

# A growing concern – oil palm plantations encroach on IP lands: A sectoral study on land grabbing in the Philippines

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## INTRODUCTION

Indigenous peoples (IPs) exemplify how land gives life to rural communities. For members of these tribes, their ancestral land is inexorably intertwined with their livelihood, history, culture, traditions, and identity.

Not only do they rely on the resources of their ancestral lands to sustain their everyday needs for food and shelter, but their domains are also home to sacred sites, burial grounds, and other traditional uses of space. Further, ancestral lands bear testament to the resilience and strength of indigenous communities who have resisted colonial rule and have preserved their traditional ways of life.

According to a factsheet by Tebtebba (2018), IPs in the Philippines are comprised of 110 ethnolinguistic groups that form part of 12 to 17 percent of the country's population. Sixty-

one (61) percent of indigenous peoples reside in Mindanao, 33 percent in the Cordillera Administrative Region, and the rest live in the different provinces.

Ancestral domains in the Philippines cover approximately 7.7 million hectares as estimated by the National Commission on Indigenous Peoples (NCIP) – around 26 percent of the country's total land area (Tebtebba, 2018).

At present, 5.4 million hectares of ancestral domains are covered by Certificates of Ancestral Domain Title (CADT), a legally recognized tenurial instrument, benefitting over 1.2 million indigenous peoples (De Vera, 2018 in Quizon, Marzan, De Vera, and Rodriguez, 2018).

While ancestral domains may stretch to plains and seas, the majority of Philippine indigenous groups reside in upland forests in the countryside. These forests are also where many private and



State industries, such as ecotourism, mining, and agroforestry, are located. Indigenous peoples in the country often stand in defense of their ancestral land, as the continued rush for forest resources drive industries such as the palm oil corporations to encroach upon ancestral lands.

Global demand for palm oil has been on the rise. In the past 20 years, the share of palm oil grew two-fold, driven by increasing demand for food, vegetable oils, and biodiesel (PCA, 2014). Palm oil was the most consumed edible oil in the world in 2015 (Voora, et al., 2020), and each person on the planet is estimated to be consuming an average of eight kilograms of palm oil a year (Tullis, 2019). With the increasing global demand for palm oil and the scarcity of available land, ancestral domains of IPs have become the target for expansion of oil palm plantations.

Unfortunately, there are numerous reports that many oil palm plantations in the Philippines were born out of land grabbing.

As defined by EcoRuralis (2016), *“land grabbing is the control – whether through ownership, lease, concession, contracts, quotas, or general power – of larger than locally-typical amounts of land by any persons or entities – public or private, foreign or domestic – via any means – ‘legal’ or ‘illegal’ – for purposes of speculation, extraction, resource control or commodification at the expense of peasant farmers, agroecology, land stewardship, food sovereignty and human rights.”*

This paper aims to review and provide further information on the allegations that the growing palm oil industry has led to land grabs against indigenous communities in the country. It will analyze the present drive to expand oil palm plantations and recommend ways to protect the rights of indigenous peoples entangled in these enterprises.

This study was formed primarily through desk research and analysis of secondary data. This publication does not claim to paint a picture of the entire oil palm sector in the country. Narratives included here are limited to the experiences of smallholders and indigenous peoples with oil palm plantations in the Philippines.

The recommendations that arose from the findings were subjected to an online validation workshop via Zoom organized by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) with civil society organizations last 21 September 2020.

## **OVERVIEW OF OIL PALM OPERATIONS IN THE PHILIPPINES**

### ***Significance, Scope, Trends***

Oil palm is seen as an efficient vegetable crop that has a high return-of-investment and is easy to maintain (Batugal, n.d.). Unlike other crops, the plant can thrive in less productive soil, and may thus be planted on idle grasslands, bushlands, logged-over secondary forests, and fallow land (Batugal, n.d.; Montefrio, 2015; Villanueva, 2011). Oil palms bear fresh fruit bunches which are used to produce crude palm oil and palm kernel oil. Both kinds of products are vegetable oils highly valued by Asian cultures for their uses in food processing and cooking (PCA, 2014).

As of 2018, there are over 98 thousand hectares where oil palm is planted in the country, most of these are located in Mindanao (DTI, 2021). As Table 1 shows, the overall area planted in the country increased by nearly 33 percent from 2015 to 2018. The increase in area planted is dramatically pronounced in Zamboanga Peninsula, Davao Region, and Bangsamoro Autonomous Region in Muslim Mindanao (BARMM).

