

COMMENTS TO THE RESPONSE OF THE EDCF-KOREA EXIMBANK TO THE LETTER OF MS. ANA ZBONA AND MS. CHRISTEN DOBSON OF BUSINESS & HUMAN RIGHTS RESOURCE CENTER

Here are our comments to the EDCF-KOREA EXIMBANK letter concerning the issue of the massacre of 9 Tumandoks and the illegal arrests of 16 others in Tapaz town, Capiz province and Calinog town, Iloilo province.

1. The victims of the massacre on December 30, 2020 are leaders and members of the TUMANDUK organization and have long been opposing the project for more than a decade. Their communities were among those vocal against the Jalaur megadam construction.

Several documentations have been published in various media organizations on the engagement of the NCIP and the NIA with the TUMANDUK Organization: (links are provided)

- Endangering indigenous communities in Panay¹
- Tumandoks rally for life, oppose Jalaur Megadam Project²
- Aileen Catamin, defiant vs dams³
- Damn the dams: Indigenous peoples say no to destructive energy projects⁴
- Indigenous leader in Philippines 'red-tagged' and killed over dam opposition⁵

There were also video documentaries⁶ on the struggle of the Tumandok people against the destructive mega dam.

If media reports and video documentations are not enough, may we enlighten the Korean Exim Bank of the meeting it had with the JRPM and the several meetings the JRPM and TUMANDUK Organization had with Ms. Grace Eunyoung Lee, CEO of Gaia Consult Inc. and the

¹ <https://opinion.inquirer.net/97120/endangering-indigenous-communities-panay>

² <https://ichrp.net/tumandoks-rally-for-life-oppose-jalaur-megadam-project/>

³ <https://www.bulatlat.com/2015/03/25/aileen-catamin-defiant-vs-dams/>

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<https://www.eco-business.com/news/damn-the-dams-indigenous-peoples-say-no-to-destructive-energy-projects/>

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<https://www.eco-business.com/news/indigenous-leader-in-philippines-red-tagged-and-killed-over-dam-opposition/>

⁶ <https://drive.google.com/drive/folders/1EhopyjtiACP04UO8aoqJrvBKJyRTbYkY?usp=sharing>

social safeguard consultant of the Korean Exim Bank for JRMP-II. Some of these meetings were held in 2016 in Iloilo, April 5, 2018 in Seoul, Korea, and May 26, 2018 in Iloilo.

The April 2018 meeting in Seoul was held with Korean Exim Bank's top executive officers. Back in Iloilo, the May 2018 meeting was with KEXIM EDCF officials and monitoring team.

The official narrative of the NCIP and the NTF-ELCAC is:

- a. That the TUMANDOK is not connected with NCIP 6 & 7
- b. That the TUMANDOK is not one of the ICCs in Panay recognized by the NCIP
- c. That the TUMANDOK is not an IPO recognized by the NCIP

And thus KEXIM Bank kowtows to these official narrative, accepting it hook, line and sinker. KEXIM Bank does not even make the effort to differentiate the self-ascription of the Tumandok people and their political organisation TUMANDUK. Of course, the KEXIM Bank does not have any idea on how representations are made in the TUMANDUK organisation. We will not presume to educate the Bank on these matters. If they can fund a multi-billion peso mega-dam, they can afford to do their own / independent research and investigation.

The Tumandok and TUMANDOK leaders that were murdered in the morning of December 30 were active campaigners against the Jalaur River Mega Dam project. They, along with their Calinog Tumandok community counterparts, were at the forefront of the campaign to stop the construction of the dam. It was the TUMANDUK organisation which first pointed out that the project did not even go through a proper FPIC. The NIA submitted the feasibility study to KEXIM Bank in 2011, the TUMANDUK organisation and its advocates protested the lack of the FPIC to conduct such study in early 2012. The actual FPIC process was done only in 2012 [details in point #5 of this Comment].

2. The Philippine government under President Duterte has a terrible human rights violation record in his almost five years in office. He is considered one of the worst tyrannical heads of state in the world today.

