

2023  
Report

# State of Indigenous Peoples Address



  
**LRC**  
LEGAL RIGHTS  
AND NATURAL  
RESOURCES  
CENTER



# **State of Indigenous Peoples Address**

*2023 Report*

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Legal Rights and Natural Resources Center  
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The Legal Rights and Natural Resources Center (LRC) is a legal, research, policy, and advocacy institution that works for the recognition and protection of the rights of indigenous peoples and upland rural poor communities to land and environment. LRC is the Philippines member of Friends of the Earth International.

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Cover Photo: An Erumanen Menuvu datu surveying what was once a forested area of their ancestral domain in Bukidnon.  
Photo by L. Dulce/ LRC



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Kirentiken Manobo's penogud ritual opening the SIPA 2023 gathering. Photo by LRC



## Executive Summary

The 2023 State of Indigenous Peoples Address (SIPA 2023) Report is a point of reckoning 26 years after the passage of the Indigenous Peoples' Rights Act (IPRA), as the government's adherence to the Regalian Doctrine continues to undermine its meaningful implementation even with no less than the 1987 constitution's guarantees to indigenous peoples' rights. As a result, ancestral domains are not granted their due respect over and above other land and resource uses.

SIPA 2023 highlights a net increase in indigenous areas land and environment conflicts from last year, and a consequent increase in victims of indigenous rights violation. There was an observed net increase of over 70,345 hectares of ancestral domains facing land and environmental conflicts, or a +6% increase compared to last year. Mining expansion is the main driver with an additional 223,000 hectares approved since last year.

Data from the National Commission on Indigenous Peoples (NCIP) revealed low achievement rates in the recognition and protection of ancestral domains. Only 33% of the NCIP's target of 1,531 ancestral domains and claims were issued CADTs and CALTs, and only 30% of a targeted 980 Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs) were assisted and accomplished.

The report also highlighted a significant increase in the number of indigenous peoples affected by human rights abuses. Recording at least 45,070 affected IPs, this marked a 62% increase in comparison to the previous SIPA Report in 2022.

As such, SIPA 2023 recommends the national government to respond to priority areas of action by hastening the issuance of CADTs to protect indigenous territories from extractive and destructive projects, and to enable their true exercise of their right to self determination. Likewise, the government is urged the recognition and support for indigenous political structures and indigenous knowledge systems and practices.





SIPA 2023 delegates hailing from different tribes in solemn attendance of the opening Penogud ritual. Photo by LRC

## Background

The State of the Indigenous Peoples Address (SIPA) is a national gathering of indigenous peoples (IPs) to present their true state and plight, their issues and concerns, their aspirations and struggles, to protect and promote their rights as communities and as peoples. The first SIPA was convened in July 2008 by the Legal Rights and Natural Resources Center (LRC) in Davao City.

SIPA 2023 is a national gathering of IPs envisioned as a counterpoint to the State of the Nation Address (SONA) of the President of the Philippines. It served as a space for reflection on the struggles of IPs a year into the administration of President Ferdinand 'Bongbong' Marcos Jr., a year marked by unimpeded encroachments into ancestral domains, worsening economic woes, and shrinking civic spaces.

It is from these shared deliberations that SIPA 2023 aimed to build solidarities and common actions to assert the rights of IPs. This latest iteration also aimed to revitalize its collective leadership and strengthen its program of action as we engage the government to protect indigenous territories and rights in this post-pandemic era.

This report is derived from LRC's latest research into the national economic, environmental, and socio-civic situation faced by indigenous people in the Philippines, and from documented reportage, observations, analysis, and discourse during the conduct of SIPA 2023.

Names and particular details have been omitted or changed to protect the identities of individuals.





# Introduction

A section of the historic Chico River, a symbol of the Igorot people's historic struggle for their right to self-determination. Photo by L. Dulce/LRC

In a 2023 presentation, the National Commission on Indigenous Peoples ([NCIP, 2023](#)) projected that there are over 14 million indigenous people (IP) in the Philippines, or 16% of the country's total population. The NCIP noted in the same presentation that data from the Department of Social Welfare and Development showed that there were as much as 20 million IP beneficiaries (or 750,000 IP families) in its Social Amelioration Program in 2020.

Filipino IPs originate from 110 different ethno-linguistic groups, mainly comprising of peoples collectively known as the Igorots in Northern Philippines, and groups collectively known as Lumads in Southern Philippines. (UNDP, 2013).

The rights of indigenous peoples are recognized by the State through the Philippine Constitution of 1987, which was further reaffirmed and expounded through the passage of the Indigenous Peoples' Rights Act of 1997 (IPRA). The law recognizes, protects, and promotes the indigenous peoples' right to self-determination, cultural and territorial rights, among others, giving effect to the "customary law basis of indigenous land and resource rights" (Doyle, (2020). The foundational philosophy being the recognition of the historical marginalization of indigenous peoples in the Philippines and the motivation to afford them recognition, respect, protection, and justice.

It is important to remember the historical underpinnings and the legal framework that gave rise to the IPRA. The Philippines' colonial history, the legal systems of the United States and Spain are both incorporated into Philippine law.

The indigenous peoples of the Philippines were subject to the Laws of the Indies, which governed the native peoples in the Spanish territories of Latin America. Additionally, more laws were issued in Spain specifically addressing the Philippine context. Over time, these laws evolved to include de-jure provisions recognising the prior rights of native peoples and included a requirement to obtain their consent in certain contexts, though this requirement was subject to numerous caveats justifying the use of force. In actuality it was more common for these provisions to be broken than to be observed (Molintas, 2019). Customary property rights were largely ignored (Lynch, 1988). However, opposition and resistance from the indigenous peoples in the Cordillera in the north of the country, and in Mindanao in the south meant that the Spanish only had limited military presence and much less control over these areas (Scott, 1982). Under the Spanish notion of voluntary consent, by resisting and refusing to submit to Spanish sovereign power over them, the indigenous peoples retained sovereign rights over their lands (Lynch, 1987).

Towards the end of the Spanish colonization, there became a distinction between those who resisted the Spanish colonial power and those who were forced to succumb to its political dominance and cultural effects—those who resisted were known as the *tribus independentes*, understood to mean as infidels rather than its literal translation of independent tribes, and the later as *Filipinos*, a nomenclature originally reserved for descendants of the Spanish born in the Philippine islands (Scott, 1974). When the United States took over from the Spanish, after the signing of the Treaty of Paris, the *tribus independentes* were categorized as “non-Christian tribes.” Later this designation would be changed to “national cultural communities” by the Philippine state, and more recently, following developments in international law, as “indigenous peoples” as it is reflected in the IPRA.

The United States claimed that its government was assuming control of the Philippines through a policy of “benevolent assimilation” (Miller, 1982). The demand of its sugar industry, the goal to access to Chinese market, and its eagerness to exploit the country’s natural resources, particularly its mineral resources, however, revealed its imperialist project (Lynch, 2004; Eder and McKenna, 2004). A significant portion of the Philippines Organic Act of 1902, which provided for the civil government administration of the Philippine Insular Government by the United States Congress, was devoted to mining and safeguarding the rights of American miners (Thompson, 1989).

