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Submission to the UN Special Rapporteur on the right to a healthy environment

Indigenous Peoples suffering from discriminatory policy and practice: Examples from Indonesia and the Philippines

In Southeast Asia, the surge and intensification of climate-related disasters compounded by alarming levels of environmental degradation and land violations caused by development aggression (such as mining, logging, agribusiness plantations, so-called 'green' energy projects, mega-dams, and infrastructure) result in immense harm to the sustainability of ecosystems, carbon sinks and biodiversity of terrestrial landscapes and aquatic life, and consequently to human well-being. However, the impacts of climate change and struggles over resources are not experienced equally across the continent, as pre-existing power structures and intersectional disparities are exaggerated in times of crises and distress.ⁱ

Indigenous Peoples are particularly exposed to the impacts of climate change and land violations by state and corporate interests, as their territories are mainly located within national borders of states which uphold oppressive colonial and neo-colonial institutions saturated with systemic violence, gender inequality, and economic marginalisation hindering their enjoyment of basic human rights. As Indigenous territories are frequently rich in coveted natural resources, they are highly vulnerable to encroachment and violence by development interests. Moreover, Indigenous Peoples are especially subjected to climate disasters and land violations, given that their ways of living with the natural world are inherently interconnected with their cultural identities, knowledge systems, cosmologies, ontologies, spiritualities, and religions and are essential for subsistence and livelihood. Unlike Eurocentric notions of culture and nature as detached concepts, for Indigenous Peoples, the natural environment is beyond material and tangible; land, culture, belief systems, and identity are unified and, thus, not separable. If Indigenous Peoples suffer the loss of land, it signifies the uprooting of their foundation and connection with their culture, ancestors, and cosmology and hence, their cultural/natural survival. Development aggressions are forms of environmental violence and human rights violations that jeopardize the existence of Indigenous Peoples.

Indigenous women, as well as gender-diverse people are particularly affected by the consequences of climate disasters and development aggressions, as these alterations exacerbate pre-existing social, political, economic, and gendered inequalities entrenched in patriarchal structures. These external pressures pose serious threats to their livelihood, health, safety, cultural identity, traditions, and spiritual embeddedness, creating cycles of deprivation, poverty, and amplified exposure to discrimination and gender-based violence.ⁱⁱ

In Indonesia and the Philippines, climate change caused by anthropogenic greenhouse gas emissions is leading to ever more extreme weather patterns. The two archipelagos are among the most vulnerable places to climate change disasters owing to their geographical locations. Indonesia is estimated to have one of the largest coastal populations exposed to flooding, while also being highly exposed to tropical cyclones. The Philippines is one of the most typhoon-prone countries worldwide. In both countries, droughts are expected to increase in frequency and intensity given the association with El Niño events through warmer global temperatures as a result of



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anthropogenic climate change.ⁱⁱⁱ Thus, both countries are highly disposed to disasters, leading to landscape destruction, food insecurity, migration, and forced displacement.^{iv}

Indigenous Peoples' sustainable practices and exposure to climate change

Although Indigenous Peoples represent only approximately 6% of the global population, they effectively manage at least 28% of the planet's land surface including vital natural and biodiverse environments.^v In the Philippines, approximately 85% of the remaining forests and 96 out of 128 key biodiversity areas overlap with Indigenous territories. In Indonesia, in 2020, over 11 million ha of Indigenous territories have been documented and registered by their custodians, with over 460,000 ha of land conserved by Indigenous Peoples. These are strong indications confirming that Indigenous Peoples are key custodians in protecting the remaining rich biodiversity and forest ecosystems across the archipelagos.^{vi} Indigenous knowledges are strong instruments for assessing interlinked ecosystem functions across terrestrial, marine, and freshwater systems.^{vii} Knowledge systems include fire management,^{viii} watershed protection, diversified crop systems,^{ix} irrigation systems^x, forest protection, food security, and climate-related risk reduction.^{xi} For example, in the Philippines, Indigenous Ifugao practices in forests and watersheds, known as *muyong*, promote sustainable forest management. These management methods are present in their respect to customary laws relating to land rights, the adoption of cultivation practices following soil and water conservation principles, forest management to promote an abundant supply of timber and firewood, and biodiversity protection.^{xii} Despite the crucial role and valuable knowledge systems providing for the health of our planet and our future, Indigenous Peoples are continuously discriminated against, and face harassment and violence in numerous ways, while being stigmatized and racialized as 'primitive'. For instance, in Indonesia, the Indigenous Dayaks are commonly considered primitive and lazy by government officials,^{xiii} e.g., if they decide not to take part in oil palm they are regarded as wanting to remain 'primitive'.^{xiv} Similarly, the Indigenous Orang Rimba are stereotyped as primitive, backward, and unintelligent by government officials, despite a broad acknowledgment of their knowledge of the forests in which they live.^{xv} Some scholars argue that the Indonesian government's largescale deforestation and development strategies reflect a disregard for Indigenous Peoples rights, trailing back to Dutch colonial rule.^{xvi} Colonial law legalized the dispossession of land, an instrument that has been found to be continued by the postcolonial state. Laws relating to land rights and development are argued to be "codified racialized hierarchies of profit".^{xvii} Colonial remnants are reflected for example, in a quote from a policy analysis where Indigenous Peoples are described as "Those few people who do inhabit the forests are ignorant and primitive, and they are an embarrassment to the nation. This [...] is shown by their animistic beliefs, communal ownership patterns, and most fundamentally by their practice of the destructive slash and burn agriculture." (e.g., see Colfer and Resosudarmo, 2002: 388.^{xviii}), indicating that the colonial categorization of people did not evaporate at Indonesia's independence.

