



INDIGENOUS PEOPLES AGENDA 2021
TSambubungan Initiative



STATE VIOLENCE IN IP COMMUNITIES:
Stop the Criminalization of
IP Struggles and Reframe
State-IP Relations



FRAMING THE IP ELECTORAL AGENDA

Indigenous Peoples and communities in the Philippines are under attack.

The Duterte administration has put in place a regime of policies and actions that is inimical to the interests and welfare of indigenous peoples and communities. Under Duterte, a total of 92 individuals have fallen victim to extra judicial killings with around 160 victims of frustrated EJKs; 227 IPs have been illegally arrested, detained, and abducted; and 27 reported being subjected to torture. There have been 6 cases of enforced disappearance among IPs. The human rights crisis in IP communities was given special attention in the June 2020 report of the Office of the High Commissioner for Human Rights on the situation of human rights in the Philippines.

The High Commissioner highlighted such issues as the manipulation, through bribery and intimidation of the requirement for Free and Prior Informed Consent (FPIC) for any interventions in indigenous communities as well as the mistrust in the effectiveness and independence of the National Commission on Indigenous Peoples (NCIP). The report also echoed concerns over large-scale projects including the Kaliwa dam project in Quezon that are aggressively pushed by the government despite strong opposition and non-consent from indigenous communities. The grave concern over the killings of and persistent attacks against land and environmental rights defenders was also expressed in the report.

MGA KABABAIHANG TUWALI NG BILEG/KASIBU, NUEVA VIZCAYA/LILAK WOMEN'S DAY 2020



The IP struggle for identity, ancestral domain, social justice and human rights was violently pushed back, demonized and criminalized by an authoritarian government that views indigenous peoples and communities as enemies of the State.

Indigenous lands have become battlegrounds of conflict pitting communities against powerful forces that aim to grab these lands and resources to advance their political and economic interests in support of a national development agenda that is driven by corporate greed. Dispossession and displacement of IP communities from their own ancestral lands continue unabated despite the recognition of IP rights in national as well as international human rights law.

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The urgent task for the next administration is to stop the attacks against indigenous communities, bring the perpetrators to justice, initiate a process of genuine peace dialogues between the State and indigenous political structures, and support efforts to assert and advance their own development plans. These are the crucial and necessary steps to begin the process of restoration and healing needed in the IP communities.

Centrality of IP Rights in the Struggle

Indigenous peoples organizations and communities have for many years engaged in good faith in the national process of forging just and inclusive development. Part of this effort is to put forward an Indigenous People's Agenda in order to contribute to the national political discourse and influence the direction of national policies to advance IP rights and welfare.

The full realization of indigenous peoples rights as enshrined in both national and international laws remains at the heart of the agenda and the overarching goal of



indigenous peoples across the country. The struggle for IP rights is grounded on the realization of rights to our ancestral domain, identity and culture, the fulfillment of social justice and human rights, and to self-determination.

IP struggle and the National Context

The IP struggle must be seen in the context of the country's overall path towards democracy and development. A move towards stronger recognition of human rights, and democratic participation supports the IP agenda, while a move towards demonization of rights has given rise to threats and attacks against IPs.

On development, a more inclusive development agenda that is grounded on peoples' aspirations and aims to uplift the lives of marginalized and disenfranchised groups would support the IP struggle while a corporate driven development agenda would undermine it.

The IP struggle for development encompasses the demands for better access to basic social services like health, education, and social protection and social security, as well as the recognition of the IP contribution to development at various levels. At the level of their ancestral domain, this is expressed through the formulation of their community-based ancestral domain management plan, or for some communities, with their ancestral domain sustainable development and protection plans. Beyond the ancestral domain (AD), the IP's social and economic struggle is underpinned by the articulation of the IP agenda in both local and national development plans.