The government of the United States disregarded the existence of indigenous peoples that resisted conquest by the Spanish. They established a number of public land laws, including subjecting all lands under the Torrens system—requiring land title, that effectively classified indigenous peoples as squatters on their own lands, and declared all unclaimed areas to be public lands. This resulted in the widespread confiscation of land for mining, forestry, and military uses, and ultimately, the greater commodification of land resources (Molintas, 2014).

It would take the *Cariño doctrine* (212 U.S. 449, 1909) for indigenous peoples’ rights, at least in terms of territorial rights, to gain a foothold. In accordance with Igorot tradition, Mateo Cariño, an Indigenous Ibaloi, inherited his family’s lands in the Cordillera. Cariño launched a lawsuit against the Philippine government under US authority after the lands were taken for a US military installation. Upon appeal the case was deliberated by the US Supreme Court. Determining from the contexts upon which the US and Spain claimed sovereignty over the Philippines, the Court decided in favor of Cariño. It ruled indigenous peoples’ private property rights as “vested through a traditional legal system different from what the colonizers prescribed” so that indigenous lands were and have always been private property due to “native custom and by long association.”

The ruling acknowledged the origins of the land and resource rights of indigenous peoples as being derived from a combination of custom (indigenous law) and long-standing occupation and relationship with the land thereby laying the groundwork for the argument that the State could not arbitrarily seize them. It would be wrong, however, to conclude that thereafter Cariño, indigenous peoples’ rights to territories were assured.

In 1919, *Rubi v the Provincial Board of Mindoro* (GR No. 14078, 7 March 1919) was decided by the Supreme Court, lending legitimacy to institutionalized discrimination. Rubi, a Mangyan from Mindoro, filed a habeas corpus against the provincial government of Mindoro to prevent them from forcibly rounding up their Mangyan communities into permanent settlements in civil reservations. The Court determined that the deprivation of liberty of the Mangyans based on the Resolution issued by the Provincial Board, whom they referred to as Non-Christians, was a valid exercise of police power. Discrimination found judicial expression in this Court decision (Leonen, 2007).

In *People v Cayat*, decided in 1939 (G.R. No. L-45987, 7 May 1939), Cayat was convicted of violating Philippine Act No. 1639, which made it unlawful for any “non-Christian” native of the Philippines to be in possession of or to drink intoxicating liquor. Cayat had drunk and was in possession of gin. Cayat filed a petition for habeas corpus arguing that the Act violated the equal protection clause of the Philippine Constitution, that therefore it was void *ab initio* and the continued detention of Cayat as without legal basis.



# Recognition: An Uphill Struggle

## Tribus independentes (1600-1700s)

While used pejoratively, Spanish colonizers ascribed this term to the Igorot people, differentiating them as tribes that effectively resisted the colonial government.

## Cariño doctrine (1909)

A lawsuit filed by Ibaloi leader Mateo Cariño where the US ruled in favor of the private property rights of indigenous peoples due to native custom and by long association.

## 1987 Constitution

Framers of this constitution produced by the People Power Revolution recognized indigenous peoples' rights as inherent and alienable.

## Indigenous Peoples' Rights Act of 1997

The pioneering law recognizes, protects, and promotes the indigenous peoples' right to self-determination, cultural and territorial rights, among others, giving effect to the customary law basis of indigenous land and resource rights.

## Torrens System (1902)

US colonizers requiring land titles, effectively classifying indigenous peoples as squatters in their own lands.

## Rubi v. the Provincial Board of Mindoro (1919)

A Supreme Court decision institutionalized discrimination by ruling that the rounding up of Mangyans into civil reservations as a valid exercise of police power.

## Public Land Law (1936)

Commonwealth Act No. 141 gave the President the authority to categorize and reclassify lands, enabling future edicts that barred indigenous peoples from exercising their rights by designating their areas for public use.

## Isagani Cruz and Cesar Europa v. Sec. of Environment and Natural Resources (2001)

While the Supreme Court upheld IPRA's legality in this decision, it reverted the framing of indigenous rights as granted by the State, hearkening to the Regalian Doctrine rather than having its inalienable nature in the Constitution.

The Supreme Court found the Act to fulfill the requirements of the equal protection clause—"it is not based upon 'accident of birth or parentage' xxx but upon the degree of civilization and culture... The term non-Christian tribes refers... more directly, to natives of the Philippines Islands of a low grade of civilization, usually living in tribal relationship apart from settled communities." The irony of Cayat is that the principle of non-discrimination, which is based on the equal protection of the Philippine Constitution, was construed to "limit the freedoms of significant populations of indigenous groups" (Leonen, 2007: 44).

During the Philippines' Commonwealth period (1935-1946), ancestral lands were mostly turned into resettlement sites. The Philippine republic enacted Commonwealth Act No. 141, also referred to as the Public Land Law, which, among other things, gave the President the authority to categorize and reclassify lands. Because of this statute, succeeding Philippine Presidents issued their versions of edicts that essentially barred indigenous peoples from exercising their rights by designating their areas for public use. In fact, the usurpation of their lands for logging, agro industrial plantations and mineral exploitations continued. Even with IPRA, it remains so today.

The IPRA, passed in 1997, almost a century after the Cariño ruling, is recognized as a pioneering and among the most progressive IP rights policies in the world. Despite this, it has failed to show meaningful and tangible advances in ensuring indigenous peoples rights in the country. Critics have pointed out its flaws and problematic implementation to reflect the government's failure to appreciate and resistance to the 1987 Constitution's basic rights recognition tenet.

The Supreme Court's reasoning in *Isagani Cruz and Cesar Europa v. Sec. of Environment and Natural Resources* in 2000, which maintained the legality of the IPRA, is ironically evident of this misapprehension (G.R. No. 135385, 2001). Here the Court cited the idea of indigenous rights as it was conceived before the 1987 Constitution—rights as granted by the State, harkening to the Regalian Doctrine, rather than their inherent and preexisting nature recognized in the Constitution.

A consideration of the IPRA often ignores that while it provides indigenous communities an opportunity to secure titles, it is also an instrument that legitimizes the power of the state (Gatmaytan, 2004). This conceptual divide has ramifications for the actual realization of those rights, and has philosophical, historical, and legal underpinnings (Doyle, 2019). When the idea is pushed further, it suggests that for the current Philippine state not to be a colonizer itself, it cannot include under state authority any area within the archipelago that never fell under Spanish control (Malayang, 2001).