- The ICC (International Criminal Court) is examining the thousands of extrajudicial killings in the context of Duterte administration's "war on drugs".
 - The European Parliament passed a resolution expressing concern on the human rights situation in the Philippines citing the passage of the Anti-Terrorism Law, the series of political killings and attacks on the press and media.
 - In the United States, there is a pending Philippine Human Rights Act at the US Congress. The author Pennsylvania Rep. Susan Wild cited the recent passage of the widely opposed Anti-Terrorism Act in the Philippines and how it is being used as a pretext to "ramp up efforts targeting labor organizers, workers and political opponents."
 - The Global Magnitsky Act, the law now being applied against violators of human rights in the Philippines—those responsible for the massacre of the poor in the war against illegal drugs, those harassing Maria Ressa and Rappler, and those persecuting Senator Leila de Lima.
3. The Anti-terrorism Act of 2020 is currently challenged as unconstitutional by 37 petitioners at the Supreme Court. Among other issues raised are the usurpation of the executive branch (through the Anti-Terrorism Council) the authority of the judicial branch to issue warrants of arrests and that warrants of arrests can be issued only upon probable cause.

Moreover, the ATA authorizes warrantless arrests and detention of "suspected terrorists" for a maximum of 24 days without formal charges, contrary to the constitutional provision of a maximum of 3 days without formal charges. Petitioners against the ATL include 2 former Associate Justices of the Supreme Court, a former Vice President of the Philippines, a senator, the Integrated Bar of the Philippines, deans and professors of colleges of law, indigenous people's organizations, local government officials, church leaders, and developmental non-governmental organizations.

- Officially, the Police claimed that the massacre and arrests on December 30, 2020 was a police operation where the victims were "served search warrants"⁷. It is unfair for the EDCF-KOREA

⁷ <https://opinion.inquirer.net/136987/probe-tumandok-carnage>

EXIMBANK to take the statement of the Philippine government as gospel truth.

- Accounts of the families of the victims reveal that search warrants were served only after state forces killed and planted evidence on the victims⁸.
- On February 4, 2021 the Commission on Human Rights (CHR) Region 6 conducted an investigation of the December 30 massacre and arrests with majority of the relatives of the victims. It was supported by the Iloilo Council for Ecumenism (ICE). All witnesses affirmed their previous statements in the media that their relatives were murdered in cold blood and that “pieces of evidence” were planted by arresting soldiers and policemen to justify the arrest of those who are detained now.
- PNP Col. Enrique Ancheta, Chief of PNP Region 6 Crime Laboratory Office) revealed that 7 out of 9 massacre victims were found to be negative of powder burns. He was relieved of his post after this revelation.⁹
- In a joint pastoral letter dated January 15, 2021, two archbishops and seven bishops of the dioceses of the Roman Catholic Church in Panay, Negros and Romblon islands called for a “thorough investigation by an independent body to ascertain what really happened” in the coordination police operations in Tapaz, Capiz and Calinog, Iloilo.¹⁰
- The CIDG (Criminal Investigation and Detection Group) and the Public Attorney’s Office (PAO) are pressuring those who are detained to admit the preposterous charges of illegal possession of firearms and explosives (planted by the raiding teams) to avail of probation. Residents of the affected communities in Tapaz, Capiz and Calinog, Iloilo are threatened by 12th IB detachments in the area to have their names “cleared” in military camps and are paraded in turn as “NPA surenderrees”.
- Congress will investigate the brutal killing of Tumandoks and their leaders.¹¹

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<https://indigenoustrightsinternational.org/news-and-events/news-and-features/philippines-9-indigenous-tumandok-killed-17-others-arrested-in-police-ops-in-panay>

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<https://newsinfo.inquirer.net/1386614/western-visayas-pnp-crime-lab-chief-sacked-after-saying-9-ips-killed-in-cidg-raid-negative-in-paraffin-tests>

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<https://newsinfo.inquirer.net/1384634/w-visayas-romblon-bishops-condemn-killing-of-tumandok-tribe-members-in-iloilo-capiz>

¹¹ https://congress.gov.ph/legisdocs/basic_18/HR01449.pdf

4. The National Commission on Indigenous People (NCIP) is part of the machinery of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC)¹². This government machinery was created by President Duterte after he stopped the peace negotiations with the National Democratic Front of the Philippines. From engagement to seek a solution to the 51 years of armed struggle led by the Communist Party of the Philippines, Duterte changed track into an all-out military solution. Filipinos are cynical if the government can achieve the strategic defeat of the armed movement which is deeply rooted in the widespread injustice, oppression and serious social problems in society. Even legislators question the wisdom of the all-out war approach amidst the uncontrolled Covid-19 pandemic in the country.¹³