**Table 1. Oil palm area planted (hectares) by Philippine Regions, 2015 to 2018**

Regions	2015	2018	Rate of Increase from 2015 to 2018
R-IVB (MIMAROPA)	5,293.61	8,546.24	61.44
R-VII (Central Visayas)	6,493.69	6,506.00	0.19
R-IX (Zamboanga Peninsula)	1,146.40	6,119.20	433.78
R-X (Northern Mindanao)	2,419.15	3,280.00	35.58
R-XI (Davao Region)	1,217.00	3,500.00	187.59
R-XII (SOCCSKSARGEN)	28,840.00	37,902.73	31.42
R-XIII (Caraga)	25,827.93	25,827.93	0.00
BARMM	2,786.44	6,500.00	133.27
<b>TOTAL</b>	<b>74,024.22</b>	<b>98,182.10</b>	<b>32.64</b>

*Source: Department of Trade and Industry (2021)*

Zooming into the provinces, Figure 1 represents areas harvested with oil palm fresh fruit bunches (FFB) as of 2019, by the size of harvest areas. The map (see Figure 1) shows that Agusan del Sur is a hotspot for harvesting oil palm FFB. The same figure portrays that Palawan, Bohol, North Cotabato, and Sultan Kudarat are also major harvest areas.

Many oil palm plantations involve agreements between corporations and farmers in private lands. Data from 2017 reveal that there are 44 operating Agribusiness Venture Arrangements (AVAs) between palm oil producers and agrarian reform beneficiaries (ARBs) in the country, covering 12,453.57 hectares, all of which are in Mindanao (DAR, 2017).

In 2014, the Philippine Coconut Authority (PCA), with the Department of Trade and Industry (DTI), and Philippine Palm Oil Development Council, Inc. (PPDCI), released a road map for the palm oil industry detailing the government’s plans to expand oil palm plantation areas to 353,000 hectares by 2023. The roadmap further cites that experts have estimated that the country could further utilize about one million hectares of land

deemed suitable for cultivating oil palm (PCA, 2014).

As such, indigenous peoples have been raising concerns over the expansion of oil palm plantations that encroach upon ancestral domains or affect their livelihoods.

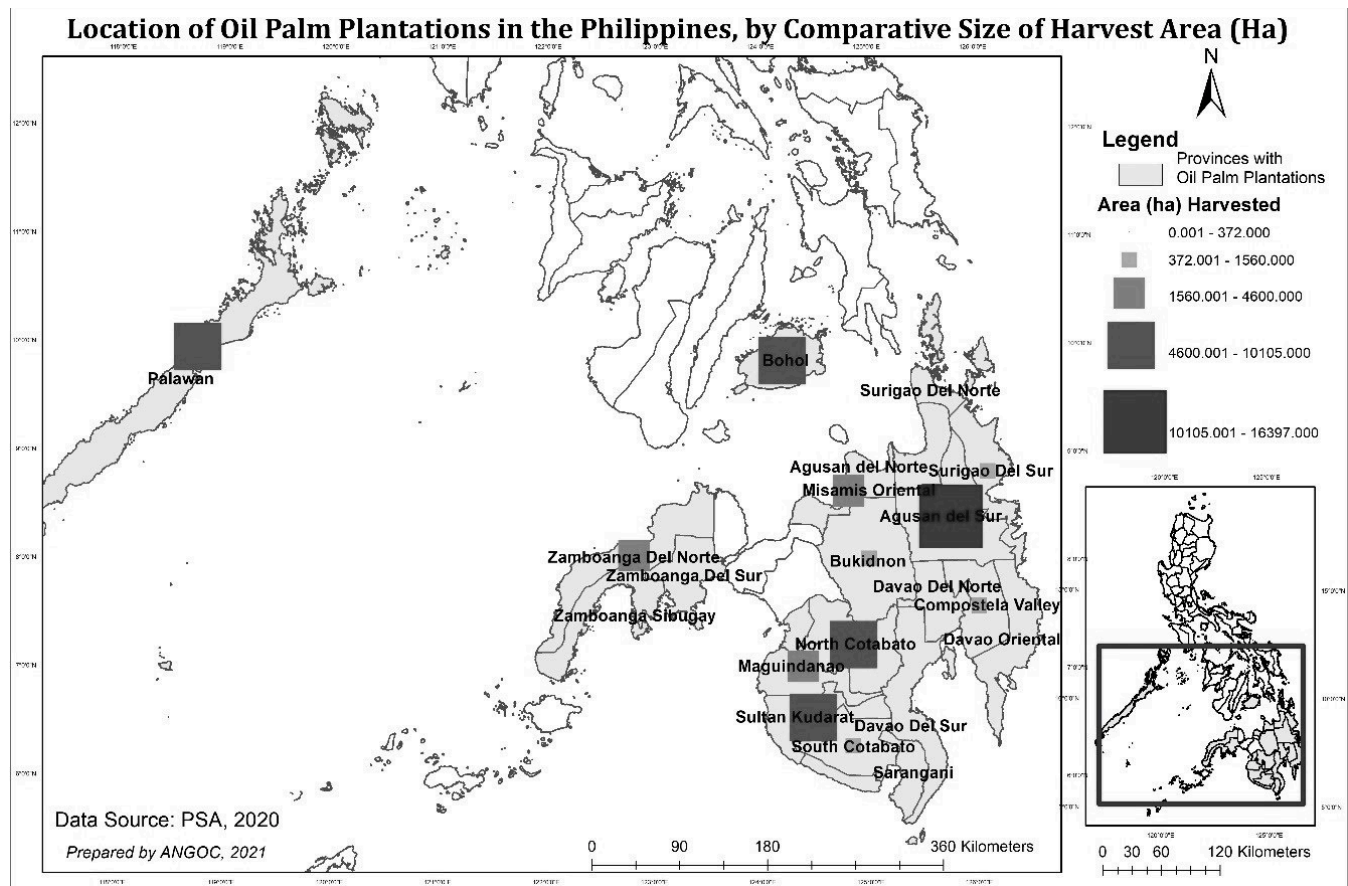
Figure 2 and Figure 3 present an attempt to show overlaps of ancestral domains in the country and the *barangays* (villages) and municipalities where oil palm plantations operate, color-coded by breadth of plantation hectares in the *barangay*/municipality.