The democratic struggle of the IPs have revolved around issues of political representation in the areas of IP Mandatory Representation (IPMR) and in the formation of IP political parties and their engagement in the party-list elections. The struggle is also manifested in the continuing assertion for recognition of indigenous political structures of governance, anchored on the right to self determination. A key area of their assertion is also the Free, Prior and Informed Consent process where they participate in good faith.

In the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), the political struggle finds expression in the push for the full inclusion of the rights of non-Moro Indigenous Peoples in the

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INDIGENOUS LEADERS AND IP RIGHTS ADVOCATES UNFURL BANNERS CALLING FOR FULL INCLUSION OF IP RIGHTS IN THE BANGSAMORO BASIC LAW AT THE SENATE MAY 2018/PHOTO COURTESY OF LOYUKAN

Bangsamoro Organic law and the meaningful implementation of these rights. Central to this is the recognition of the non-Moro Indigenous People's ancestral domain.

All these references in mainstream development plans however are underpinned by a framework that looks at IPs either through the lens of conflict or that of vulnerability without taking cognizance of their right to self-determination and meaningful contribution to development.

Indigenous peoples play an integral role in the health of biodiversity in the country. Prime biodiversity areas are generally located within indigenous peoples' ancestral domains. Their traditional systems of stewardship effectively conserve and protect ecosystems, habitats and species within their domains that not only provide crucial contributions to climate change but also ensure food security and water resources for the nation.

Reframing how the State views indigenous peoples/communities and their contributions to Philippine Society is thus the long term aspiration of this IP Electoral Agenda. The realization of this goal hinges on the positive steps on these five key issues and concerns that would have to be undertaken by the new administration that would succeed Duterte.

KEY ISSUES AND CONCERNS

1. Ancestral Domain

There is an estimated area of 5-7 million hectares of ancestral domains, considered home to 12-15 million Indigenous Peoples.

The watershed areas within ancestral domains provide water supply for adjacent rice land communities in the lowlands numbering from 20-25 million Filipinos who in turn provide food supply and ensure national food security. These also prevent flooding of lowland cities. 85% of the country's Key Biodiversity Areas are within ancestral domains. This points to the significant and critical role of the indigenous peoples in protecting and sustainably managing our natural resources. It is then imperative that the government fulfills its mandate to protect the country's biological resources and the environment, by protecting the ancestral domains. The protection of ancestral domains is a triple win—for the indigenous peoples, for the national interests and the government, as it contributes significantly to biodiversity and climate change commitments and/or agreements that government is signatory to.

OCEANA GOLD PHILIPPINES, INC (OGPI) DIDIPIO MINING SITE. DIDIPIO, KASIBU, NUEVA VIZCAYA. NOVEMBER 25, 2021. PHOTO COURTESY OF THE LEGAL RIGHTS AND NATURAL RESOURCES CENTER (LRC).



However, there is a major difference in how we value our ancestral domain and the natural resources therein, from how the government values these. The indigenous peoples consider their land, their sacred grounds, and the air flowing within, as source of food, spirituality and life. The government sees the land, the waters and the entire domain as sources of profit. The government has passed laws and policies to ease the entry of big businesses into the IP territories without regard to the peoples living there and depend on the resources for their survival. To date, large-scale mining operations under the flawed Philippine Mining Act of 1995 pose the largest threats to the survival of IPs. Despite the widespread protests and opposition to mining, the previous governments aggressively pushed for large-scale mining. In 2012, a moratorium on the processing of new mining applications was imposed. However, the Duterte government lifted the moratorium on mining applications in the guise of “economic recovery” as the country experiences economic slumps from the COVID-19 lockdown. These extractive industries expose the ancestral domains to local and foreign plunder.

Chinese control of the West Philippine sea will scale up the entry of Chinese mining companies to ancestral domains particularly within the Zambales Mt. Range area. A Chinese-owned Jiangzi Rare Earth and Rare Metal Tungsten Group Company Limited has interest in nickel, coal and chromite which are known resources in the Zambales Mountain range.

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2. Criminalization

Of traditional, spiritual and cultural values that IPs demand in the exercise of their rights to land.