Indigenous sustainable ways of living do not contribute to the climate crisis, however, they bear the brunt of the consequences, as they are directly dependent on ecosystems that are vulnerable to climate disasters, such as floods, droughts, fires, and typhoons.^{xix} To complicate matters, Indigenous Peoples are often prevented, including through acts of GBV, from mitigating and adapting to problems that they are not themselves a driving force of.



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The unique understanding of the natural world by Indigenous Peoples and their myriad of adaptation strategies gives them authority and leadership when it comes to how humanity can address the climate crisis. Indigenous women play a special role and possess specific knowledge in this regard. The crucial knowledge of Indigenous women is rooted in their traditional roles and responsibilities, which often relate to forests, ecosystems, biodiversity, soil, water, traditional medicine, and food systems. For example, a central role of Indigenous Dayak women in Indonesia is farming vegetables and fruits, gathering ferns, bamboo shoots, seeds, and wild fruits enabling nutritional and livelihood diversification.^{xx} Food from the forest acts as a supplement to agriculture and is crucial in times of crisis. In Indigenous land use systems, such as simpukng in East Kalimantan, the knowledge and skills developed through the tasks women perform, including seed selection and propagation, are key to the conservation of biodiversity.^{xxi}

Gendered impacts of climate change

When major environmental changes occur, whether acute, slow, or chronic, the impacts are likely to be gendered and disparately affect people depending on the intersectionality of their social identities.^{xxii} Even within Indigenous communities, disruptions are likely to be experienced differently, based on age, wealth, political involvement, kinship, mobility, gender norms, and responsibilities. Indigenous men may suffer from many of the same issues, including violence, however, issues are often amplified for women and gender-diverse people who face disproportionate and intersecting levels of discrimination based on their ethnicity and gender.^{xxiii} The gendered responsibilities of Indigenous women¹ mainly consist of time-consuming reproductive work, including providing water and food security for their families, as well as the care of children, the sick, and the elderly.

When climate hazards such as drought, heavier rainfalls, higher temperatures, crop failure, livestock loss, and sea level rise events occur, their livelihood and economic opportunities are disrupted.^{xxiv} and cause food and water scarcity, loss of land, and communal loss.^{xxv} This loss increases the daily workload of women and may contribute to the risk of GBV. For example, when women are required to walk long distances to obtain basic necessities such as water, fuelwood, and food, they may face GBV in unprotected areas far from their communities.^{xxvi} As women experience a surge in their responsibilities,^{xxvii} they have less time to carry out other livelihood activities and to comply with the needs of male demands which may result in domestic violence.^{xxviii} Evidence from Central Papua, Indonesia, shows that changing weather patterns such as intensification of heavy rainfalls causing floods and landslides, have destroyed large areas of agricultural systems. For Indigenous women, these changes have disproportionately affected their traditional roles and status as food providers. Their ancestral lands are deeply embedded in their cultural identity thus, they are dependent on access to agricultural land and the community's food gardens to carry out their prescribed gender roles. Consequently, as the women face difficulties complying with their responsibilities and as they are obligated to travel far to acquire basic needs, they experience intensified marginalisation and GBV both in the domestic sphere and by outsiders, including rampant sexual violence.^{xxix} For many women, the lack of participation in decision-making due to gender norms, coupled with limited access to media information, public services, technology, and mobility makes it difficult for them to cope with climate

¹ A gap in the literature includes the gendered responsibility of gender-diverse people. In general, a limited attention to gender-diversity is widespread in the literature.



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disasters.^{xxx} When an acute environmental crisis occurs, the care responsibilities of women for elders and children will often make it difficult for them to leave their homes.^{xxxi}

Gender norms can also limit women's opportunities to learn basic survival skills such as swimming^{xxxii} and climbing trees thus reducing their chances of survival during flooding.^{xxxiii} For example, women accounted for 70% of the mortalities in the 2004 Indian Ocean tsunami, and 61% when the Cyclone Nargis hit Myanmar in 2008.^{xxxiv} Resource scarcity and lack of livelihood opportunities caused by climate change may also instigate male out-migration, which places vast burdens on those who remain behind and may expose them to GBV by community members and/or outsiders.^{xxxv}

GBV, climate disasters, and displacement

In the aftermath of climate change-induced disasters, especially in the case of forced displacement or migration,^{xxxvi} women are disproportionately exposed to all forms of GBV.^{xxxvii} Trafficking has been identified as a significant concern in several post-disaster settings.^{xxxviii} Across Asia, adolescent girls may be married off to reduce household financial burdens, often with devastating consequences for their health and well-being.^{xxxix} For example, In Indonesia, in the aftermath of the Bima floods in Sumatra in 2016, an increase in early marriages and GBV was observed.^{xl} In the Philippines, displacements in temporary centres have shown amplified risks of GBV due to the lack of safe spaces, adequate sanitation, and limited reproductive health and rights services, especially for persons with disabilities.^{xli}