On the other hand, the IPRA represents a significant step in the legal acknowledgment and defense of indigenous people's rights. It has generated greater awareness of indigenous peoples' rights. The Philippines is among the few nations where indigenous people's tenurial rights are specifically and legally recognized. Paradoxically, however, it is also because the legal safeguard of the tenurial instrument has been regarded by some as end all and be all of indigenous peoples' rights to their territories that they have constrained themselves within the legal framework—that while the law avails of claims to defend the rights of indigenous peoples, adhering it to a legal framework with vestiges of the Regalian Doctrine also renders their suppression legitimized.

It is within this condition of great challenge that indigenous peoples continue to assert their rights.





Dulangan Menubo people 3D-mapping their ancestral domains to strengthen the basis of their claims. Photo by LRC

## National Situation

Old and persisting issues continue to challenge indigenous peoples in the Philippines. The change in administration from Duterte to Marcos Jr. did not abate but rather exacerbated the difficult conditions of indigenous peoples. The legacy of impunity under the Duterte Administration continues to persist with the same policies being pursued under Marcos, Jr.: Executive Order No. 70 (instituted December 2018) creating the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) continues to be a policy blueprint that threatens indigenous peoples in the countryside. All protests by indigenous environmental defenders are, through the NTF-ELCAC, construed as anti-State and actionable by arrest, if not outright, military action—encapsulating how “The state insists on its sovereign power, refusing to countenance any challenges to its central authority” (Gatmaytan, 2021).

Executive Order No. 130, which lifted the moratorium on new mining agreements, is pursued with vigor by Marcos Jr. to open the country to wholesale mining projects. Instead of listening to the clamor of indigenous peoples, the Marcos administration is responding to business groups' calls by focusing on mining. His alter ego the Secretary of the Department of Finance (DOF), in numerous press releases, emphasized the importance of raising capital for mine development and reaffirmed the Marcos administration's “commitment to continue creating an enabling environment for mining activities” (Penarroyo, 2022).

Additionally, the Marcos Administration through the Department of Energy has granted preferential dispatch status to renewable energy generating units in the wholesale electricity spot market (WESM), which is utilized for centralized power trading, intending to drive more investments in biomass, geothermal, and hydroelectric power plants, many of which are in indigenous peoples' ancestral domains.



Marcos Jr. stepped up the Build Build Build (BBB) program of Duterte. This has led to a number of infrastructure projects that encroach on indigenous peoples' ancestral domains and violate their rights, as well as present hazards to the environment.

Indigenous peoples raise entangled issues: the disregard of their indigenous political system, customary law, and life ways. They are acutely aware how their right to self-determination is constantly undermined. They perceive this to be the government's preferential treatment and favoring of business. They point to the slow processing of their CADTs as stemming from various interests over their domains, the procedures for issuance intentionally left confused because there is no real motivation to recognize and protect their rights.

All these illustrate the intensification of resource extraction in indigenous peoples' domains. These projects become not only sites of environmental degradation, but conflicts and divisions. It has resulted in situations where violence is frequently not the cause but rather the condition that allows an extractive enterprise to take place (Taqueban, 2022).

This report organizes the updates from the SIPA 2023 according to the four bundles of rights as provided by the IPRA.

## Right to Ancestral Domains and Lands

**“Ang pangarap ko ay umangat, maprotektahan ang lupang kagulang-gulangan at ang aming karagatan para sa susunod na henerasyon.”**

Tagbanwa Leader

Herein lies the tension: the maintenance of ancestral domains as key protective measures to ensure a balanced and healthful ecology not just for indigenous peoples who live within their domains but for the rest of the country but, because these domains often hold natural resources that are targeted for exploitation for commercial gain, they are at risk and face hazard.

Various issues beset indigenous peoples in their bid to claim legal recognition of their ancestral domains. Despite their vital social and economic role, the majority of indigenous territories remain unrecognized and therefore not given the strongest policy protections given by the IPRA. The NCIP (2023) reported that it has presently only achieved 33% of its targeted 1,531 ancestral domains and lands to be issued CADTs and CALTs (Certificate of Ancestral Land Titles).

The cost of obtaining a CADT is often beyond the means of impoverished indigenous peoples. In one instance the cost for processing CADT application was at around 2.5 million pesos (Ilagan et al., 2021). Not to mention the time it takes to actually release the title—an average of ten to twenty years. It has also been reported that corporate interests over ancestral domains are behind some processing of CADTs, that are then later on used to influence processes to legitimize their exploitation of natural resources within ancestral domains.

The lack of titles and not being able to determine their own mechanisms and systems within their ancestral domains have serious implications in disaster prevention and management. The death of 46 indigenous Teduray Lambangian in Maguindanao during the Severe Tropical Storm "Paeng" (Nalgae) bears tragic witness to this. The tragedy was a result of compounded factors that characterize their displacement: private resorts that displaced some 300 families from the communities' traditional home villages along the Maguindanao coast; and, divested of their right to determine an appropriate site, they were relocated to a hazard area (Rappler, 2023).

Similarly, the NCIP's target of assisting in the formulation of 980 Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs), which are culturally sensitive development blueprints to be designed by the IP communities themselves, has only resulted in a 30% accomplishment rate.

Compared to data compiled from the previous year's SIPA report, a net increase of at least 70,344.96 hectares (or a 6% increase) of projects that pose significant risks of negative environmental impact were monitored within or in proximity to indigenous territories (LRC, 2023-c), for a total of 1.33 million hectares. The current percentage of CADT areas with environmental conflict has statistically maintained at 22%.

Despite an estimated decrease of 152,661.02 hectares of conflicting Integrated Forest Management Areas inferring from Forest Management Bureau (2022) data, a significant surge in the number of approved mining projects amounting to 223,005.98 hectares offset.

## Snapshots: State of Ancestral Domains

Some of the cases on ancestral domains raised during the SIPA 2023 gathering are the following:

- In Sitio Maporac, Cabangan, Zambales, the long-standing CADT application of the Ayta Abellen remains pending. The indigenous organization has complied with numerous revision requirements by the NCIP. Likewise, their ADSDPP has not been supported by the NCIP.
- In Barangay Luac, Culion, Palawan, the application for a CADT issuance remains pending. This has fueled illegal quarrying activities reportedly operating without free, prior and informed consent (FPIC) in the ancestral lands of the Tagbanwa communities of Chindonan, Alulad, Lamud, and Marabal, selling aggregates to the Sunlight Ecotourism Resort, which is also within Tagbanwa territory without FPIC.
- In Busuanga, Palawan, the application for CADT issuance remains pending. This has led to various projects such as a resettlement area, tourism resort, cattle ranch, pearl farm, and biomass energy plant being issued various clearances by DENR despite lacking FPIC, affecting Tagbanwa communities such as Sitio Lakdayan, Barangay Cheey, Busuanga; and Barangay Concepcion, New Busuanga.
- In Maguindanao, despite earnest efforts to fulfill requirements for their CADT, the Teduray and Lambangians are met with constant additional requirements and revisions, all of which have now constituted undue delay. Because of this, there have been greater encroachment in their ancestral domains and they remain in precarity, caught in conflict crossfires.