IP cultural and spiritual values inextricably link people with land, and provide identity as people. This is an inviolable and unalterable reality acknowledged under international and national laws. Standing for these values in the form of demands for respect of rights to land have been equated with “anti-development” and consequently vociferous attacks on IP’s. Attacks begin with harassments, vilification through disinformation or fake news, (i.e legitimate organizations being marked as front organization of CPP-NPA) red-tagging, terrorist labeling, arrests for trumped-up charges, shoot-to-kill orders, fake surrenders and “tokhang-” style killings (nanlaban).



Thus, the climate of impunity from 2016-2021 resulting in:

- a. 92 Extrajudicial Killings;
- b. 160 Frustrated Extrajudicial killings;
- c. 6 Enforced Disappearances;
- d. 227 Illegal arrests, detention and abduction; and,
- e. 27 on torture

In between the above impunity, the weaponization of laws including Executive Order No. 70 creating National Task Force to End Local Communist Armed Conflict (NTF ELCAC), (2018) and the Anti Terror Act (2020) aimed at stifling legitimate political dissent targeting indigenous communities (where large-scale projects are proposed) human rights defenders, activists and ordinary members of people's organizations. The triadic combination of criminalization of rights, weaponization of law, and the pandemic intensified the attacks and makes no distinction between armed combatants and civilians in violation of International Humanitarian Law and the Philippine Act on Crimes Against International Humanitarian Law, Genocide and other Crimes Against Humanity (RA 9851, 2009), among other human rights laws.

3. Social Justice

There is no official count of the indigenous peoples population in the country. The national census does not include ethnicity and indigeneity. This makes indigenous peoples invisible, and therefore excluded in the programs of the government. This is very apparent in social protection programs, making the much-needed support and care from the government inaccessible. The lack of serious effort and attention of the government to make these programs available and truly accessible to indigenous peoples is a clear reneging of its obligations to the marginalized sectors of society.

Access to basic social services has been a perennial problem among indigenous peoples. This state neglect—in terms of education, health services, support to livelihood, and comprehensive response to the survivors of violence against women—has made indigenous communities more vulnerable to discrimination, impoverishment, and acts of violence at different fronts. Furthermore, communities are more susceptible to allow the entry of corporations in extractive industries into their ancestral domains, as these corporations promise to provide social services that the government has failed to deliver.

4. Identity

The National Commission on Indigenous Peoples (NCIP) issued Resolution no. 08-009-2021, dated 2 March 2021, denouncing the use of the term 'Lumad' to refer to Indigenous Peoples of Mindanao. The resolution, by stating that the 'emergence' of the name 'Lumad' is 'marred' by its association with the Communist Party of the Philippines-New People's Army-National Democratic Front (CPP-NPA-NDF), further fuels the malicious tagging of

indigenous peoples. It not only marginalizes indigenous peoples but puts their lives at risk. It undermines indigenous peoples' right to self-ascription, which is itself rooted in their fundamental right to self-determination.

Not only do indigenous peoples suffer from continuing discrimination but there is real risk of the loss of their culture. Intensifying development aggression and conflicts cause the forced displacement of indigenous peoples from their ancestral domains, the very heartland of their culture and heritage.

An education program that fails to take cognizance of indigenous peoples' contexts, traditional knowledge, and needs further undermines the integrity of their identity and culture.

