Statement at the conclusion of the country visit to the Philippines by the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Mr. Ian Fry

Manila, 15 November 2023

As the United Nations Special Rapporteur on the promotion and protection of human rights in the context of climate change, I address you today at the conclusion of my country visit to the Philippines, which I undertook at the invitation of the Government from 6-15 November 2023. I would like to express my deep appreciation to the Government of the Philippines for its invitation to my mandate to conduct this visit. I chose to visit the Philippines as the country has suffered many impacts from climate change.

I am tasked by the Human Rights Council (through its resolution 48/14) to study and identify how the adverse effects of climate change affect the full and effective enjoyment of human rights.

During the visit, I met with the Secretary of Foreign Affairs, the Secretary for the Department of Environment and Natural Resources, the Secretary of Department of Justice, officials from the Climate Change Commission, the Department of Social Welfare and Development, Department of Finance, National Economic and Development Authority, Department of Agriculture, Department of Science and Technology, the Philippine Atmospheric, Geophysical and Astronomical Services Administration, Department of Health, Department of Interior and Local Government, The Philippine Commission on Women, the National Commission on Indigenous Peoples, the Council for the Welfare of Children, the National Commission of Senior Citizens, the Office of Civil Defense, the National Youth Commission, the National Council on Disability Affairs and various local government units.

I also met with a number of UN agencies and representatives from the diplomatic corps. I met with many civil society organizations, representatives from Indigenous Peoples' organisations and people who are living in relocated communities. All provided invaluable information on the implications that climate change is having on the enjoyment of human rights for people in the Philippines.

Expression of gratitude

I would like to thank the Government of the Philippines for their invitation to visit the country and for the cooperation provided to me during the visit. I would particularly like to thank the communities I visited for being so accommodating and frank about their circumstances. Lastly, I wish to express my extreme gratitude to the extraordinary support provided during the visit by the United Nations in the Philippines, and my colleague from the Geneva Office from OHCHR.

General situation of the country

The Philippines is exposed to different types of extreme weather events, such as typhoons, floods, landslides and droughts. Its narrow coastal plains are particularly vulnerable to rising sea levels, erosion, droughts, monsoon rains and changes in sea surface temperatures. The

Philippines is one of the most vulnerable countries in the world to the impacts of climate change. In 2013 Super Typhoon Yolanda (Haiyan) was recorded as one of the most intense and deadly tropical typhoons ever recorded. It caused more than 6,300 deaths although some claim that the number was much higher.

Rapid urbanisation and the proliferation of informal settlements have increased vulnerabilities, especially among poor households migrating from rural areas. Lower income households often reside in areas more exposed to the risks of climate change. Peoples' rights to food, water and sanitation, education, and health care are affected. As a result, many residents that live just above the poverty line cycle in and out of poverty. [1]

Government Initiatives on Climate Change

The government has a number of initiatives to prepare for the impacts of climate change, support communities after the impacts of climate change events and to reduce the greenhouse gas emissions. It has established a Climate Change Commission which works with the Department of the Interior and Local Government (DILG) to identify climate change expenditure which is known as Climate Change Expenditure Tagging (CCET). There are Local Climate Change Action Plans (LCCAP) of LGUs and communities. (Climate Change legislation is discussed in a later section).

Key thematic issue for the visit

Following from my reports to the Human Rights Council and the UN General Assembly I was particularly interested some key issues. These included loss and damage; climate change displacement, climate change legislation and litigation, the protection of environmental human rights defenders and gender responses to climate change.

Other issues arose during my visit, including the impacts of new mitigation technologies such as dams, and whether the environmental implications of mining for minerals needed for the renewable energy industry was having human rights implications.

Community visits to observe climate change impacts

During my time in the Philippines, I was able to visit a number of communities. The following is a compilation of the communities visited.