- It is no wonder therefore that the NCIP maligns the Tumandoks, NCIP is part of the all-out war machinery of the government against perceived dissenters/enemies of the state. The NCIP national chairperson Ret. Col. Allen Capuyan serves as national executive director of the NTF-ELCAC. According to NCIP the Tumandoks are Panay Bukidnon. In a study by Anthropologist F. Landa Jocano, he called the Tumandok people the Sulod society.¹⁴ However, long before the NCIP was established by the government, the Tumandok people by self-ascription called themselves Halawodnon, Pan-ayanon, Akeanon and Iraynon. Later they call themselves collectively *Tumandok*.
- In 1996, The Tumandoks from 20 barangays, some of which came from Garangan and Masaroy formed the organization TUMANDUK, Inc. (*Tumandok nga Mangunguma nga Nagapangapin sa Duta kag Kabuhi* or *Indigenous Peasants in Defense of Land and Life*). The organization TUMANDUK has been the venue for coordination and sharing of resources and experiences. It also acts as a unified voice in addressing issues that affect the indigenous people in Central Panay.
- Under the Philippine Constitution the right to self-organization is guaranteed by the Bill of Rights. People's organizations are not obliged to be controlled by NCIP in order to be legitimate. The

¹² <https://www.officialgazette.gov.ph/downloads/2018/12dec/20181204-EO-70-RRD.pdf>

¹³

https://cnnphilippines.com/news/2020/9/9/Senators-budget-NTF-ELCAC-unemployment.html?fbclid=IwAR1_kN_qcWGmFGubtr4GixcM1jlxM_88vcoxRiCaLsMgrxndhvXmrWCbMKk

¹⁴ <https://anthrosource.onlinelibrary.wiley.com/doi/pdf/10.1525/aa.1970.72.2.02a00270>

TUMANDUK is registered with the Securities and Exchange Commission (SEC) and the Bureau of Internal Revenue (BIR).

5. The so-called conduct of the FPIC (free prior and informed consent) was flawed from the very start of the Jalaur megadam project. The FPIC process of consultation in 2012 for the feasibility study phase was gravely violated. The NIA (National Irrigation Agency) **secretly** conducted a study in 2009 on the feasibility of building a megadam in the indigenous peoples area of Brgy. Agcalaga, Calinog along the Jalaur River, without consultation with affected communities. In November 2011, the NIA submitted its final feasibility study to the Korean Eximbank.

The consent was not “**free**” because the information from affected indigenous peoples (IPs) in communities reveals that the NIA is engaged in “giving incentives” thru menial job hiring of people who resist or are reluctant to give consent to the project and coerced by military forces in the area. There were no “**prior**” consultations because the final feasibility study was already submitted to the EXIMBANK before the FPIC process was conducted. Neither was the consent “**informed**” because the NIA discussed only the supposed advantages of the project but kept from the people, information about the dangers and negative impacts such as the existence of the active West Panay fault and that several communities will be submerged in water. It was a tainted process.

OPPOSITION TO THE JALOUR MEGA DAM IS NOT WITHOUT FACTS

The opposition of the Tumandok people to the Jalaur mega dam project (JRMP-II) is not without valid reasons. These are based on their daily experiences and existence as a people and as a community. The destruction of their lands and their sources of livelihood and desecration¹⁵ of their burial sites and sacred grounds are grave violations of their individual and collective rights.

The project will always remind the Tumandok people of their sufferings and the lives that were offered just to stop the project. The

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<https://panaytoday.wordpress.com/2016/07/21/tumandok-burial-and-sacred-sites-to-be-desecrated-by-jalaur-mega-dam-project/>

next generation of Tumandok people will no longer be able to harvest the bounty of their lands which will be submerged in water.

Who will benefit from the project? Those private water concessionaires, those private sugarcane landlords and those in the government whose agenda is not the welfare of the Tumandok people but their personal interests. The NCIP whose continued denial of the Tumandok their organized representation is consistent with the commission's violation of their collective rights¹⁶. The KEXIM Bank and contractor Daewoo may add to their list the JRMP-II as an accomplishment but let it be known, that this was constructed with strong opposition and the Tumandok people offered their lives just to stop it.

We will continue the fight so the Tumandok people will be given justice as they also continue to struggle for their land and collective rights which are not respected and have long been violated by the government, its commissions and those of foreign groups whose practices and implementation are not compliant to international humanitarian and human rights standards and principles, as they claimed to be.

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¹⁶ <https://www.bulatlat.com/2016/08/04/indigenous-peoples-law-violated-our-collective-rights/>