Investors continue to actively search for viable lands for oil palm plantations, with brokers and facilitators for oil palm companies eyeing other rich ancestral lands (Villanueva, 2011). Mindanao attracts the attention of foreign firms interested in establishing plantations on the island.

In 2018, President Rodrigo Duterte himself spoke to indigenous leaders in Mindanao, saying he will personally choose investors to develop their ancestral domains (Rappler, 2018). He specifically cited that oil palm investors have long wanted to develop areas in Paquibato District, Davao City.



**Figure 1. Geographic heat map of oil palm harvest areas in the provinces of the Philippines**



**Data source: PSA, 2020 (for the provincial-level spatial data on oil palm plantations in the Philippines)**

According to Northern Mindanao *lumad* organization Kalumbay, around 20,000 hectares of agricultural land are being targeted for conversion into oil palm plantations in Northern Mindanao alone (Mandawa, 2013). In Agusan del Sur, Malaysian firm Alif-Agri Industrial Inc. invested an initial 1 billion USD to establish a 128,000-hectare oil palm plantation, refinery, and wharf (Remo, 2016).

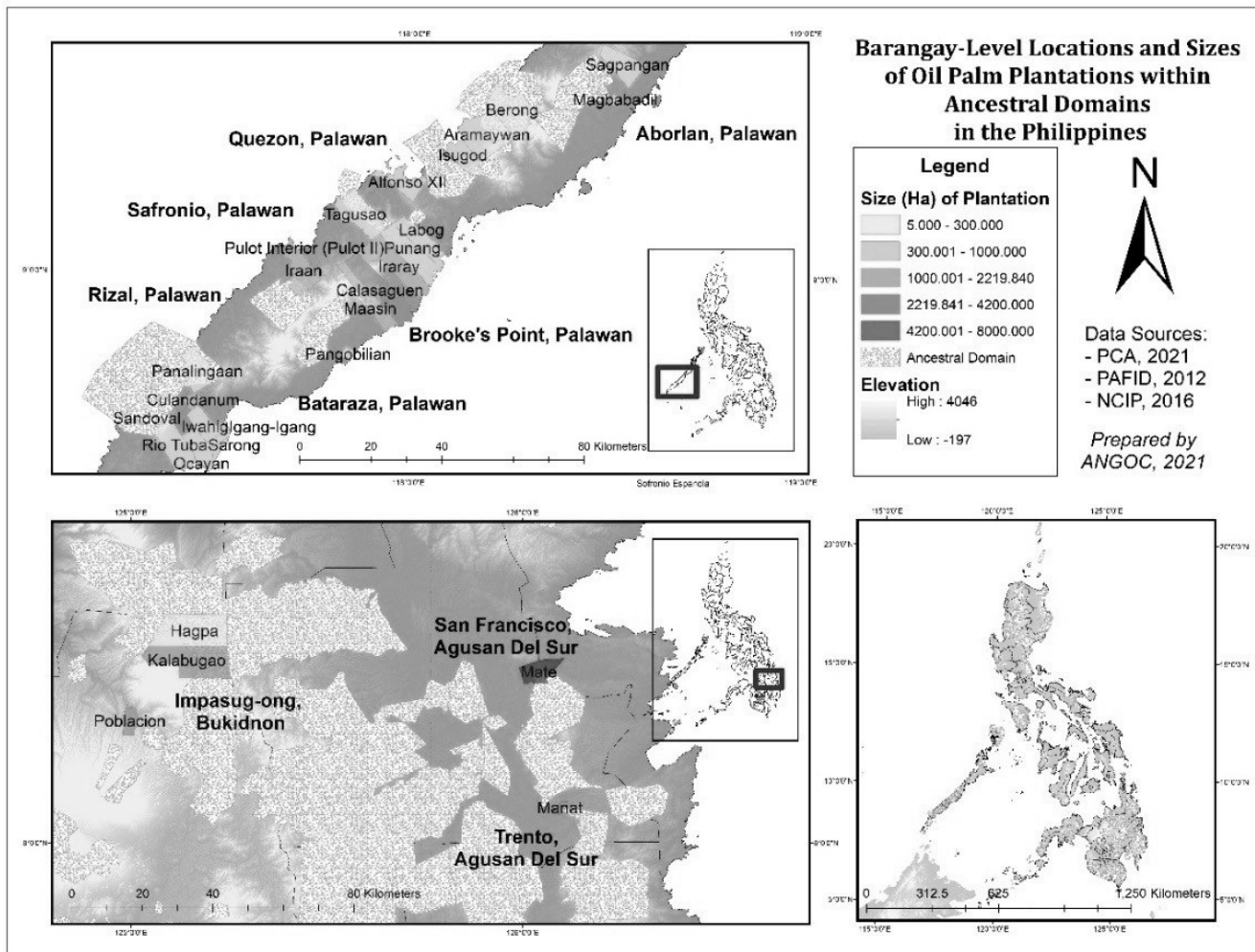
In Palawan, the Coalition Against Land-Grabbing (CALG) reports that 9,000 hectares have already been cleared to accommodate oil palm and that the government is inviting more oil palm investors in the province (Harbinson, 2019).

### **Entities Involved**

The Philippine government and its vigorous promotion of the palm oil industry facilitated the industry's growth.