Bataan Shipping and Engineering Company (BASECO) compound

The first community I visited was in Manila Bay at the Bataan Shipping and Engineering Company (BASECO) compound. This is a small area of land with an informal settlement. It is on very low lying land which is subject to storm surges and flooding by extreme high tides. Despite their vulnerability, the community is keen to remain. One of the main concerns for the community was the continued dredging of Manila Bay. Groups expressed concern that

[1] Shaw, R. et al. (2022), *Asia*, IPCC 6th Assessment Report, Chapter 10, Cambridge University Press, https://www.ipcc.ch/report/ar6/wg2/chapter/chapter-10/

the dredging project would worsen chronic flooding in the capital and surrounding provinces, damage marine life and affect the livelihoods of already struggling fisherfolk who used to be able to catch fish and collect shellfish in Manila Bay.

While there is supposed to be a moratorium on dredging in Manila Bay this moratorium does not appear to be enforced. The development of the Manila International Airport is only going to enhance the Bay's vulnerability to the impacts of storm surges. Large areas of mangroves will need to be cleared to make way for the airport. Mangroves play a critical role in protecting the coast from storm surges as they dissipate the energy .

Manila City Hall and Valenzuela

I visited Manila City Hall where I was shown the disaster response control centre, and Valenzuela City where I visited a model housing development project where people from informal settlements along the riverbanks were relocated. Various services are provided within the development including a medical centre, community garden and fish farm. On the surface this project appears to be a success in relocating people from highly vulnerable coastal areas. Unfortunately, due to the large entourage of people that accompanied my visit, included armed police. I understand that not all occupants of the village come from informal settlements.

Tacloban

I visited Tacloban and met with various officials from the Local Government Unit of Tacloban. The LGU staff informed me of the recovery effort after Super Typhoon Haiyan (Yolanda) hit the city. Temporary housing was provided to affect families. Some of this temporary housing remains today. Transitional shelters were created and permanent resettlement houses was also established.

I later met with civil society organisations and community representatives who were survivors of ST Haiyan. Some are still living in makeshift "temporary" housing. People are experiencing increasingly extreme heat conditions reduces the hours that workers can tend their fields or fish in the ocean.

Baybay City and Abuyog City

I visited Baybay city, Leyte and met with the city mayor. Baybay was heavily affect by Typhoon Agaton (Megi) in April 2022 causing an unprecedented amount of rainfall. The heavy rainfall waterlogging the ground causing numerous landslides. I also visited Abyog which was also affected by landslides. The most affected was the Barangay of Pilar where a large landslide swept away houses and caused a mini-tidal wave when it reached the sea. This mini-tidal wave destroyed houses and swept people into the sea. Several lives were lost due to the landslide.

I visited a number of temporary housing and transition housing projects in New Bahay, New Buaya, New San Francisco and New Pilar. While most community members were happy with their move, some of the settlements did not have access to electricity. Others indicated difficulties in making a daily return to their usual workplace on the coast due to the high cost of transport. Permanent housing has also been provided to some families, although the

relatively high cost of houses using concrete blocks has limited the number of houses being built. These temporary shelters are undoubtedly saving lives as they are relocated people away from high risk zones. Nevertheless, there are clear disadvantages.

Iloilo City, Calinog and Jalaur Mega Dam Project

I visited Iloilo City, Calinog and the Jalaur Mega Dam Project. The Jalaur Dam is proposed to provide irrigation water for various rural communities, freshwater for the City of Iloilo and hydro-electric power. The dam is still under construction. The dam is being primarily funded by a loan by the South Korea Eximbank with a repayment period of 30 years with a possible extension of repayment for another 30 years.

This is a highly controversial project as it has been constructed on Ancestral Tribal Land. It has displaced a number of Indigenous Peoples and rural communities. A number of Indigenous Peoples have been killed allegedly by the military because they did not approve of the dam project on their Ancestral Land (see later section on Environmental Human Rights Defenders). While the dam is supposed to provide opportunities for increased food production from irrigation, there are questions over the viability of the project. Sacred sites of the Indigenous Peoples will be submerged by the dam water.