5. Laws and Policies on Indigenous Peoples

Not only are IP rights in jeopardy but the very IPRA itself has reached distortion of the highest/gravest level. NTF-ELCAC whose Executive Director is concurrently Chairperson of NCIP will explore use of IPRA to “sue more progressives it perceives to be “exploiting” IP and to punish the people for cultural violation.” Atty. Bosantog, the former Regional Director for CAR and CARAGA intended to file new complaints under IPRA against teachers who were rounded up by police raids in Lumad Bakwit Schools of the University of San Carlos, Cebu (February 2021), and were charged for kidnapping which the Davao prosecutor later cleared. This reflects the state policy of weaponization of law or use of IPRA to make trumped-up charges. Other policies impact negatively on indigenous peoples: Recent legislation has made it easier for corporations to stream roll their projects. The Anti-Terror Act (ATA) has endangered civic freedoms under the guise of national security. In fact, the first arrests based on the law were of two indigenous persons—Ayta in Zambales; Executive Order No. 130 has lifted the ban on new mineral agreements. This is paving the way for large destructive mining projects to continue operations and further open in indigenous peoples' ancestral domains, undermining the FPIC process and dividing communities. EO 130 flows out of the government's pronouncement to pursue mining as an economic recovery strategy from the COVID-19 pandemic. Simply put, the government has picked extractive investments over the rights of indigenous peoples and the environment.

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CALLS AND DEMANDS TO CANDIDATES

AGENDA FOR FIRST 100 DAYS

On Ancestral Domain

RECOGNIZE indigenous peoples' right to self-determination, an integral part of which is the shift of the kind of development that will be pursued—from corporate-driven, profit-oriented, and resource-intensive, to one that is responsive to the needs of the people; nurtures the environment, and considers the future of the next generation.

1. Investigate and review documented violations of indigenous people's rights to land, and compel government and transnationals to comply with international humanitarian laws and signed agreements including rights-based business practices.
2. Declare a large-scale mining moratorium and halt ongoing operations until the passage of the People's Mining Bill or the Alternative Minerals Management Bill (AMMB). Repeal EO130 on the lifting of moratorium on new mining applications, and uphold the decisions to suspend and cancel mining contracts based on the mining audit reports of then DENR Sec. Gina Lopez.

AETA ABELN OF KASAMA/MAPORAC, ZAMBALES/LILAK PHOTO



3. Fast Tracking of the approval of applications and release of Certificate of Ancestral Domains Titles (CADTs).
4. Reject JAO DAR-DENR-LRA-NCIP No. 1, s. 2012 and forward progressive land laws that ensure indigenous peoples' tenurial rights and are in congruence.
5. Protect and respect the Free, Prior, and Informed Consent (FPIC) process by investigating issues regarding indigenous peoples' consent and dissent to projects, and ensuring their right to full participation, including women and the youth.
6. Stop the construction of large dams in ancestral lands. Stop the construction of the Kaliwa Dam, Jalaur Dam, and Gened 2 Dam, among others.
7. Official adoption and integration of Ancestral Domain Sustainable Development Protection Plan (ADSDPP) as part of the Comprehensive Land Use Plan (CLUP).

Develop and implement a humane, just and inclusive social protection policy so that indigenous people may live with dignity. There should be special focus on providing state support for education, health, livelihood and comprehensive support for survivors of violence against indigenous women and the youth.

On Criminalization of IP Struggles

EXACT ACCOUNTABILITY from Duterte and his administration for all forms of violence and human rights violations against indigenous peoples, and IP rights defenders.

1. Call for a scrapping of the Anti-Terror Law and the abolition of EO 70 and/or defunding NTF ELCAC.
2. Assert state accountability and respect for International Humanitarian Law, International Human Rights agreements and local human rights laws
3. Criminalize terrorist labeling and red-tagging of indigenous peoples.
4. Provide access to justice to IP victims of human rights violations and hold the masterminds and perpetrators accountable. Ensure that IP victims of human rights violations receive justice. Provide compensation and protection to the victims' families and communities.
5. Free all IP detainees who have been held unjustly due to trumped up charges.
6. Respect the IP right to defend their ancestral domains and their right to self-determination, as already recognised under national and international law.

On Social Justice

DEVELOP AND IMPLEMENT a humane, just and inclusive social protection policy so that indigenous people may live with dignity. There should be special focus on providing state

support for education, health, livelihood and comprehensive support for survivors of violence against indigenous women and the youth. The social protection policy will make the indigenous peoples less vulnerable and enable them to have a meaningful participation in our society. Meaningful delivery of social justice requires a revamp of the NCIP that will truly be representative of the indigenous communities, including the selection and appointment process of commissioners.