The Timuay Justice and Governance (TJG) started applying for a Certificate of Ancestral territory Title (CADT) at the National Commission on Indigenous Peoples (NCIP) in 2005 in an effort to obtain official government acknowledgment of their ancestral territory. The



# Land conflicts with indigenous lands have worsened.

**+6%**

*net increase in indigenous territories facing land and environmental conflict equivalent to*

**70,345 hectares**

*expansion size that is equivalent to 1 and 1/10 of Metro Manila*



**Mining**

*is the biggest driver with 223,006 hectares of new mining projects within indigenous lands.*

Téduray and Lambangian indigenous peoples of south-central Mindanao are referred to as Kësëfanangguwit Timuay, which also describes their system of government. The Kësëfanangguwit Timuay actually started the process much earlier in 1996 applying for a Certificate of Ancestral Domain Certificate (CADC) through Department Administrative Order (DAO) 2 of the Department of Environment and Natural Resources (DENR) in what was then the Autonomous Region of Muslim Mindanao (ARMM).

Twenty years later, the application is still pending with the NCIP. In the meantime, mining and other encroachments into their ancestral domains are increasing.

When it comes to natural resource rights, IPRA is specific. Customary law and long-term ownership are acknowledged as the foundation for indigenous land rights. IPRA provides an expansive interpretation of ancestral domains, which defines them as having a territorial dimension that includes "all resources contained therein" (IPRA, Sec. 5) and encompasses ancestral lands. This, however, has been narrowly interpreted by the Supreme Court, holding that the law did not "grant" ownership rights over subsoil resources because doing so would have violated the Regalian doctrine, which the justices had held vested in the State since Spanish times (GR No. 135385, 2000). This is legal fiction and a bone of contention.

This has significant ramifications. What is at stake are more than resources. Ancestral lands and other indigenous territories are at the core of the lives and rights of IPs. Indigenous cultures were shaped by the landscapes in which they flourished, as in Paredes' (2016), for example, exposition of how river systems formed the socio-economic, political, and cultural organization of the Higaonon tribe in Northern Mindanao. "Land is life" is an adage often assigned to indigenous peoples and communities.

Chapter III of the IPRA codifies the IPs' right to their ancestral domains, recognizing indigenous concepts of land and natural resource ownership, development, and management. It provides protections for IP communities from displacements and builds on customary systems for conflict resolution. It also establishes rights and responsibilities of IPs to clean air and water and generally a balanced ecology.

Indigenous territories have thus become de facto ecological frontiers untouched by large-scale, often commercial or industrial, land use changes.

The Territories of Life Report (Bukluran, 2021) demonstrates that indigenous territories in the Philippines cover almost 13-14 million hectares of landscapes across the archipelago. Latest data from the National Commission on Indigenous Peoples (NCIP, 2021) shows there are 5.97 million hectares of indigenous lands formally registered under Certificate of Ancestral Domain Titles (CADTs).

The report also notes that there are a further 7-8 million hectares of indigenous territories without CADTs, or those registered under Native Title claims, not subscribing to what is imposed by national law.

The report affirms how these ancestral lands are among the last bastions of our natural patrimony and wealth. At least 1.44 million hectares of the country's designated Protected Areas (PA) overlap with ancestral domains. The overlap between Key Biodiversity Areas (KBAs), which, unlike PAs, are not strictly protected by law, and ancestral domains under CADTs represent 1.35 million hectares or 29% of the total area of KBAs.

More particularly, the report noted that ancestral domains overlap with 75% of our country's remaining forest cover, corresponding to an estimated 5.42 million out of the total of 7.23 million hectares of forests recorded in the latest data of the Forest Management Bureau (FMB, 2022).



# Indigenous territories are invaluable to society.

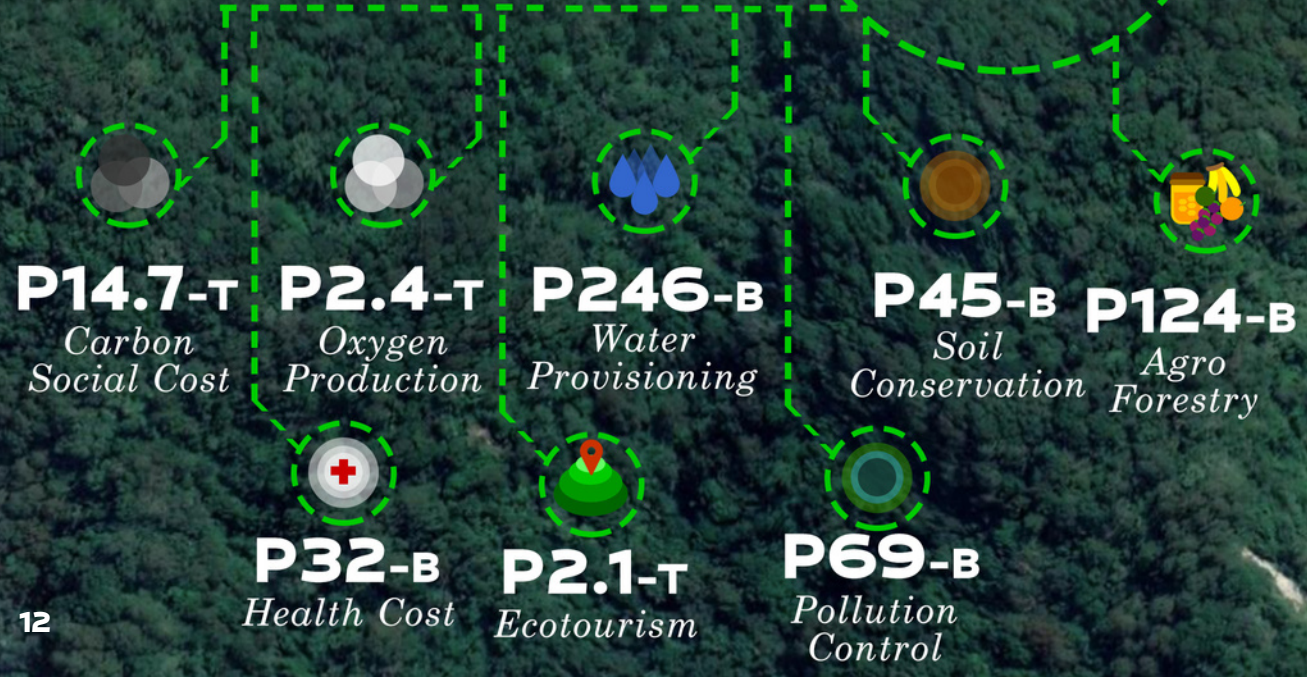


**14 MILLION**  
*hectares of our land area are ancestral territories*

**5.3 MILLION**  
*hectares of these territories are forests.*

**P20 TRILLION**  
*ecosystem value generated per year*

**75%**  
*of our country's remaining forest cover*





These forests protected by indigenous territories provide invaluable benefits to the whole of Philippine society. Using an improved methodology of ecosystem valuation (LRC, 2023-a), an annual value of P20 trillion in terms of carbon social cost, oxygen provision, pollution control, health cost, ecotourism, water provision, soil conservation, and agroforestry provision is generated by these forests.