National policies on climate change in Indonesia and the Philippines

Both countries have developed policies to deal with climate change and related disasters. In Indonesia, climate change and disaster risk policies, i.e., Law No. 24/2007 Concerning Disaster Management and the National Action Plan for Climate Change Adaptation (2013-2025) mention gender, however, no specific methods or frameworks on how to include gender aspect are part of the strategies. When gender aspects are neglected in key climate-related policies, they risk worsening the gendered impacts of climate change, including GBV.^{xlii} For example, there is no legal instrument dealing with GBV during and after climate change-induced disasters, or any mention of the specific realities of Indigenous women, girls, or gender-diverse people. The experience of women is homogenised, such as vulnerability, and the "protection of women" is mentioned as needed to ensure "meaningful involvement of women in development",^{xliii} which ignores intersecting social identities and portrays women as in *need* of protection, without altering deeply rooted patriarchal and racist structures. Such a notion may further deprive those who are not male from power and agency.^{xliv} Without the inclusion of Indigenous women in decision-making, planning, or adaptation measures, their specific contexts, needs, situated knowledges, and contributions are likely to be neglected.^{xlv} True accountability requires that a diversity of their voices are actively integrated into decision-making processes at all levels, and that they hold positions of leadership and inform policies to respond to GBV in climate disasters.^{xlvi} In general, their experiences can inform a more nuanced understanding of climate governance, mitigation, and adaptation.^{xlvii}



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In the Philippines, national climate change and disaster policies, including the National Disaster Risk Reduction and Management Plan 2020-2030 are gender responsive, with specific measures to address persistent gender gaps, while recognizing the importance of Indigenous knowledge in community-based disaster risk management.^{xlviii} Despite these pledges, experience indicates that some policies may negatively impact Indigenous Peoples. For example, the “no-build zone” forbids the construction of houses within 40 m of the seashore to reduce future disaster impacts. This policy significantly impacted Indigenous Badjao women who were displaced by Typhoon Haiyan. After their village was destroyed, they were not allowed to return to rebuild their houses.^{xlix} In some areas, policies to protect displaced women after a climate disaster have been violated by those deployed to protect the displaced. For example, women were reportedly subjected to GBV by military and security personnel stationed to protect and support survivors of typhoon Haiyan.^l In such cases, climate change exacerbates pre-existing levels of inequality, as Chaya Ocampo Go, a Filipina scholar explains “Anthropogenic climate change is not a singular, external, existential force threatening the future fate of an archipelagic nation ..[.]. instead, the nature of this violence unfolds through and compounds catastrophically with chronic poverty, ecological degradation, racial and gendered violence, militant terror, and an emergent authoritarian state”.^{li}

International human right and climate action commitments

Indonesia and the Philippines have ratified key international human rights conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (CCPR), and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). Notably, both Indonesia and the Philippines are signatories to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), the most comprehensive international instrument on the rights of Indigenous Peoples. The UNDRIP establishes a universal framework of minimum standards for the survival, dignity, and well-being of the Indigenous Peoples of the world. However, UNDRIP has no legal standing in Indonesia.^{lii} And in the Philippines, where a legal framework on Indigenous Peoples is present, the application is exceptionally weak.^{liii} In general, noncompliance with the rights of Indigenous Peoples by States has increased the violent exposure of Indigenous women to climate change hazards.^{liv} For example, in the Philippines, a Teduray community of 300 families was displaced from their seashore village in 2020 without their free, prior, and informed consent. The community was displaced to facilitate the construction of a tourist resort. As a consequence, the community was forced to relocate to a mountain area, prone to flash floods. When typhoon Nalgae hit, 24 of the displaced community members died in a landslide. According to Purple Action for Indigenous Women’s Rights (Lilak), a Teduray Indigenous woman spoke out against the displacement and lack of relief after the disaster, subsequently, she was harassed and received threats on social media.^{lv}

Having adopted the Paris Agreement, under the United Nations Framework Convention on Climate Change (UNFCCC), Indonesia and the Philippines have committed to promoting and respecting human rights including the rights of Indigenous Peoples and the rights of women when taking action to address climate change - as stipulated in the preamble of the Paris Agreement. Both countries have recently submitted their respective Nationally



Determined Contributions (NDCs), a required climate action plan on how the Parties plan to cut emissions and adapt to the effects of climate change.²

In 2022, the Government of Indonesia (GoI) updated its 2015 NDC report, which outlines how the government plans to transition to a low carbon and climate resilient future. By 2030, Indonesia commits to reducing its GHG emissions by 32% and reaching net-zero emissions by 2060 or sooner. The NDC points out how Indonesia has instituted a moratorium on the clearing of primary forests and prohibited conversion of its remaining forests by inter alia sustainable forest management which includes social forestry through active participation of the most vulnerable groups, especially Indigenous (adat).³ communities and women, in both the planning and implementation stages. The NDC further declare that Indonesia respects, promotes, and considers its obligations to human rights, rights of Indigenous communities, gender equality, empowerment of women, and intergenerational equity. Despite these commitments, key national policy documents, such as the National Energy General Plan (2017-2050) and Electricity Supply Business Plan (2021-2030) make no reference to gender, women, GBV, or Indigenous Peoples. Furthermore, the NDC does not consider how empowerment, gender equality, and intergenerational equity are defined nor how participation of Indigenous Peoples will be implemented. In addition, the NDC commitments are in clear opposition to recent development laws, including the Omnibus Law. Prior to the 2022 NDC commitments, the CEDAW review of Indonesia (2021), expressed concern that Indigenous women were disproportionately affected by development projects, including the exploitation of natural resources, deforestation, agricultural expansion, and land conflicts. CEDAW also noted the limited participation of Indigenous women in policy and decision-making and their limited access to land ownership.^{lv} In 2022, the Universal Periodic Review (UPR), expressed concern about the lack of legal recognition of Indigenous Peoples, which hindered the registration of collective land rights, and especially the lack of legal mechanisms to hinder land encroachment by state and private interests without Free Prior and Informed Consent (FPIC).^{lvii} In general, the NDC commitments made by the GoI largely differ from the observations made by the UPR and CEDAW, based on the realities of Indigenous Peoples.