I met with the Mayor of Calinog and the Calinog Local Government Unit. They have developed offsite housing for communities displaced by the dam. These offsite housing sites do not appear to fit with the traditional lifestyles of the Indigenous Peoples who come from the affected dam area although some Indigenous Peoples representatives I met with in the Calinog Local Government building said they were happy with the dam project. From testimonies I heard later from representatives of the Tumandok Indigenous People, their lives have been completely turned upside down by the dam project. They have been intimidated by the military to sign approval documentation and if they declined they were subject to extreme human rights violations. 9 members of the Tumandok People, who had opposed the dam project were executed by the military on 30 December 2020. Their traditional way of life has been destroyed by the dam project. Some of the representatives have been jailed and continue to be in prison based on what appears to be trumped up charges of illegal possession of firearms and explosives.

I also met with the Mayor of Iloilo City. Iloilo is highly vulnerable to Typhoon impacts particularly storm surges and high rainfall events leading to flooding. The city has developed a number of adaptation project to protect the city from the impacts of Typhoon damage. This includes major canal development and drainage work to increase water flows during heavy rainfall. Rainfall harvesting projects have also been developed in an attempt to meet the need for potable water during dry periods. Solar projects have been developed for schools and other buildings. The local government is considering the development of a waste for energy project.

Thematic Issues:

The following is a discussion of the thematic issues I investigated with some emphasis on certain elements:

1. Loss and Damage

Losses and Damage caused by climate change events, particularly the impacts of climate change, is enormous. Apart from the large number of deaths, is estimated to have incurred economic costs of about PHP 95 billion or about USD 2.3 billion, slashing 5% off the economy. According to the OECD, Typhoons Ondoy, Pepeng, Sendong, and Pablo lead to over 3,000 deaths, affecting more than 10 million people and causing economic losses and damages amounting to approximately USD 5.7 billion.[2] These are just a few examples of the costs of climate change impacts on the Philippines.

In response to these impacts, the Philippines government has developed a number of financial instruments to address a portion of these costs. The includes People's Survival Fund which was created by virtue of the Republic Act (R.A.) No.10174 (Amending R.A. No. 9729 or the Climate Change Act of 2009), the National Disaster Risk Reduction and Management Fund (NDRRMF) and the Philippines' Disaster Risk Financing and Insurance (DRFI) Strategy. These are a few examples.

The losses and damages experienced by the Philippines go way beyond what the government can properly afford to address. This is why the parties to the UN Framework Convention on Climate Change are developing a Loss and Damage Finance Facility (LDFF), to help the most vulnerable countries address the loss and damages they experience. As the Philippines is one of the most vulnerable countries to the impacts of climate change, it is hoped that the government will take a strong and proactive role in negotiating an effective outcome at COP 28 that will create the necessary funding opportunities in an expedited manner for the most vulnerable.

2. Climate Change Displacement:

According to IDMC, Philippines ranks second in displacement, after China.[3] According to the Department of Social Welfare around 10-12 million people are displaced every year. The Philippines government appears to be cognizant of this concern and has an Internal Displaced Peoples (IDP) Bill before congress. From consultations I held, there are serious concerns about the trafficking of women and children who have been displaced due to climate change events. The Children Emergency Relief and Protection Act aims to to address domestic trafficking in children.

While there is information on the number of internally displaced people, I was not able to get a sense of how many people have emigrated as a consequence of climate change. The government needs to develop a database on people displaced across its national border due to climate change impacts so that it can monitor the fate of these people and ensure that their rights are protected.