These estimates do not include intangible values and benefits such as the sustaining of lives, including biological diversity, and the spiritual and other cultural values enshrined in these forests.

These forests also serve as integral parts of our country's watersheds, which provide social gains such as regulating water supply, maintaining water quality, providing habitat for various aquatic and terrestrial species, and mitigating impacts of floods, droughts, and other extreme climate events (LRC, 2023-b).

## **Right to Self-Determination**

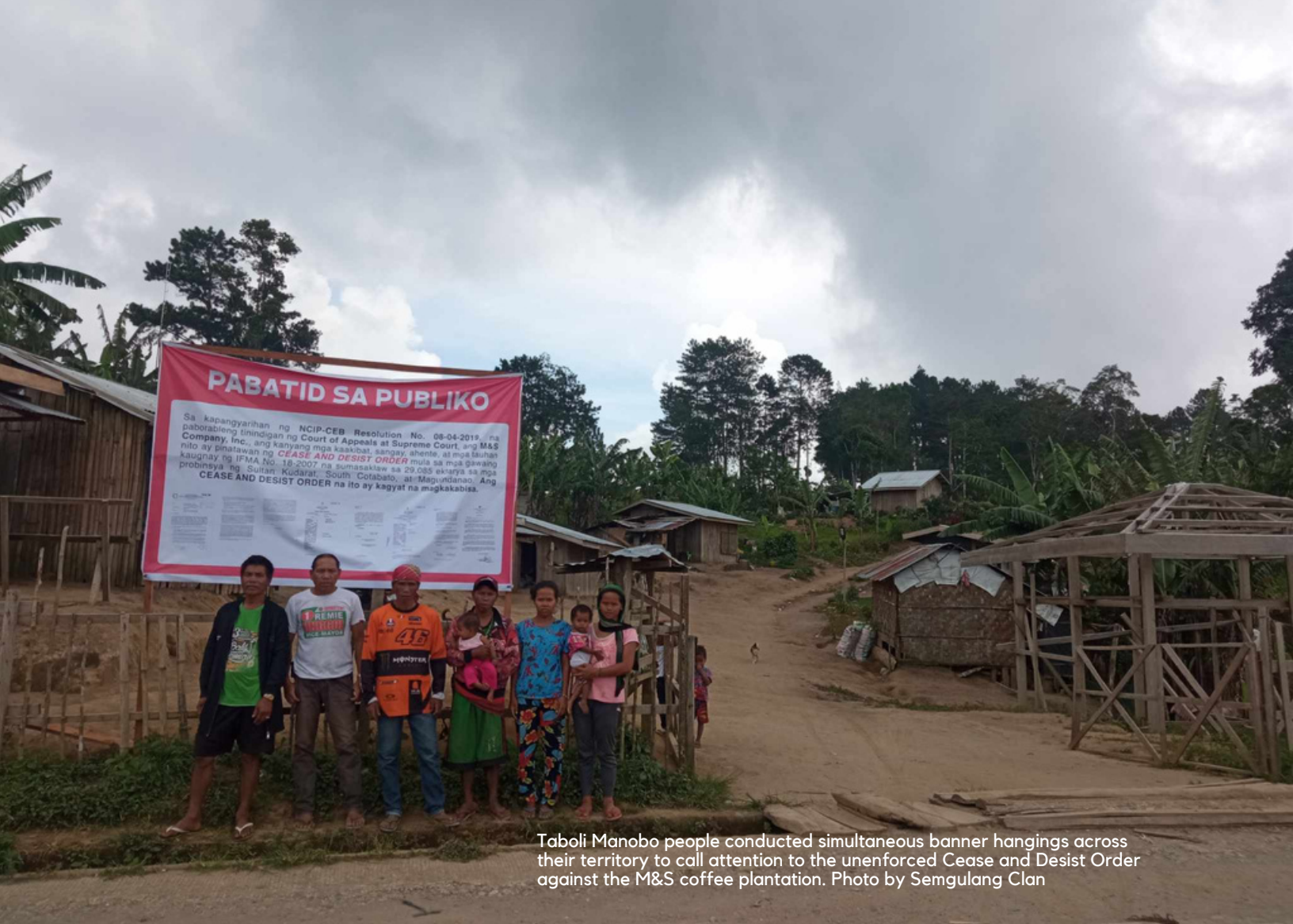
The IPRA provides for the mechanism of the Free and Prior Informed Consent (FPIC) to realize the principle of IP self-determination. The guarantee of FPIC is a non-negotiable condition to any development activity intending to operate within indigenous lands. The FPIC, the idea that "all peoples have the right to self-determination" and, in connection with it, "all peoples have the right to freely pursue their economic, social, and cultural development" is also safeguarded by international human rights standards: the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention on Biological Diversity, and the International Labour Organization Convention 169.

The implementation of the FPIC Guidelines and the issuance of the initial Certification Preconditions (CPs) or Compliance Certificates were first issued in 2004 by the National Commission of Indigenous Peoples (NCIP). An assessment of the FPIC mechanism conducted a decade ago (2013), found a multitude of issues and complaints raised by IP organizations, indigenous communities, and non-government organizations (Calde, et al., 2013). Among these were actual infirmities in the guidelines and corruption by government personnel tasked to ensure the FPIC process including bribery, harassment, among others. There were reported incidents of proponents failing to first secure prior consent of indigenous peoples but have commenced with their activities. A decade after, the same issues and complaints are raised by indigenous peoples. From Zambales, Palawan to Maguindanao, delegates to the SIPA reported numerous on-going projects, at various stages of implementation, that commenced without undergoing FPIC.

The undermining of free prior and informed consent (FPIC) persists to be the core problem in the assertion of indigenous peoples' rights. In this year's SIPA gathering, 100% of all delegates representing 12 tribes overwhelmingly reported that their communities suffered violations of their FPIC rights in the face of various land and resource grabbing projects.

The FPIC is often misconstrued, at times deliberately, as a permit—regarded as a mere administrative procedure rather than an actual right to be exercised by indigenous peoples. Rather than incorporating FPIC's ideas into their operations holistically, the law has been construed to incentivize businesses and the government to "engineer consent" or discover ways to get around it (Campbell, 2012).

There are reported project-supported FPIC processing are often purport to be legitimate proposals of assistance to communities when in reality these are actually offers of material inducements to community members and often to influence select leaders to gain their trust and favor. External pressures have divided communities using the FPIC process. Various devices are used to co-opt communities' consent: the process is repeated until communities are worn down; coercion, manipulation, and outright corruption are part of "influencing" communities. Often a "pro" group is cultivated, usually by establishing a group of leaders to enforce a power structure over the other



Tabali Manobo people conducted simultaneous banner hangings across their territory to call attention to the unenforced Cease and Desist Order against the M&S coffee plantation. Photo by Sengulang Clan

community members, consequently undermining traditional political systems and further dividing the community. Additionally, it has made indigenous women even less included in decision-making processes. Critics also noted that the government's pro-mining and other large projects agenda is the primary cause of the nation's ineffectual FPIC implementation (Buxton, 2012; Doyle, 2009).