The 2021 NDC by the government of the Philippines (GoP), mentions priorities such as sustainable industrial development, poverty eradication, inclusive growth, energy security, social and climate justice, and the transformation of its socio-economic sectors towards a climate and disaster-resilient and low carbon economy. The GoP recognizes that private corporations are the central instruments of economic growth and transformation. Women and Indigenous Peoples are mentioned once, as the NDC upholds the importance of meaningful participation of women, as well as the importance of ensuring ecosystem integrity and promoting the country's obligations on human rights and the rights of its Indigenous Peoples.^{lviii} Meanwhile, the national policies on Renewable Energy Outlook (2011-2030) and the Power Development Plan (2016-2040) do not mention gender, Indigenous Peoples, or women. The Philippines Energy Plan (2020-2040) mentions gender and women once, i.e., in the 'training on gender-inclusive energy workforce and in a footnote 'the women's sector' is mentioned as part of a monitoring compliance.^{lix} The Energy Plan and the NDC consider environmental components, people, and biodiversity in decision making at strategic and operational levels, however, there are no details on how this will be implemented or who it will include. The pledges made in NDC, and Energy Plan (2020-2040) combined with

² A global mapping of the NDCs looking at to what level they recognize Indigenous Peoples have been published: <https://www.iwgia.org/en/resources/publications/4943-recognition-indigenous-peoples-nationally-determined-contributions.html>

³ Terminology used by the GoI to refer to Indigenous Peoples of Indonesia



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recent statements by the GoP that it had taken measures towards fully implementing the Indigenous Peoples' Rights Act, particularly regarding their rights to ancestral lands, territories, and resources diverge substantially from observations by the UN High Commissioner in 2022. Concerns were expressed about how powerful business and political actors continue to undermine efforts of land distribution and agrarian reform. Moreover, concerns included how FPIC processes relating to any intervention in Indigenous communities were frequently manipulated and inundated with intimidation and coercion.^{lx}

Resource extraction, national development strategies, and the struggles over limited resources Indigenous territories

In many areas, Indigenous territories are abundant with unexploited natural resources and placed within geographical locations where State and corporate impunity and historical imperialism and racism continue to reproduce structures of neo-colonialism.^{lxi} For example, Indonesia is ranked 2nd among the ten most biodiverse countries in the world.^{lxii} Simultaneously, Indonesia also encompasses two of the world's most threatened biodiversity hotspots.^{lxiii} In Kalimantan, Indigenous Dayak are custodians of some of Indonesia's remaining biodiverse forests. For decades, Dayaks have been struggling to protect their forests and water sources from encroachment and contamination by largescale mining corporations. One of these struggles relates to the major coal mining company, Kaltim Prima Coal.^{lxiv} Since the intrusion of coal mines, Dayak communities have been affected by land grabs, scarcity of natural resources, dust, and groundwater pollution.^{lxv} Moreover, waste products from mining operations pollute their rivers and decimate fish stocks.^{lxvi} Coal mining was initiated in 1861 by Dutch colonial rule.^{lxvii} During colonial rule, the Dutch expropriated large tracts of forest that they perceived as 'uncultivated land'.^{lxviii} Similarly, at present day, Indigenous Peoples are subjected to land encroachments by mining companies that are supported and facilitated by the government, while they are excluded from decision-making regarding their own territories.^{lxix} Mining companies in the region are rarely benefiting Indigenous Peoples, instead, they often devastate their traditional livelihood of small-scale farming, rubber-tapping, fishing, and hunting. For Dayak women, coal mining among others, has eroded participation in decision-making due to limited livelihood opportunities and a decrease in their traditional roles, resulting in a higher dependency on male relatives who are offered opportunities to work in mines.^{lxx} The Mining Law of 2020 has been widely criticised for serving mining companies by guaranteeing contract renewals, including larger concession areas, and reduced environmental obligations, while criminalizing protests against mining activities at the expense of the adjacent communities.^{lxxi}

As a consequence of the demand for natural resources, Indigenous Peoples are under increased attack by state and non-state actors, as they continuously seek to withdraw natural resources from Indigenous territories. This form of aggressive extractivism and environmental violence often constitute attacks on Indigenous Peoples and may result in the genocide of Indigenous cultures, livelihoods, and identities as well as the ecocide of vast landscapes rich in biodiversity. In order to make way for mega-development projects and to control the forest frontiers, violence by state and non-state actors, private companies, and the militarization that accompanies development projects play a key role within oppressive systems that disproportionately affect those excluded from power.^{lxxii} When industrial plantations and mining are introduced into Indigenous territories, the degradation of water sources, soil, and forest systems induces food insecurity and limits livelihood options.^{lxxiii} As land and



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resources become scarce, it becomes increasingly difficult for Indigenous Peoples to continue to fight against the total incorporation in plantation and mining economies.^{lxxiv}