3. Climate Change Mitigation

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[2] OECD, Building Financial Resilience to Climate Impacts: *A Framework for Governments to Manage the Risks of Losses and Damages; Annex A:* Philippines' exposure and vulnerability to climate hazards and climate change, https://www.oecd-ilibrary.org/sites/f51532e7-en/index.html?itemId=/content/component/f51532e7-en

[3] https://www.internal-displacement.org/countries/philippines

In its response to meeting the Paris Agreement obligations to reducing greenhouse gas emissions, the Philippines government, in collaboration with local government, has developed and proposed a number of measures to reduce the reliance on the use of fossil fuels. The government's efforts to reduce the country's contribution to global greenhouse gas emissions are to be commended, however the choice of mitigation projects is leading to a number of human rights violations. These issues are discussed below.

a) Mining for Strategic Minerals

The global economic push to mine so called "strategic minerals" (nickel, lithium, cobalt, copper, gold and other rare earths) for renewable energy (batteries and electric motors) is having a profound effect on the Philippines. All the communities that I met with, including people from small islands within the Philippines and on the larger islands are suffering human rights violations from the mining industry.

The expansion of open-cut mining is a particular concern. Some people I spoke with recounted how they were forcibly removed from their land. This is particularly the case for Indigenous Peoples. This practice appears widespread through the country. Unsound mining practices mean that freshwater supplies are being contaminated by toxic mine waste. Some communities have witnessed a significant reduction in their water supplies due to mining. This violates downstream rural communities of their right to food and water.

There appears to be a high level of corruption associated with the granting of mining leases. While some local government officials have profited by allegedly taking bribes from mining companies, it was indicated to me that local government officials who expressed concern about mining operations have been harassed by the military and some being red tagged.

On the positive side, both the Mayors of Baybay City and Abuyog, Leyte indicated that they had ordinances which placed 15 year moratoriums on mining. This is due to the high rainfall experienced in the region.

Some of the communities I spoke with said they were not opposed to mining outright. Nevertheless, they wanted correct environmental and social impact procedures to be undertaken with appropriate free, prior and informed consent measures. Mines should be developed in such a way that avoids deforestation, loss of biodiversity, contamination of waterways and destruction of sacred lands. This is possible if the proper mining practices are employed.

b) Hydro Electric Dams

A number of hydro-electric dams have been built, under construction or are in the planning stage across the country. These are designed to provide electricity and in some cases, water for irrigation or drinking supplies. Many community members I spoke with, including Indigenous Peoples, were opposed to the development hydro-electric dams. Dams inundate land traditionally owned by farmers and Indigenous People.

There appears to be a systematic program of harassment to force communities to approve dam projects People who expressed concern about the construction of dams have been

harassed, red tagged, assaulted by the military and others have been killed. A number of Indigenous Peoples have been killed allegedly by the military when they have objected to mining developments on their Ancestral Lands.

While it is important to develop alternative sources of energy, this should not be done at the expense of the community.

c) Just Transition from Internal Combustion Engine Transport

It is important that as the Philippines economy moves away from the use of internal combustion engine transport (ICET) using fossil fuel. Nevertheless it is also important that workers reliant on providing ICET transport are given the opportunity for a just transition to affordable alternatives. I met with representatives from PISTON who drive jeepneys. They expressed concern that they would not be able to afford new electric versions of community transport and they would be deprived of their right to work.

4. Climate Change legislation, litigation and intergenerational justice

The government has introduced various pieces of legislation that relate to climate change. This includes the Climate Change Act 2009. The Department of Environment and Natural resources (DENR) said that they can initiate legal action, including criminal complaints against environmental harm. It is claimed that environmental courts play a crucial role, as they are specialized to handle cases including under the Forestry Code, the Mining Act, the Fisheries Act and the Chainsaw Act. According to DENR, there were 1368 decided cases and 2621 pending cases from January to September 2023. Any citizen can file lawsuit to protect the environment (citizen suit) and Environmental Protection Orders can be issued by courts, to protect the environment. A Writ of Kalikasan can be filed on behalf of individuals whose right to a balanced ecology is violated[4].

There is a proposal for a Climate Accountability Bill (CLIMA Bill) which is pending review by the House Committee on Climate Change. This Bill addresses some of the issues highlighted by the Philippines Commission on Human Rights report on climate change. It particularly addresses the responsibility of "carbon majors". I encourage the adoption of this Bill.