Indigenous community leaders lament that local government units (LGUs) often work in "connivance" with project proponents, disregarding the rightful participation of indigenous communities. They belabor that the right to manage, the right to determine their own ways of development, is ignored.

Violations of the informed consent principle also occur when there is a lack of thorough information or with the failure to disclose details of the projects, the extent and scope of the project, and the possible impacts and hazards of the projects. "Consultations", so-called information education communication sessions, often center around the benefit of the projects with hardly a mention of the environmental and health risks that the projects would pose.

An oft repeated community complaint is the misuse of signatures in attendance sheets that are later devised as consent forms.

When the FPIC process is hijacked, the ultimate impacts on indigenous communities, as reported by the delegates to the SIPA 2023, include displacement, forced migration, loss of livelihood, food insecurity, and ultimately, greater precarity.



## Snapshots: State of FPIC

Some of the cases on ancestral domains raised during the SIPA 2023 gathering are the following — Violations of FPIC:

- In Puerto Princesa, Palawan, the Bureau of Corrections, Water District, and portions of the city's development are entering or already operating within the Tagbanwa's CADT without FPIC. Likewise, despite having secured their CADT, there is rampant encroachment of mining, quarrying, and other private investors into ancestral domains.
- In Capiz and Iloilo, Panay, the FPIC process for the Jalaur Megadam was not followed correctly, and the leaders of the Tumanduk people who opposed the dam were massacred last December 20, 2020 as a result, followed by subsequent arrests and other attacks against their members.
- In Quezon Province, pertaining to the Kaliwa Dam, members of the Dumagat community are not included in the FPIC process, especially those identified as opposing the dam project. They have many times over signified their opposition in the project but these too were ignored. Already in 2021, the House Committee on Indigenous Cultural Communities and Indigenous Peoples unanimously resolved to issue a cease and desist resolution to halt the project for failure of securing an FPIC (Cabico, 2021). Despite persisting opposition by the IPs, the Metropolitan Waterworks and Sewerage System (MWSS) and the NCIP has issued the Certificate Precondition (CP) for the project (Subingsubing, 2023).
- In Bukidnon, Manobo Kirinteken Ilentungen, continues to call attention to large agro industrial plantations usurping their land. The plantations not only displace indigenous people from their land to practice their agro ecological practices, but because of the prevalent use of chemicals for fertilizers and pesticides the communities are put in reach of toxic hazards. This case manifests global relations where agri-business company Kenner Foods International Inc. has interest in the project that presents hazards to nearby indigenous peoples communities.
- In Maragusan, Davao de Oro, infrastructure works by the Department of Public Works and Highways (DPWH) have entered Mt. Calandaga, a potential protected area or critical habitat. Despite not undergoing FPIC with the Mansaka tribe, the road project was issued an Environmental Compliance Certificate (ECC).

Illegal operations within ancestral lands:

- In Kapalong, Davao del Norte, rampant illegal logging operations continue to be observed within the ancestral domains of the Manobo tribe, in the Pantaron Mountain Range.
- In the Triboundary of South Cotabato, Sultan Kudarat, and Maguindanao, the M&S Integrated Forest Management Agreement (IFMA) continues to defy an existing Cease and Desist Order issued by the NCIP, which won a Supreme Court case filed against the CDO. This IFMA also continues to deploy CAFGU Armed Auxiliary (CAA) that harass the affected Taboli Manobo, Dulangan Manobo, and Teduray and Lambangian communities as a component of its business-as-usual setup.

A community-based energy project, which would have enabled the community to leap from having no electricity to an off-grid system to enable households to have electricity, was illegally stopped by the security of the M&S corporation. This is a clear case of corporate

and a direct violation of the indigenous community's right to their ancestral domains.

- In South Cotabato, there are three coal operating contracts under subsidiaries of San Miguel Corporation that are currently undergoing construction and development activities despite lack of environmental due diligence as component of FPIC requirements with Taboli Manobo communities who are directly or indirectly threatened by impacts of coal mines. Likewise, the Tampakan mining project in the same province was able to secure an FTAA extension despite its lack of FPIC.
- In Maguindanao del Norte, Teduray and Lambangian communities are concerned about the mineral explorations being pursued in the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM) pronounced as part and parcel of the region's energy deals with the national government.
- In Barangay Didipio, Kasibu, Nueva Vizcaya, the OceanaGold mining corporation's Financial or Technical Assistance Agreement (FTAA) was renewed despite the lack of FPIC, local government clearance, and environmental impact assessment.

Conflicting instruments:

- In Talakag, Bukidnon, Community Based Forest Management Agreements (CBFMAs) overlapping with two ancestral domain areas are threatening to issue CLOAs that would potentially displace the indigenous communities.

## Right to Self-Governance and Empowerment

**“Palakasin natin yung indigenous political structure. We are not working for ourself, but for the future of the young generation.”**

Ayta Abellen Leader

A report by the UN Special Rapporteur on the Rights of Indigenous Peoples ([Tauli-Corpuz, 2018](#)) concluded that “indigenous governance systems have often proven to be better than external actors in providing services to and ensuring the well-being and rights of indigenous peoples,” and that “they contribute to conflict reduction, climate adaptation, conservation and protection of nature, culturally appropriate social services, economic progress and many other positive outcomes.”

An inventory of 36 different indigenous governance systems in the Philippines ([Buendia, et al., 2006](#)) found common features such as collective leadership; customary justice and conflict resolution systems that complement formal government systems; and livelihood systems that utilized what was available in their immediate environment. Such features demonstrate how indigenous governance is localized and adapted to the particular contexts of their communities.



Participants at the SIPA 2023 national gathering listening to the discussions. Photo by LRC

Chapter IV of the IPRA provides for the strengthening of autonomous regions of IPs, empowers IPs to practice their customary justice, conflict resolution, and peace building systems, and guarantees their right to fully participate in decision making processes that affect indigenous lives, both in the government's policy making bodies through IP mandatory representatives (IPMRs), and through the innate indigenous political structures (IPS) of the IPs themselves. It also recognizes their right to set their own development priorities and establishes means for achieving this development.

But indigenous governance systems remain divorced from the Philippine government's formal institutions, and they have remained politically excluded. The NCIP (2023) reported that it has only identified and confirmed 34 out of 262 estimated existing IPS, or 13% of the total. On the other hand, the NCIP was able register and accredit 70% of its targeted 1,686 indigenous people's organizations (IPO).

In terms of indigenous representation in local government legislative bodies, only 28% of provinces, cities, and municipalities had IPMRs, a far cry from the target of achieving 78% (NCIP, 2022).