Indonesia, oil palm, forest destruction, and gendered consequences

The escalating integration of oil palm into the globalized market has caused massive exploitation of natural resources and capitalization of Indigenous land.^{lxxv} In Indonesia, the corporate oil palm industry continues to expand into Indigenous territories, where it is a leading driver of massive CO₂ emissions,^{lxxvi} while undermining cultural and social dependence on forest systems and exacerbating the biodiversity crisis. Environmental violence in relation to oil palm includes exposure to large-scale fires from forest-clearance and from fires that are aggravated in the absence of vital humid peat ecosystems. In Borneo, millions of hectares of forest, peatland, rubber fields, and agroforestry systems have been destroyed by fires since the introduction of oil palm plantations. With the expansion of oil palm plantations new gender inequalities have followed. Land for oil palm plantations is often taken without FPIC, and without or with poorly paid compensation.^{lxxvii} Meetings convened by corporate industries to inform or negotiate with communities tend to only involve men as a unanimous representative of the whole household.^{lxxviii} The de facto exclusion of women from decision-making and spaces of negotiation disregards their lived experience, knowledge, and active voice and makes them dependent on their husbands for information.^{lxxix} In the rare cases where Indigenous communities have received monetary compensation from the corporate oil palm industry for the loss of their land, the distinctive loss of women related to their gender roles has not been part of the compensation, as they were excluded from the meetings and hence their needs, priorities and knowledges were disregarded.^{lxxx} In Kalimantan, the responsibility, livelihood and income of Indigenous women are tied to gathering vegetables, mushrooms, medicinal plants, water, firewood, and materials for traditional crafts e.g., incense and rattan which many gain an income from. Deforestation has had a severe impact on their access and relation to the forest, shrinking their forest food systems and their roles of transmitting knowledge, while weakening their climate resilience and increasing exposure to GBV.^{lxxxi} As seen with climate disasters, these changes have increased the burden on women as they have to work harder and travel longer distances to cover basic needs, which exposes them to GBV by strangers.^{lxxxii} The intrusion of oil palm corporations has transformed Indigenous women from self-sufficient farmers and gatherers to being economically dependent on men or dependent on low-paid jobs in factories, plantations, and domestic workers.^{lxxxiii} Young and middle-aged men and some women have had opportunities to work as plantation workers. However, women are mainly paid less than men.^{lxxxiv} Meanwhile, the elderly^{lxxxv} and women with small children have had limited opportunities, resulting in less egalitarian economic conditions among Indigenous Peoples.^{lxxxvi} Communal land loss and poverty compounded with the unequal introduction into the cash economy have resulted in increased alcohol consumption, mainly by men, which has been associated with increased domestic violence.^{lxxxvii} Other gendered impacts of the plantation industry include psychological intimidation and harassment by company workers, increased demand for sex work, trafficking, and sexually transmitted diseases (STDs).^{lxxxviii} For many Indigenous women, the loss of land, forest access, and income has deteriorated their status with the household and community, and as communal land tenure holders,^{lxxxix} while significantly reducing or terminating their traditional income opportunities.^{xc} This form of development aggression constitute attacks on their food security and sovereignty, collective organization, and ancestral knowledge systems. These oppressions and land grabs are accelerated by state law, recently by the Omnibus Law of 2020.



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Indonesia: The Omnibus law

With the goal of accelerating industrial investment such as coal mining, oil palm plantations and industrial logging the GoI, in 2020, passed Law No. 11/2020 on job creation, commonly known as the Omnibus Law. One of the main objectives of the Law, is to make it less complicated to acquire land concessions for development, particularly in forested areas. Among others, the Omnibus Law contains an amendment of the Forestry Law No. 41/1999 with specific changes in the terminology relating to corporate responsibilities in cases of forest fires. The amendment indicates that the legal responsibilities of forest fires will be significantly reduced, which is likely to introduce a surge in forest fire occurrences.⁴ Since the late 1990s, forest fires have been an immense health hazard to Indigenous Peoples living near plantations, and a threat to biodiversity, while causing severe CO₂ emissions. In Kalimantan, Indigenous women initiatives have been working to bring attention to fire hazard for the last decade,^{xc} regrettably the GoI has not taken this seriously, on the contrary with the introduction of the Omnibus Law, the GoI further ignites the threats of forest fires by reducing the legal liability. The law will further dismantle the protection of Indigenous land while facilitating the ease of investments, land encroachment, and development by eliminating the requirement of environmental permits and replacing it with business permits. Furthermore, the law reduces the requirements of environmental impact assessments^{xcii} which will place Indigenous women's access to land at risk.^{xciii},⁵ In addition, the law removes the legal requirement that provinces maintain a minimum of 30% forest cover, by allowing provinces to set such standards 'proportionately'. In short, the law generates profound structural changes in the framework of environmental protection by removing legal protection mechanisms for forest cover.^{xciv} With the Omnibus Law, the GoI is providing the legal basis for the economic interests of large-scale corporations and political elites at the expense of rich biodiversity and the functions of vital ecosystems,^{xcv} while exposing Indigenous Peoples to further threats of land violations.^{xcvi} The law is likely to increase discrimination against Indigenous Peoples, while shrinking public space for environmental activists. In the past decade, Indigenous Peoples have faced mounting abuses from the criminal justice system, by targeting them when they exercise the right to their Indigenous territories. The Omnibus Law stands in stark contradiction to the pledges made in the NDC by the GoI including the forest-clearance moratorium, as the law provides further legal basis for the government to hand over Indigenous Peoples lands to corporations and development projects, without FPIC or compensation.^{xcvii} The controversial Law has been widely criticised and considered to have been formed in an undemocratic and non-transparent manner. In November 2021, the Indonesian Constitutional Court issued a decision stating that the Law was unconstitutional, due to procedural flaws. In particular, the Court noted the absence of the principle of openness, which requires more meaningful public participation in the deliberation process. The decision was limited to the formal aspects of the law and did not rule on the substance of the Law. The Law was not dissolved by the Court, but its status was subject to the condition that the GoI must revise the procedural flaws within November 2023. If no revision is made within the prescribed timeframe, the Omnibus Law