1. Financial and technical support programs for the education of indigenous children and youth should be established jointly by the Department of Education and the National Commission on Indigenous People (NCIP).
2. An audit on the health services, including reproductive health, for the indigenous communities, should be conducted jointly by the Department of Health and the National Commission on Indigenous Peoples; results of which would direct the creation and funding of appropriate health service programs.
3. Respect, support to indigenous and traditional healing practices as recognized by the Traditional and Alternative Medicine Act. Decriminalize indigenous birthing practices.
4. Decriminalize home-births, and instead provide support for the indigenous birth attendants; establish accessible and culturally-appropriate birthing centers.
5. Provide support to community-based livelihood, that harnesses indigenous knowledge, systems and practices.
6. Ensure indigenous women and girl-children have access to quality, comprehensive essential and appropriate services for survivors of violence.

Recognize and respect the distinct identity of indigenous peoples; and especially the Non-Moro Indigenous Peoples living in the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM). It is in their identity that their distinct rights emanate from, as indigenous peoples.

On Identity and Culture

RECOGNIZE AND RESPECT the distinct identity of indigenous peoples; and especially the Non-Moro Indigenous Peoples living in the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM). It is in their identity that their distinct rights emanate from, as indigenous peoples. Ensure that NMIP chose their representatives in the Ministry of Indigenous Peoples Affairs (MIPA) and the Bangsamoro Women's Committee (BWC), under the BARMM;

1. Respect and protect indigenous peoples' right to self-ascription, free from unwarranted and malicious designation;
2. Ensure community determined choice of Indigenous People Mandatory Representative (IPMR), free from political pressure, undue influence and interference;

3. Ensure the meaningful and culturally appropriate implementation of Indigenous Peoples Education (IPEd) Program to realize Indigenous Peoples' right to basic education that is responsive to their context, respects their identities, and promotes the value of their indigenous knowledge, skills, and other aspects of their cultural heritage.
4. Ensure the protection of indigenous peoples' intellectual property over their traditional knowledge, traditional cultural expressions, art, genetic resources and practices, free from commercial exploitation.

On Policies and Laws

For indigenous peoples, human development and security starts with addressing ancestral land and domain rights. Their inherent right to own, manage, and control their lands must be respected. However from the very start, the policy of the State has been inconsistent with indigenous customs and the traditional understanding of land ownership. The Philippines adopted colonial laws regarding land ownership, all of which echo the assertion that the State owns all public lands. As such, this has put the State in conflict with indigenous communities.

PHOTO COURTESY OF CORDILLERA PEOPLES ALLIANCE (CPA)





Moreover, the policy on economic development and national security has worsened the condition of indigenous peoples, aggravating further their precarious situation. Transnational corporations and foreign interests such as mining and agro-industrial companies have invaded ancestral lands and domains. Driven by liberalization and profit, the State has become complicit in the dispossession of indigenous peoples of their ancestral territories. Current policies continue to reflect these priorities.