Various SIPA delegates reported that when it was their chosen IPMR who took office, their voices at the local government unit were muted, their clamor unsupported. The IPMR has to some extent become a much politicised position that supports the practice of political patronage rather than true representation for indigenous peoples.

Regardless of the outcome rates, registration and representation in the formal indigenous governance spaces are not guaranteed to be genuinely and meaningfully implemented. "Fake IP leaders", referring to those installed or supported by the NCIP itself instead of by the tribe's uninfluenced collective decision, and "tribal dealers", coined in reference to indigenous leaders or representatives that are co-opted by big business or traditional politics (Rutten, 2016) have been observed as a trend emerging from the divisions and tensions in FPIC processes.

Consultations by the NCIP and the Open Government Partnership (n.d.) with almost 2,000 indigenous leaders in 2016 revealed problems around IPMR representation such as resistance from traditional politics at the local government level; the lack of operational knowledge of the IPRA and other indigenous governance guidelines; and problematic provisions in the IPMR guidelines itself.

## Snapshots: State of Self-Governance

Some of the cases on self-governance raised during the SIPA 2023 gathering revolved mostly around IPMR issues:

- In Barangay Luac, Culion, and Busuanga, both in Palawan, concern has been raised by Tagbanwa communities over Memorandum Circular No. 352, an advisory that affects the IPMR selection process.
- In Puerto Princesa, Palawan, concern has been raised over the DENR's nonrecognition of the Tagbanwa's Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) as basis for issuing Non-Timber Forest Products licenses, and likewise over the slow selection process of IPMRs.
- In Don Carlos, Bukidnon, there was a conflict in the selection of the municipal IPMR with the mayor directly interfering in the process of the Kirentiken Manobo.
- In Davao de Oro, the Mansaka decried how various politicians established their own indigenous political structures which the NCIP recognized, while the traditional IPS of the tribe was not certified by the commission.
- In Wao, Lanao del Sur, various migrant indigenous groups are concerned over the non-installation of IPMRs especially amid the absence of the still pending Non-Moro IP Code in the Bangsamoro region.

## Social Justice and Human Rights

**“Ang aking pangarap ay pantay na karapatan ng katutubo sa hindi katutubo.”**

Kirinteken Manobo Youth

SIPA delegates report on the persisting threat of government action, if not reprisal, when they dissent or disapprove government-supported projects. There is increasing criminalization of indigenous peoples.

There are reports of indigenous peoples arrested for violating the Forestry Code, for crimes against persons and property, for trespassing in their own lands—effectively rendering them landless and displaced. When indigenous peoples are arrested it becomes apparent how difficult it is for them to access justice. SIPA delegates report on problems with raising bail and the challenge of understanding the legal language and complicated procedures of the judicial institution. With already meager means, a case filed against them renders their actions for assertion of their rights and rights to their ancestral domains curtailed if not incapacitated.





Teduray and Lambangian people evacuating from their homes because of intensified militarization. Photo by LRC

Increasingly, they are red-tagged. A number of delegates to the SIPA were red-tagged, listed as part of the "order of battle" for speaking against extractive projects in their ancestral domains.

Previously reported incidents of harassment, couched as military operations in various communities, resulting in the deaths of community members, to date, have found no resolution—none of the government armed personnel involved in the various massacres of indigenous peoples have been met with justice. Rather, militarization continues to increase in their ancestral domains.

The risk of being part of a military operation burdens indigenous environmental human rights defenders not only with danger to their persons but with emotional distress. Their families are also put at risk. In the accounting of violations, the mental health burden suffered by the defenders and collectively by indigenous communities have not been taken into account.

Chapter V of the IPRA provides for the equal protection and non-discrimination of IPs, including specifically in times of armed conflict and in the context of employment and social services. There are also particular provisions on protecting and empowering indigenous women, children, and youth. They have the right to peaceably express and manifest their views, and protect their land and cultural heritage without fear of reprisals, violence or death.

Documented civil and political rights violations of IPs have significantly increased compared to last year's reportage. A total of at least 45,070 IPs experienced various human rights abuses from the period of 2022 to 2023, which indicates a 62% increase of victims compared to the tally of 27,866 affected IPs from 2019 to 2021 (LRC, 2023-d).

Data showed at least three major hotspots: the Teduray and Lambangian peoples' ancestral domain claim areas in Maguindanao; the triboundary area of South Cotabato, Sultan Kudarat, and Maguindanao that is home to Tedurays, Menubo Dulangans, and Taboli Manobos; and the indigenous Kalinga lands in Balbalan Municipality, Kalinga.





Petitioners from the Taboli Manobo, Teduray and Lambangian, and Dulangan Menubu tribes at a Regional Trial Court hearing on the cancellation of the M&S Integrated Forest Management Agreement. The IFMA intensified harassments against its critics for most of 2023. Photo by LRC

A report submitted to the Commission on Human Rights (LRC, 2023-e) Armed conflict caused by political feuds and various armed groups have forced an estimate of at least 1,636 Teduray people in Maguindanao del Sur and Maguindanao del Norte to evacuate to refugee camps.

Another report (LRC, 2023-f) showed how a 29,000-hectare Integrated Forest Management Agreement (IFMA) of the Consunji clan-linked M&S Company Inc. straddling the abovementioned triboundary area in South Central Mindanao is the epicenter of heightened harassments against the three tribes whose lands are occupied by the illegal IFMA.

After a series of court decisions from 2019 to February 2023 upheld the Cease and Desist Order issued by the NCIP against the IFMA, IFMA personnel including its Special CAFGU Active Auxiliary (SCAA) paramilitary units stepped up harassments against the various IP communities across the project area. From February to July this year, local communities monitored an average of three incidents of threats, harassment, and intimidation per week, including the filing of Strategic Lawsuits Against Public Participation (SLAPPs) against more than 60 indigenous farmers using the Revised Forestry Code.

Up north in the Cordillera mountains, bombing and shelling operations by the Armed Forces of the Philippines (AFP) targeting New People's Army rebels affected 1,130 residents whose farming livelihoods and other economic activities were restricted (DSWD, 2023).

Despite their important role in land, environment, and natural resource governance, indigenous peoples (IPs) in Philippine society continue to experience widespread marginalization and social injustice.

# 45,070 indigenous peoples were victims of human rights abuses.

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## 62%

*increase of victims monitored in 2022-2023 compared to 2019-2021.*



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 = 2,000  2019-2021  2022-2023



**“lilan lang ang mga kabataang nagsasabing dapat balikan natin ang kultura...Wala na yung magsasabi na ito yung kultura, [na] ganito isabuhay.”**

Erumanen ne Menuvu Timuay

SIPA 2023 delegates recognize the importance of challenging the current generation of indigenous youths to take better root in the culture of their tribes, and to actively participate in preserving and promoting their cultures. At the same time they also recognize the challenge of maintaining their culture amidst the flux of modernity.