⁴ The Forestry Law of 1999 affirmed that "The permit holder shall be responsible for the occurrence of forest fires in its working area" (Article 49), whereas the Omnibus Law have downgraded the requirements to "The permit holder shall prevent and control forest fires in its working area" (Article 37 section 16). This change in the terminology with the erasure of 'responsible' (Forestry Law) and substitution of the vaguer 'shall prevent and control' (Omnibus Law)

⁵ The provincial governments will no longer have authority to conduct environmental monitoring of business activities to prevent violations and negative impacts of business activities. Thus, the law establishes a centralized power structure that allows the authority to operate without regional and decentralized influence, monitoring and obstacles (Sembiring et al. 2020; Ramadhan et al 2022), that is likely to result in a systematic weakening of environmental protection (Tomsa and Bax 2023).



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will be deemed permanently unconstitutional and invalid. Until the government can address the Constitutional Court’s decision, the Omnibus Law and its implementing regulations continue to be in force.^{xcviii}

Development strategies in the Philippines

In 2017, former President Duterte introduced his flagship “Build, Build, Build” economic policy, to reduce poverty and promote development projects across the Philippines, many of which are being constructed or planned to be constructed within Indigenous territories.^{xcix} The program was further extended by President Marcos, who in 2022, pledged to increase the country’s renewable energy sources, such as hydropower, geothermal, solar, and wind as part of the country’s climate change agenda.^c As a consequence, Indigenous territories continue to be targeted by development aggression and the resistance by Indigenous Peoples to these projects is increasingly met with militarization, harassment, and extrajudicial killings. For example, the B'lann Indigenous woman leader Juvy Capion and her two sons aged 6 and 13, were killed by the military in their home. Juvy’s 4-year-old daughter survived the massacre, with a bullet striking her ear. Juvy had been protesting against abuses committed by the Swiss-Australian mining company XSTRATA- Sagittarius Mines, Inc. prior to the massacre.^{ci} In 2021, the Philippines passed Executive Order No. 130, revoking a nine year-moratorium on new mining permits. The order, which aims to boost the post-COVID19 economy and among others, to feed the rising global demand for nickel (for batteries of electronic devices), has led to an escalation in mining— activities, many on IP territories.

Anti-terrorist law - Executive Order 70 – the Philippines

In 2020, the Duterte regime introduced the highly controversial Anti-terrorism Act (ATA). The law that is executed by the National Task Force to End Local Communist Armed Conflict, has accelerated the labelling of Indigenous leaders, environmental and human rights defenders and civil society organisations by ‘red-tagging’ them as so-called communist terrorists, supporters or rebels - regardless of their affiliations,^{cii} justifying the need for counter-insurgency operations.^{ciii} Criminalisation based on an ambiguous definition of “terrorism” has been a forceful tool to accuse, intimidate, discredit and silence critical voices of being anti-national and terrorists. Hate speech, smear campaigns, and disinformation on social media have been used to attack Indigenous Peoples, including the Cordillera Peoples Alliance by threatening, harassing, and tagging them as terrorists. In 2018, the Department of Justice declared around 600 individuals as terrorists and outlawed organisations, many of them environmental and human rights defenders, including six prominent Indigenous women, e.g., former and current members of AIPP, Cordillera Peoples Alliance, and the UN Permanent Forum on Indigenous Issues.^{civ} As a devastating outcome of the law, many have suffered human rights violations including restrictions to the right to free speech and the right to protest, denial of legitimate grievance processes, unjustified and arbitrary arrests and detentions and illegal surveillance. As an outcome of the law, cases of trumped-up charges have risen. In 2021, two Indigenous women and human rights advocates were falsely charged as they defended their ancestral lands, one with murder and the others with the possession of firearms and explosives.^{cv} In 2022, two Indigenous women leaders of the Cordillera Peoples Alliance Sara Alikes and Jennifer Awingan were red-tagged as terrorists and accused of rebellion, their charges were dismissed in 2023, however, they remain red-tagged on the Anti-Terrorist Council’s list.^{cvi} To make matters worse, the law has been followed by a “shoot-to-kill” order which has resulted in



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numerous extrajudicial killings targeting individuals and organisations seen as ‘troublemakers’. This wide-ranging label

includes various forms of opposition to the regime, namely Indigenous Environmental Human Rights Defenders (EHRDs). As a result, the law has further compounded pre-existing discrimination and violence against Indigenous Peoples.^{cvi} The Philippines has received numerous condemnations from the UN and EU, and for mounting human rights violations that have followed the passing of the law,^{cvi} statements included denouncing the “widespread and systematic killings and arbitrary detention in the context of the war on drugs, killings and abuses targeting farmers and indigenous peoples, the silencing of independent media, critics and the opposition”,^{cix} and condemning that “Human rights defenders in the Philippines continue to be red-tagged, labelled as ‘terrorists’ and ultimately killed in attempts to silence them and delegitimise their human rights work. This must end.”^{cx} Furthermore, in 2022 an EU Parliament press release stated that EU “call for the Filipino authorities to stop ‘red-tagging’ organisations and individuals, such as trade unionists, human rights defenders and media representatives. ‘Red-tagging’ involves the government linking such associations and people to communist groups, which continues to result in killings, threats, warrantless arrests and harassment of oppositional voices.”^{cx} Furthermore, concerns include how the regime’s acts are encouraging corporate industries, military, paramilitaries, and state agencies to use violence against communities that attempt to resist mining, coal, agribusiness, land encroachment, and logging.^{cxii}