5. Treatment of Environmental Human Rights Defenders

a) According to Global Witness, the Philippines is now Asia's deadliest country for land and environmental defenders. I heard from one civil society organisation that in the past 3 years, there have been 75 extrajudicial executions against environmental human rights defenders. Each civil society group I met with told how they were trying to ensure that their communities have a right to a safe, clean, healthy and sustainable environment. This right was recognized by the UN General Assembly and is included in the Philippines Constitution. Some have taken out campaigns to oppose unsustainable land reclamation, hydro-electric dams, deforestation

[4] The *Writ of Kalikasan*, or a 'writ of nature', is a unique piece of legislation which provides legal remedy provides for the protection of one's right to "a balanced and healthy ecology in accordance with the rhythm and harmony of nature".

and mining. Each of these unsustainable activities have implications for climate change and the violation of human rights.

All of the organisations I spoke with have had member of their organisation harassed, vilified, abducted or jailed and some have lost their lives. The government through the Philippines Defence Force and the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) have systematically "red tagged" environmental human rights defenders and Indigenous Peoples. This is a clear violation of the right to freedom of expression and for some, their right to life. I also heard that various clergy and humanitarian workers have been falsely accused under the Anti Terrorism Act.

It is very evident that the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) is using it powers to protect key economic interests the country. This has nothing to do with anti-terrorism or anti-communism. The military's gross overreaction to people trying to defend their right to a safe, clean, healthy and sustainable environment is totally unacceptable. The NTF-ELCAC should be disbanded.

b) Indigenous Peoples Issues

I met with representatives from Indigenous communities from across the country. All gave accounts of how Indigenous Peoples are being driven out of their ancestral lands, especially due to the development of large dams and mines. I heard that there were aerials bombings undertaken by the military, some apparently using phosphorous in a number of Indigenous Peoples Ancestral Lands. I met with representatives from Tumandok Indigenous Peoples. On the 30th December, 2020, 9 males from the Tumandok community were executed by the military. 16 were taken into custody, some remain in jail today. Their only "crime" was that they had protested against the construction of the Jalaur Mega Dam Project. These Peoples are stewards of their Ancestral Lands and primary custodians of the environment. They have no interest in terrorism or communism. As of the time of writing of this report, no-one has faced court for the killing of these people.

I also heard allegations that the National Commission on Indigenous Peoples was used to inform the NTF-ELCAC of so-called "terrorists". These people were "red tagged". Others expressed concern that the NCIP was being used to coerce Indigenous Peoples to sign Free, Prior Informed Consent Agreements to allow dams and mines to go ahead. It was also noted that the close connection between the NCIP and the NTF due to the dual role of the former NCIP Chair did not instil confidence that the NCIP is an that represents the interests of Indigenous Peoples. It is clear that the NCIP needs reform. One major reform suggested, was to establish a grievance mechanism whereby Indigenous Peoples could make complaints about various developments, such as mining, illegal logging and dam construction with out proper FPIC procedures.

It is critical that the execution of the 9 Indigenous Peoples by the military on the island of Panay is properly investigated by an independent body and those responsible for these extrajudicial killing are brought to justice. It is also critical that those relatives of the people executed are properly compensated for their loss, even if the loss of a loved one cannot be properly compensated for.

5. Gender Equality

It is well recognised that gender gaps and violence are magnified during times of climate change disasters and extreme weather. It is also recognized that women are more likely to be trafficked after a major weather event, particularly if they are displaced from their homes. From discussions I had with various organizations, it appears that there are significant issues around corruption, weak enforcement of anti-trafficking laws and other forms of gender-based discrimination.

The government has initiated a number of policies and programs, which incorporates gender mainstreaming, including the Magna Carta of Women. The government should implement CEDAW general recommendation 39 on the rights of indigenous women and girls, and include them in policy making.

I met with a representative from the gender-diverse community who expressed concern that LGBTIQ+ were often disadvantaged in climate change disasters as they were discriminated against. Special consideration needs to be given to the gender-diverse community. Their views need to be incorporated into mitigation, adaptation, disaster risk reduction and loss and damage planning.