From the 1970s to the 1980s, particularly during the Martial Law years under Ferdinand Marcos, corporations were able to acquire more land for oil palm amid the tense political atmosphere, allegedly through coercion of communities and the use of armed forces (Miller, 2017a). Around the entry of the new millennium, under the Gloria Macapagal-Arroyo administration, the palm oil industry continued to grow through enacted tax holidays and fiscal incentives (Miller, 2017a).

**Figure 2. Overlay of barangay-level locations of oil palm plantations and ancestral domains**



**Data sources:** PCA, 2021 (for the barangay-level spatial data on oil-palm plantations in the Philippines); and PAFID, 2012 and NCIP, 2016 (for the spatial data on ancestral domains in the Philippines)

Various administrations from then until the present have encouraged the flourishing of the palm oil industry, calling it the “sunshine industry” and referring to the oil palm as the “tree of peace” (Miller, 2017a; Villanueva, 2011).

Through large investments from both foreign and domestic companies, the government paints the oil palm industry as a key ingredient to alleviating poverty and quelling armed conflicts (Miller, 2017b).

Various private oil palm plantations, oil palm mills and processing plants, and traders are active in

the industry. As of 2017, the Philippine Coconut Authority identified at least 14 oil palm suppliers serving different portions of the supply chain (PCA, 2017). Several of these entities are foreign or partly foreign-owned. Joint venture agreements have led to the creation of corporations such as the Singaporean-Filipino Palawan Palm & Vegetable Oil Mills Inc. (PPVOMI), and its sister company the Malaysian-Filipino Agumil Philippines, Inc. (AGPI). Both AGPI and PPVOMI are under the Malaysian-owned Agusan Plantations Group of Companies (BankTrack, 2016; EJ Atlas, n.d.).