The recent outcomes of the anti-terrorist law, stand in crude opposition to the progressive legislative measures for the protection of the rights of Indigenous Peoples in the Philippines namely the Law of the Republic No. 8371 known as The Indigenous Peoples’ Rights Act of 1997 (IPRA). The law consists of rights to ancestral domains, self-governance, self-determination, social justice and cultural integrity, including the enjoyment of equal rights and opportunities for Indigenous women and men in all spheres of life. Various sections include the rights of Indigenous women, e.g., no. 26 on the participation of Indigenous women in decision-making processes at all levels. Furthermore, the law includes specific provisions for FPIC defined as “the consensus of all the members of indigenous peoples to be determined in accordance with their respective customary laws and practices”.^{cxiii} Although the law is one of the strongest supports of Indigenous Peoples rights globally, the law is far from being applied by the GoP. For instance, legally securing an ancestral domain for Indigenous Peoples is an inefficient, complex and bureaucratic process, that contradicts the original intention of the law. Despite, recent statements by the GoP that it had taken measures toward fully implementing the IPRA, particularly regarding their rights to ancestral lands, territories, and resources,^{cxiv} the implementation of the law is often co-opted by companies and powerful politicians, and commissioners are appointed by the president of the Philippines, not by Indigenous Peoples themselves. Consequently, Indigenous Peoples rights continue to be grossly violated.

Large-scale mining in the Philippines and Indonesia

In Southeast Asia, the Philippines is second to Indonesia in terms of geological prospects, as the country sits on around 20% of the world’s nickel resources. In addition, the Philippines deposits a high portion of the world’s copper, chrome, zinc, gold and silver resources.^{cxv} In both countries, large-scale mining operations cause detrimental environmental impacts, massive displacements, and drastic shifts of livelihoods, decision-making and social status within Indigenous communities, all of which are disproportionately burdensome for women. Environmental impacts include the destruction of ecosystems, forests, mountains, and agricultural lands, as well



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as extensive problems with erosion, desertification, dust, water contamination and air pollution.^{cxvi} In the Benguet province, the Philippines, mining activities have polluted water sources and destroyed large areas of hillside

forests, exacerbating the risks of landslides in the region. Access to communal farming areas and forests, has been restricted, resulting in the erosion of subsistence economies, and the devaluation of the role of women as gatherers, farmers, and water providers.^{cxvii} Similar to negotiations with oil palm corporations, the lack of voice or presence of women in community and formal decision-making public spheres, such as negotiations between community and mining companies impedes their voices and agency. Consequently, it is mainly men who hold positions of decision-making and who are paid compensation, ignoring women's needs and perspectives, thus failing to compensate to ensure sustainable alternative livelihoods and turning Indigenous women financially dependent on men.^{cxviii} Mining has a distinctive masculine culture, while men can be hired to work in mines, women are often left with economic insecurity and decreased control over household finances which can lead to increased vulnerability to domestic violence.^{cxix} In some areas, women have few income opportunities, however, these forms of work (e.g., domestic work for company employees) do not necessarily contribute much to their agency. Many are vulnerable to sexual exploitation and some women are forced to find employment in unprotected positions such as sex work.^{cxx} As in numerous other mining areas these changes provoke an increase in alcoholism, drug addiction, gambling, prostitution, STDs, and GBV.^{cxxi}

Large-scale mining is one of the most pervasive threats to Indigenous women, as the presence of mining companies in Indigenous territories increases their exposure to different forms of violence and violations of human rights, such as the threat of forced eviction, loss of livelihood, forced displacement, increased hunger and poverty, verbal abuse, and physical and sexual violence. In the Philippines, the militarization of Indigenous communities caused by a heavy deployment of troops and combat operations to defend corporate mining interests, has resulted in various human rights violations, including the displacement of numerous Indigenous communities from their ancestral lands, destruction of resources such as domestic animals and crops.^{cxii} Furthermore, a surging number of Indigenous women have been victims of physical, psychological and sexual violence, including rape and sexual harassment.^{cxiii} Violations and abuses often occur within an environment of impunity, some reports mention that the Philippines National Police support and protect the interest of the mining companies, while the GoP lack apparent action to prevent the violations.^{cxiv} In the Mindanao region, namely the Caranfa and Davao provinces, some of the highest rates of GBV are found.^{cxv} In these conflict-prone areas, climate disasters and conflict compound devastatingly with poverty, ecological degradation, violence, and military terror,^{cxvi} while increasing gendered inequalities.^{cxvii} Within the heavy military presence in Indigenous territories of Abra and Mindanao, Indigenous women disclose how they have been victims of physical, psychological and sexual violence.^{cxviii} Similarly, Indigenous Ifugao women, have experienced harassment, threats and intimidation by the Australian-Canadian OceanaGold mining company that has encroached upon and polluted their ancestral lands for several decades. To make matters worse, as Ifugao women have protested against these violations, the GoP have accused them of being so-called terrorists and members of the communist New People's Army,^{cxix} thereby attempting to justify government sanctioned attacks on human rights and environmental sustainability. In the Cordillera region, military operations have been deployed to Indigenous territories to demolish resistance and to protect financial interests over human rights and environmental sustainability. Despite these abuses and sufferings, Indigenous women continue to defend their ancestral domain and assert their right to self-determination as Indigenous peoples and as women.^{cxx} In response to mining in the Philippines, various UN



