ancestral property; rights to self-governance and empowerment; rights to cultural integrity and both social justice and human rights.

39. Section 25 of the IPRA states that: "the indigenous cultural communities/indigenous have the right to special measures for the immediate and effective continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining (to fully participate in all aspects of social life), housing, sanitation, health and social security. Particular attention should be paid to the rights and special needs of indigenous women, elderly, youth, children, and differently-abled persons."

40. The CHR regularly participates in the sectoral monitoring and forwarding of policy recommendations to key government agencies to address the problems of indigenous peoples, particularly indigenous women and children, in the best possible manner.<sup>54</sup>

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<sup>50</sup> 1987 Philippine Constitution, Art. XIV

<sup>51</sup> *Ibid.*, Art. II

<sup>52</sup> *Ibid.*, Art. XII

<sup>53</sup> Cathal Doyle (2020) The Philippines Indigenous Peoples Rights Act and ILO Convention 169 on tribal and indigenous peoples: exploring synergies for rights realisation, *The International Journal of Human Rights*, pp. 170-190

<sup>54</sup> Commission on Human Rights of the Philippines (2021, July 7). Written Statement for the Virtual Day of General Discussion on the Rights of Indigenous Women and Girls. <https://chr.gov.ph/written-statement-for-the-virtual-day-of-general-discussion-on-the-rights-of-indigenous-women-and-girls/>

41. The Commission calls on the Philippines government to actively implement the recommendations set forth by the UN CEDAW Committee which include taking measures to strengthen gender responsiveness and gender sensitivity of the legal system and ensure that the various religious, customary and indigenous justice systems harmonize their norms, procedures, and practices with the Convention.<sup>55</sup>
42. Alongside the U.N. General Assembly's adaptation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the Article III, Section 5, of the Philippine Constitution states that, free exercise and enjoyment of religion should be ensured and forever be allowed.<sup>56</sup> Meanwhile, the Commission endorses the enactment of the proposed Magna Carta on Religious Freedom.<sup>57</sup> Pursuant to its constitutional mandate to "recommend to the Congress effective measures to promote human rights, the Commission has submitted a position paper<sup>58</sup> to express support to the measure and to recommend amendments in line with the attainment of the objectives of the bill. The CHRP supports and applauds the effort to protect religious rights as a fundamental aspect of a democratic society.
43. The CHRP has recommended the inclusion of the protection and promotion of IP's rights to manifest, practice, develop, and teach their spiritual and religious traditions, customs, and ceremonies pursuant Article 12 of the UN Declaration on the Rights of Indigenous Peoples.<sup>59</sup>

Are there any measures from international organisations, National Human Rights Institutions, civil society, or others to (i) monitor and analyse practices or policies that unduly affect freedom of religion or belief of indigenous peoples; (ii) mitigate such practices and policies; and (iii) support indigenous peoples whose rights have been violated?

44. The CHRP has established the Indigenous Peoples' Human Rights Observatory (IPHRO) in 2017 in accordance with its mandates as provided in Article XIII, Section 18 of the 1987 Constitution. It is an independent source of data that contains relevant Supreme Court cases, publications, government issuances, program reports, and other relevant information on human rights violations committed against IPs. This measure helps identify the impacts of state programs and projects to the realisation of Indigenous Peoples' (IP) human rights. Furthermore, the IPHRO's data serves as the basis for the crafting of policies and projects in such a way that will allow the IPs to have a voice in the decision-making process.<sup>60</sup>

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<sup>55</sup> *Id.*

<sup>56</sup> Official Gazette, The 1987 Constitution of the Republic of the Philippines. Accessible at: [THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES – ARTICLE III | Official Gazette of the Republic of the Philippines](#)

<sup>57</sup> The Magna Carta on Religious Freedom is a welcome proposal that strengthens the mechanisms and legal framework to ensure the protection, promotion, and fulfilment of the freedom of thought, conscience and religion.

<sup>58</sup> Commission on Human Rights of the Philippines (2021, June) Position Paper on Magna Carta on Religious Freedom. <https://chr.gov.ph/wp-content/uploads/2021/06/Position-Paper-on-Magna-Carta-on-Religious-Freedom.pdf>

<sup>59</sup> Supra Note 44

<sup>60</sup> Indigenous Peoples' Human Rights Observatory. Accessible at <https://chr-observatories.uwazi.io/page/qm4d438y9o>

45. The IPHRO also requests all stakeholders from government agencies, civil society, academe, and the IPs themselves to share and showcase their respective programs, projects and activities (PPA) for and with IPs in their website in order to keep track of the efforts of all stakeholders. This is to further ensure efficient and effective allocation of resources for projects that are responsive to the needs and aspirations of the IPs, with due regard to their local context and indigenous decision-making structures.<sup>61</sup>
46. In 2017, the CHRP held the *National Inquiry on the Human Rights Situation of the Indigenous Peoples in the Philippines*, through a series of hearings and workshops, to assess the implementation of IPRA. 66 IP tribes (out of 120+ ethnolinguistic tribes nationwide) were represented by 180 IP leaders. representatives from all government agencies with projects and programs affecting IPs were also invited to the public hearings.

What measures and tools have private companies, including but not limited to those in property development, extractive industries, and digital technologies, adopted to ensure human rights due diligence with regard to Indigenous peoples?

47. Private corporations and businesses can often be observed as the other party in a land-related conflict against indigenous peoples. Many of the indigenous people who fall victim to violence and harassment have been notable opponents of mining, and oil palm plantations.<sup>62</sup> The ancestral domains of the indigenous peoples of the Philippines are rich in natural resources, as such, there are many instances wherein private companies resort to harassment in order to obtain the land being occupied by indigenous peoples. These result in many environmental violations and non-recognition of Indigenous Peoples' rights which remain unpunished.

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<sup>61</sup> *Id.*

<sup>62</sup> World Directory of Minorities and Indigenous Peoples. Philippines - Indigenous Peoples. Accessible at <https://minorityrights.org/minorities/indigenous-peoples-6/>