6. Conclusions and Recommendations

Climate change is negatively impacting human rights in Philippines, including the rights to water and sanitation, food, culture, education, healthy environment, health, work and housing. It is very evident that the Government has made efforts to address the impacts of climate change by developing a number of reports and pieces of legislation.

The clear message I received, however, is that while the Government has produced many policies and laws relating to climate change, there is a distinct lack of implementation on the ground. Furthermore there is a development agenda being pursued by the government which contradicts the highly fragile nature of the country.

Of the local government units I visited, most were trying to implement adaptation and disaster risk reduction projects to protect their communities, although some of these practices, such as forced relocation, are drastic and violate the rights of people to make their own choice about their right to housing. Nevertheless, some communities appeared to be reasonably happy with their relocation.

I am deeply troubled by the treatment of environmental human rights defenders, particularly Indigenous Peoples. The use of intimidation, harassment, abductions, prosecution, jail sentencing and extra-judicial killings by the military based on trumped up charges against human rights defenders is contrary to many international human rights obligations.

This year represents the 75th Anniversary of the Universal Declaration of Human Rights (UDHR). The Declaration states that "everyone has the right to life, liberty and security of person". I strongly encourage the Philippines government take urgent and decisive measures to respect this right.

The following a set of recommendations that I believe the government should take to address some of the concerns

- The government should rapidly develop a strategic plan of implementation for all the climate change policies it has developed. It needs to identify gaps in implementation and ways of addressing these, and to develop gender, age, disability, and Indigenous sensitive actions.
- The government should revise its Climate Change Act and take on board the key elements proposed in the draft CLIMA Bill. In this respect, the government needs to take strong heed of the Commission on Human Rights' Report on climate change and hold "carbon majors" accountable for the greenhouse gas emissions they are responsible for. This should include creating extra-territorial powers to hold accountable "carbon majors" outside the country.
- The government should hold and enforce a moratorium on all coastal land reclamation projects.
- The government should undertake a major review of the development of strategic minerals for renewable energy. It needs to develop a just transition policy for all climate change related actions.
- The government should develop means of analysing the number of people who have emigrated from the Philippines due to the impact of climate change.
- The government should take an active role in negotiation of the Loss and Damage Finance Facility. The government needs to rapidly get up to speed on the negotiations on the L&D FF and play a pro-active role in ensuring that the finance facility is not dominated by the interests of developed countries.
- The government should revoke the Anti-Terrorism Act and develop a truth and reconciliation process to allow people wrongly accused under the Anti-Terrorism Act to seek redress for the harm that has been inflicted upon them by the mis-use of this Act.
- The government should enact the Human Rights Defenders Bill.
- Reparations should be paid to communities, Indigenous Peoples and individuals who have been victims of human rights violations.
- The government should disband the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC).
- A full independent investigation needs to be undertaken to investigate the past operations of the NTF-ELCAC.
- The proposed inquiry by the Commission on Human Rights on "red tagging" should be strongly supported.
- A major judicial enquiry must be held to review all cases against environmental human rights defenders who have been prosecuted as a result of allegations made by the military. These people should be granted bail while such an enquiry is being held.
- Major reforms to the National Commission on Indigenous Peoples need to be implemented to ensure that it protects indigenous peoples rights, and serves the interests of indigenous peoples. This would include the establishment of a grievance

mechanism whereby Indigenous Peoples can make complaints against approval processes of various developments, such as mining, illegal logging and dam construction.

- The government should implement CEDAW general recommendation 39 on the rights of indigenous women and girls.
- The government should enact the Internal Displaced Peoples Act and develop a strategy for its effective implementation. Such legislation could provide clearer guidance to government agencies and institutions for the provision of basic services for internally displaced persons.

Much needs to be done to return the international reputation of the Philippines to a fair and just nation. For a country so vulnerable to the impacts of climate change, it is imperative the country takes decisive action on climate change in a coordinated manner and initiates active policies to protect its population against the ravages of climate change and to protect environmental human rights defenders from human rights violations by the military.