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special procedure mandate holders have expressed serious concerns about the degradation of the environment and human rights violations and abuses due to the activities of large-scale mining corporations, with the support

of the Philippines National Police, and the apparent failure of the Government to take action to protect human rights of Indigenous Peoples. GBV, is known to be used by mining corporations and State alike to establish power over the community and suppress any protest.^{cxxxix}

Conclusions

Climate change disasters, environmental destruction, development aggression and related land violations compounded with intersectional discrimination in Indonesia and the Philippines act as a threat multiplier for Indigenous women and gender diverse people, to an alarming degree, as existing disparities and harmful gender norms are exacerbated during crises and conflicts. These changes are likely to result in different forms of gender-based violence, while jeopardizing the dignity, distinct identity, livelihoods, culture, spiritual belonging and survival of Indigenous women and by extension their families and communities. Indigenous women are continuously dispossessed of their lands, territories, and natural resources and lack basic rights to these resources, which limits their ability to cope and respond when climate or environmental disasters occur. It is imperative to move beyond the understanding of ‘women’ as a homogenous group and acknowledge the intersectionality of different women’s conditions and recognize how unequal power relations, as well as gender norms and responsibilities determine the relationship with natural resources, livelihoods, and opportunities for survival. In many contexts, Indigenous women are excluded from meaningful participation and representation in decision-making processes and governance in public, political and economic spheres, or positioned at a low status in local, national, and international processes, including within their own communities. When the knowledge, needs, lived experiences, ideas, and skills of Indigenous women and gender-diverse people are overlooked when important decisions are made, it paves the way to loss of livelihoods, status, cultural disintegration, poor health, gender inequality and high exposure to GBV. Breaking the patriarchal mindset in decision-making and governance requires meaningful and equitable representation of Indigenous women and gender-diverse people at all levels, including spaces for caring masculinities and actively avoiding the dominance of men and women from elite groups. Tokenistic participation is not sufficient to change entrenched gendered inequalities.

On numerous occasions, states and corporate interests in Indonesia and the Philippines ruthlessly ignore human rights and environmental commitments. The ‘green’ energy sector is no exception, by replicating strategies of resource capitalism such as mining and agribusiness plantations without genuine FPIC processes. While it is the obligation of each state party to ensure the meaningful implementation of FPIC, the process is often ignored, co-opted, or excludes Indigenous women. If financial institutions continue to support development projects without FPIC and environmental considerations the commitments to climate change adaptation and sustainable development will continue as illusory and empty promises. Development in and near Indigenous territories should always be within their framework, interests and aspirations for economic, political, and social uplift. As custodians of lands, territories, and resources, and holders of Indigenous Knowledge Indigenous women play a key role in climate resilience. Courageously Indigenous women and gender-diverse activists continue not only to fight for their environment and right to speak out but for their right to survive – collectively and as individuals. Their roles and contributions should be widely recognized, supported, and promoted not discriminated against, threatened, and terrorised.



At the national level in Indonesia and the Philippines, certain internationally recognised rights have been ratified in national legislation, including the commitment to protecting the rights of Indigenous women through their NDCs. However, this report finds that national policies and frameworks related to gender, GBV, development projects, and climate change are largely ineffective in preventing the increased risks that Indigenous women face with regards to GBV in the context of climate change and development projects. Based on these conclusions we propose the following recommendations;

Recommendations

1. Indonesia and the Philippines must fulfil their international obligations and national legislation to respecting the rights of Indigenous Peoples, including equitable measures to involve Indigenous women and nonbinary genders.
2. States must work actively to end GBV at all levels and measures must pay attention to intersectional marginalisation.
3. Access to justice for Indigenous women, and gender-diverse people must be ensured by the State.
4. Indonesia and the Philippines must ensure the effective implementation of the right to FPIC in relation to all climate change and development projects, policies, and strategies that may affect Indigenous Peoples in and near their ancestral territories.
 - FPIC must be commenced at the initial stage and remain throughout the whole process including monitoring and evaluation.
5. States and corporate industries must include gender equity in all stages of FPIC, information, negotiations, consultations, and compensation in a manner that is appropriate and gender equitable in the given Indigenous context so that no women, men, or gender-diverse people are deprived of their rights.
6. States and corporate interests must safeguard the right to meaningful representation of Indigenous Peoples with specific equity measures to involve Indigenous women, and gender-diverse people – not merely as passive recipients – but as active and equitable participants at all levels. Support should be provided to Indigenous women, nonbinary genders and their organization to develop protocols for obtaining their FPIC.
7. Indonesia and the Philippines must remove all structural barriers to legal land recognition and ensure the rights of Indigenous women in any legal recognition of individual and customary land i.e., the registration of individual land under the Indigenous women’s name or jointly by spouse and include Indigenous women’s rights to communal lands in management rules and regulations.
8. Indonesia and the Philippines must end all criminalization and terrorist-labelling of Indigenous Peoples who are resisting land violations, human rights abuses and environmental destruction.
9. Structural barriers to decision-making processes must be removed, while expanding the active, gender equitable, fair and just participation in decision-making processes.
10. Indigenous men and non-Indigenous men must be part of sharing decision-making, information, knowledge, and responsibilities, and to organize and work with women, and gender-diverse people within the frame of equity.
11. Indigenous women must be recognised for their environmental leadership, specific contributions and knowledge in international climate governance, as well as in national governments and subnational authorities.



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