

NATIONS UNIES
HAUT COMMISSARIAT AUX DROITS DE L'HOMME



UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

Téléfax: (41-22)-917 9029
Télégrammes: UNATIONS, GENEVE
Téléx: 41 29 62
Téléphone: (41-22)-917 9309
Internet: www.ohchr.org
E-mail: nprouvez@ohchr.org



Address:
Palais des Nations
CH-1211 GENEVE 10

REFERENCE: NP/JF

24 August 2007

Excellency,

The Committee wishes to inform you that at its 71st session held from 30 July to 17 August 2007, it considered on a preliminary basis under its early warning and urgent action procedure the information received from the Apu Manglang Glupa' Pusaka, the Gukom Sog Pito Kobogolalan Sog Pito Kodulongan, the Pigsalabukan Bangsa Subanon, the Legal Rights and Natural Resources Center, Tebtebba, Indigenous Peoples Links, and the Irish Centre for Human Rights concerning the situation of the Subanon of Mount Canatuan, Siocon, Zambonga del Norte.

Paragraph 17 of the concluding observations (CERD/C/304/Add.34) adopted by the Committee at its 51st session on 14 August 1997, following the examination of the eleventh to fourteenth periodic reports of the Philippines, submitted in one document, provides:

“In connection with article 5 (d) (v) of the Convention, concern is expressed at reports of forced evictions and displacements of indigenous populations in development zones, as well as at reports that specific groups of indigenous peoples have been denied by force the right to return to some of their ancestral lands.”

The Committee notes with appreciation the adoption of the Indigenous Peoples Rights Act in 1997 which requires the free, prior and informed consent of indigenous communities for any development projects on their ancestral lands. The Committee notes with concern, however, that, according to the information received, the Act has not been implemented to date. Furthermore, the 1998 Implementing Rules and Regulations, revised in 2002 and 2006, have allegedly reduced the rights granted to indigenous peoples by the Indigenous Peoples Rights Act.

S.E. M. Enrique A. MANALO
Permanent Representative
Ambassador extraordinary and plenipotentiary
Permanent Mission of the Philippines
Avenue Blanc 47
1202 Genève
Fax: 022 716 19 32

Furthermore, according to information before the Committee, the National Commission on Indigenous Peoples has so far failed to register the Certificate of Ancestral Domain Title of the Subanon, although the Subanon have attempted to have their land rights recognized since 1987. In addition, the National Commission on Indigenous Peoples allegedly facilitated the creation of a body with no status in indigenous structure and not deemed representative by the Subanon, the Siocon Council of Elders, which concluded an agreement with a Canadian mining company (TVI Pacific) in order to authorize mining activities on Mount Canatuan, a sacred site of the Subanon.

Finally, the Committee notes with concern allegations according to which members of the Subanon community are exposed to acts of violence and attacks on their property, sacred sites and institutions, and regarding the existence of a pattern of escalating racial hatred and violence against the Subanon community. The Committee is particularly concerned about information that paramilitary forces deployed by TVI Pacific are accused of human rights violations and that mining activities on Mount Canatuan continue and are being expanded.

The Committee would welcome the initiation of a constructive dialogue with the State party on these issues and, in accordance with article 9, paragraph 1, of the Convention and rule 65 of its Rules of Procedure, wishes to receive detailed responses and comments to the questions below:

1. Please explain the reasons why the National Commission on Indigenous Peoples has failed to register the Certificate of Ancestral Domain Title of the Subanon.
2. Please comment on reports that the mining concession granted to TVI Pacific was issued without the prior consent of the Subanon community, or its duly authorized representatives, in violation of the Indigenous Peoples Rights Act of 1997. Please provide information on how the Siocon Council of Elders was granted representative status for the Subanon community.
3. Please comment on the information according to which amendments introduced in 2002 and 2006 to the 1998 Implementing Rules and Regulations impose restrictions in relation to the time-frame and process required to obtain the free and prior informed consent the phrase again of indigenous communities which are not in conformity with the customs, laws and traditional practices of these communities.
4. Please provide information on the measures adopted by the State party to protect members of the Subanon community against acts of hatred and violence. Please also provide information on the number of complaints about such acts, the measures taken to investigate such complaints, and the number and nature of sentences, if any, imposed on perpetrators, as well as the assistance provided to the victims.

The Committee requests the State party to send its response and comments **no later than 31 December 2007**, so that they can be examined by the Committee at its 72nd session, to be held in Geneva from 18 February to 7 March 2008. In the absence of a response by the set deadline, the Committee will consider adopting a decision under its early warning and urgent action procedure at its 72nd session.

The Committee further reminds the State party that its fifteenth to nineteenth periodic reports are overdue since 1998. It therefore strongly encourages the State party to submit its overdue reports, in a single document, **by 30 June 2008**. In case of non-receipt of the overdue report by 30 June 2008, concluding observations will be adopted in the absence of a report and in light of information received from other sources, including from

non-governmental organisations, at its 73rd session, to be held from **28 July to 15 August 2008**.

Allow me, Excellency, to reiterate the importance for the Committee to engage in a constructive dialogue with your Government, and to underline that the Committee's request for information is being made with a view to assisting your Government in the effective implementation of the Convention

Yours sincerely,



Régis de Gouttes
Chairman of the Committee for the
Elimination of Racial Discrimination