In 2021, it will be recalled that the National Commission on Indigenous Peoples (NCIP's) issued Resolution no. 08-009-2021, which states that indigenous leaders are "clamoring" for the indigenous peoples of Mindanao to no longer be referred to as "Lumad." The term, according to the resolution, is "marred" by its association to the Communist Party of the Philippines, the New People's Army, and the National Democratic Front (CPP-NPA-NDF).

This illustrates how easily indigenous peoples' assertions are vulnerable to state control and aggression, and how in this regard their cultural identity is equally undermined. As a counter, Gatmaytan explains, "the complex and fluid nature of identity formation provides members of indigenous groups different ways of referring to one's self or one's group in differing contexts, and/or for different purposes. These various ways of describing one's self do not contradict each other. One does not surrender one's identity as Higaunon or B'laan by using the name 'Lumad,' any more than being a proud Cebuano makes one less Filipino" (2021).

Gatmaytan further asserts that neither the NCIP nor the Philippine state have the right to define the identity of the indigenous peoples, which have been responsible for much of the injustices that continue to oppress indigenous peoples, but the indigenous peoples themselves.

Chapter VI of the IPRA details the recognition and protection of indigenous culture with regards the diversity of traditions, institutions, educational systems, religious sites and ceremonies, and indigenous knowledge systems and practices (IKSPs). It also guarantees the community intellectual rights of IPs, including their knowledge of biodiversity and sustainable agriculture.



A Dulangan Menubo woman during the SIPA 2023 cultural night. Photo by LRC

The various IKSPs in the Philippines have been found on numerous occasions to contribute to the country's sustainable development, ranging from forest management systems, to the preservation of heritage crops, to women-led custodianship of IKSPs, among others. These, however, are threatened by the loss of lands and territories upon which these practices are rooted, as well as by western educational and religious systems, other conflicting economic and social programs and policies, and armed conflict and militarization (Biangalen-Magata, et. al., 2020).

Some IKSPs such as the Panlaoy forest monitoring practice of the Higaonon tribe in Misamis Oriental have received financial subsidies. Other practices such as the biodiversity-based farming practice of the Suludnon tribe in Iloilo lack government support (Fabro, 2023-b). Underpinning all these is the issue of intellectual property rights of indigenous peoples. They would have the legitimate rights to control, access, and utilize, with the possibility of restricting use by others, of their knowledge that derive from their cultural practices, histories, expressions (including design, etc.), and contexts. The issue involves not only commercial implications but ethical, cultural, and moral considerations as in, for example, the inappropriate use of sacred artifacts and appropriation of cultural practices. These would require their greater protection.

IPs are often compelled to relinquish their native languages as a defensive measure against discrimination and persecution (Fabro, 2023-a). The loss of indigenous languages is another manifestation of culture loss. Information sourced from the Ethnologue (Katig Collective, n.d.) reveals that among the 175 indigenous languages in the Philippines, 48, comprising 27% of the total, face the risk of extinction. Among these, 35 languages are classified as endangered, 11 teeter on the brink of extinction, and two have already vanished.



An Eromanen ne Menuvu Datu sets the beat of a cultural performance. Photo by J. Demigillo/LRC





SIPA 2023 participants in a dialogue with the NCIP. Photo by LRC

## Policy Prospects

The SIPA 2023 gathering collectively witnessed and reflected on the Second State of the Nation Address of President Ferdinand Marcos Jr. The following were the major points raised:

- There is once again zero mention of indigenous people in Marcos Jr.'s second SONA. Platitudes were given to the 1.8 There is much mention of climate solutions but indigenous peoples are once again disregarded despite their vital role in fighting climate change.
- Land distribution, infrastructure expansionism, and energy development are once again touted without addressing how these have aggravated conflicts with indigenous lands. In fact, Marcos Jr.'s extensive promotion of renewable energy failed to mention how this is linked with the intensification of mining for so-called energy transition metals. This is an unjust energy transition pathway that will leave indigenous peoples behind.
- The mentions of green and blue economies obscure how forests and oceans are sacrificed in the name of false sustainability and climate solutions. Clearly, the various economic policies and agreements such as the Maharlika Investment Fund to the Regional Comprehensive Economic Partnership are ultimately linked to extractive and destructive projects that erode both the environmental and the social fabric of indigenous communities.
- There were discussions on security issues in the country, particularly on the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) and the amnesty program in the Bangsamoro transition process. On the other hand, security threats that affect indigenous peoples, such as development aggression, were not included in Marcos Jr.'s internal security programs. On the contrary, the red-tagging of IPs and the disposition of military and paramilitary troops into their territories have become widespread.

Further discussions in the local indigenous situation workshops and dialogues with DENR and NCIP officials also raised specific policy concerns:

- Questions were raised on the status of DAR-DENR-LRA-NCIP Joint Administrative Order No. 01-12—which is directly relevant to the conflicting tenurial conflicts. Many SIPA 2023 delegates shared that their outstanding applications for CADTs continue to face decades-long delays, and are already facing multiple land-use conflicts despite the lack of FPIC.



SIPA 2023 participants during an exercise where they discussed common issues affecting their communities. Photo by LRC

- Cases of the DENR's issuances of Environmental Compliance Certificates, renewal or extension of Financial or Technical Assistance Agreements or other mining contracts, despite clear lack of FPIC from indigenous communities, were assailed.
- The legal basis of the use of SCAA paramilitary personnel assigned to projects such as the M&S IFMA were questioned.
- Clarifications were requested on the status of the inter-governmental relations between the Bangsamoro Parliament's Ministry of Indigenous Peoples Affairs (MIPA) and the NCIP, including the mechanisms in place for the installation of IPMRs while the Bangsamoro government is undergoing the transition.





The SIPA 2023 national gathering. Photo by LRC

## Areas of Action

Considering the current state of indigenous peoples, and building on the gains and gaps of the previous SIPA gathering, SIPA 2023 delegates collectively strategized their ways forward and came with the following common plans of action:

01

Strengthen the Indigenous Political Structures and Indigenous Peoples Organizations of participating tribes to promote mutual cooperation and collective actions and solutions within their respective territories. In particular, continuously conduct regular meetings and general assemblies to facilitate governance and campaigns.

02

Mobilize IPS and IPOs as foundations for lobbying government bodies and engaging alliances from the local to the international level. Particular advocacy initiatives suggested include public awareness raising and education on the right to FPIC and on IPMR processes, forest monitoring and restoration through IKSPs, justice for victims of IP rights violations, and legal aid and support services for their families.

03

Build the capacities of IPS and IPOs through paralegal, negotiation, documentation, and leadership training, including the systematization of an Indigenous Paralegal School curriculum and its rollout in a training of trainers, with particular emphasis on continuing the organizing of IP youth and women.

04

Leveraging the SIPA as a space for communication and coordination among tribes, and as a platform for joint lobbying at the national level.



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A breakout workshop during the SIPA 2023 gathering reviewing the previous year's declaration of action. Photo by LRC

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