1. REPEAL the Anti-Terror Law and Executive Order 70; defund the National Task Force on the Elimination of Local Communism Armed Conflict (NTF ELCAC) as these laws are being used to curtail the rights of the Indigenous People.
2. REVIEW the Indigenous Peoples Rights Act (IPRA). Sec. 56 (vested right) must be evaluated in the light of how it has been used to undermine and diminish indigenous peoples' assertion of their ancestral domains, undermining the intent of the law to correct historical injustices.
3. REVAMP the National Commission on Indigenous People (NCIP). The NCIP should focus on its primary mandate—the protection and promotion of IP rights and ensuring ancestral domains are recognized and protected. It must not be used to advance political and economic agenda that run counter to its own mandate, among these the push for large scale, extractive and resource-intensive investments in ancestral domains that undermine indigenous peoples right to self-determination and culturally appropriate development; and leading the counter-insurgency program. The NCIP must have greater independence, free from any political agenda to be truly a commission that promotes and protects indigenous peoples' rights. To achieve this, there must be a process of consultations with IP groups and communities to review and assess the NCIP.
4. REVIEW contracts that cover ancestral domains, especially those entered into by the State (e.g. FTAA, IFMA, etc.)—ensure compliance with FPIC, environmental audits, and Human Rights standards.
5. ENACT the Peoples Mining Bill or the Alternative Minerals Management Bill (AMMB) to replace the flawed Philippine Mining Act of 1995.
6. ENACT a law that criminalizes red tagging and terrorist labelling of indigenous peoples, indigenous peoples' organizations, and IP rights advocates.
7. ENACT an accountability mechanism accessible by victims of corporate human rights violations.
8. ENACT a human rights defenders' bill.
9. ENACT Anti-Discrimination bill.

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CLOSING STATEMENT

Resistance from indigenous communities has been met with militarization and rights violations. Instead of prioritizing IP rights, they are tagged as rebels or insurgents. The labels “terrorist” or “insurgents” have become the catch-all pretext to legitimize the criminalization and attack on indigenous peoples defending their land and rights.

The State is duty-bound to secure peace and protect its citizens, this must be within the framework of respecting rights and prioritizing the welfare of the people. Genuine implementation of the rights of indigenous peoples, ensuring the Free, Prior, And Informed Consent (FPIC) of IPs on all activities within their ancestral domain and land, and the adoption of a national development framework that puts IP rights over sheer destructive profit ensures their security over their lands and persons. This redounds to the national aspiration for the safeguarding of our biodiversity, food security, and mitigation of the climate disaster. A policy shift and meaningful implementation to protect indigenous peoples and their rights to their ancestral domains are urgently needed, only then can the nation achieve real, inclusive and collective development—one that ensures welfare for all.

LAMBANGIAN ANCESTRAL DOMAIN, SOUTH UPI, MAGUINDANAO
2017 OCTOBER 15/PHOTO BY GALILEO DE GUZMAN CASTILLO





The Electoral Agenda was developed based on inputs from the IP Town Hall meeting titled **"ISAMBUBUNGAN: Talakayang Bayan ng Katutubong Mamamayan"** last June 10, 2021.

DRAFTING COMMITTEE:

Giovanni Reyes, Philippine ICCA Consortium

Windel Bolinget, Cordillera Peoples Alliance (CPA)

Beverly Longid, Katribu Kalipunan ng Katutubong Mamamayan ng Pilipinas

Joseph Purugganan, Focus on the Global South

Judy Pasimio, LILAK Purple Action for Indigenous Women's Rights

Atty. Mai Taqueban, Legal Rights and Natural Resources Center (LRC)

Prince Albert Solomon Turtogo, Panaghiusa Philippine Network to Uphold Indigenous Peoples Rights

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ISambubungan Initiative:

Alyansa Tigil Mina, BAI Indigenous Women's Network, Bukluran (Philippine ICCA Consortium), Cordillera Peoples Alliance (CPA), Defend Panay Network, Episcopal Commission on Indigenous Peoples (ECIP) National Secretariat, Focus on the Global South, Inged Fintaylan, Jalaur River for the Peoples Movement, Kalipunan ng Katutubong Mamamayan ng Pilipinas (Katribu), Katutubong Kababaihan Kay Leni-Kiko, Legal Rights and Natural Resources Center (LRC), LILAK Purple Action for Indigenous Women's Rights, Loyukan, Non-Timber Forest Products - Exchange Programme Philippines, Panaghiusa Philippine Network to Uphold Indigenous Peoples Rights, Philippine Task Force for Indigenous Peoples' Rights (TFIP), Punganay, Sandugo - Movement of Moro and Indigenous Peoples for Self-Determination, Save Our Schools Network, Timuay Justice and Governance (TJG).

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