### Forms of control

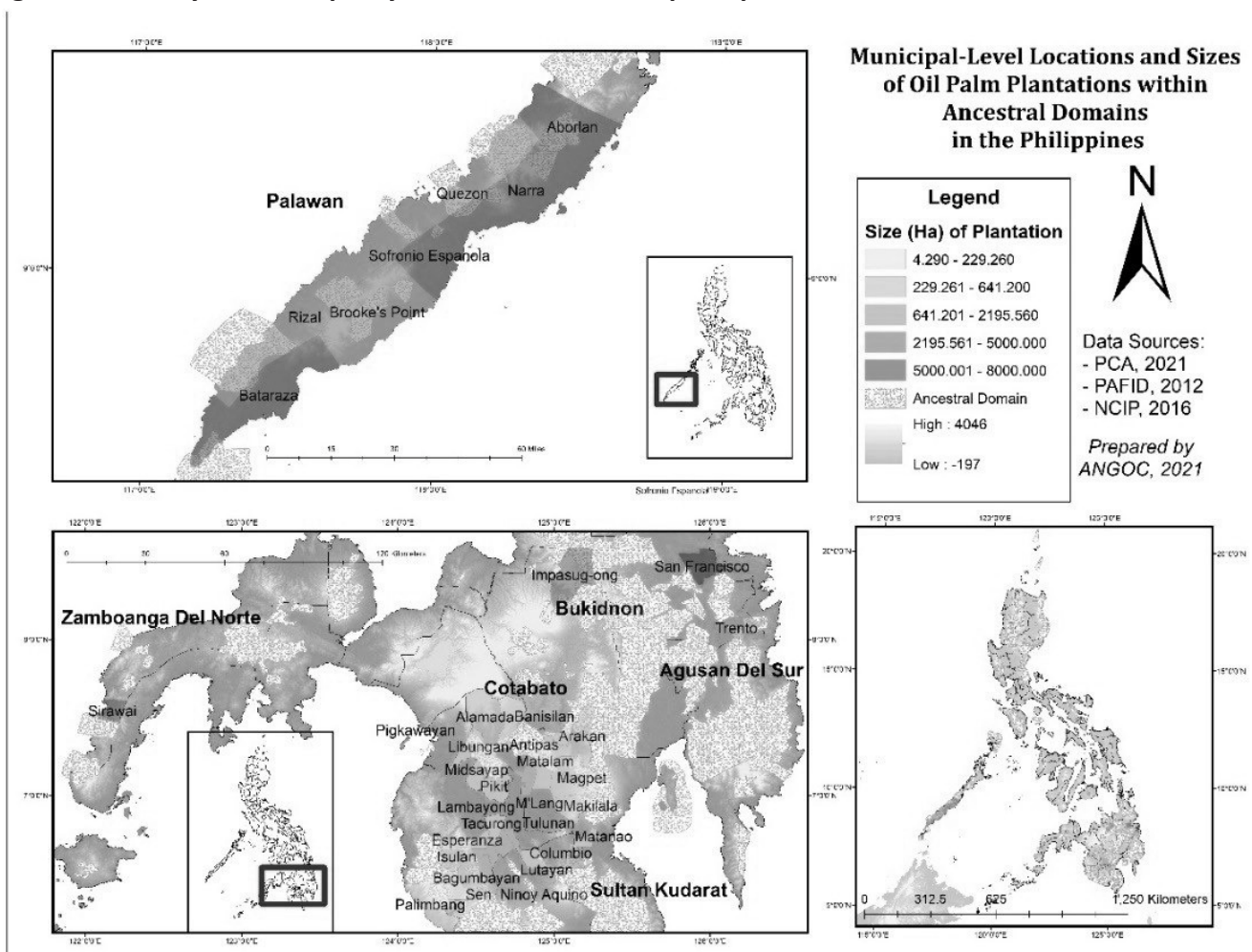
Corporations have several means to legally operate oil palm plantations in the country, most of such means involve entering into agreements with ARBs.

In the early years of the palm oil industry's expansion, *leaseback arrangements* with ARBs were the dominant mode of land acquisition (Villanueva, 2011). This arrangement was enabled by the Comprehensive Agrarian Reform Law of 1988, as Amended (RA 6657), or CARL, and covers identified areas for redistribution that are under

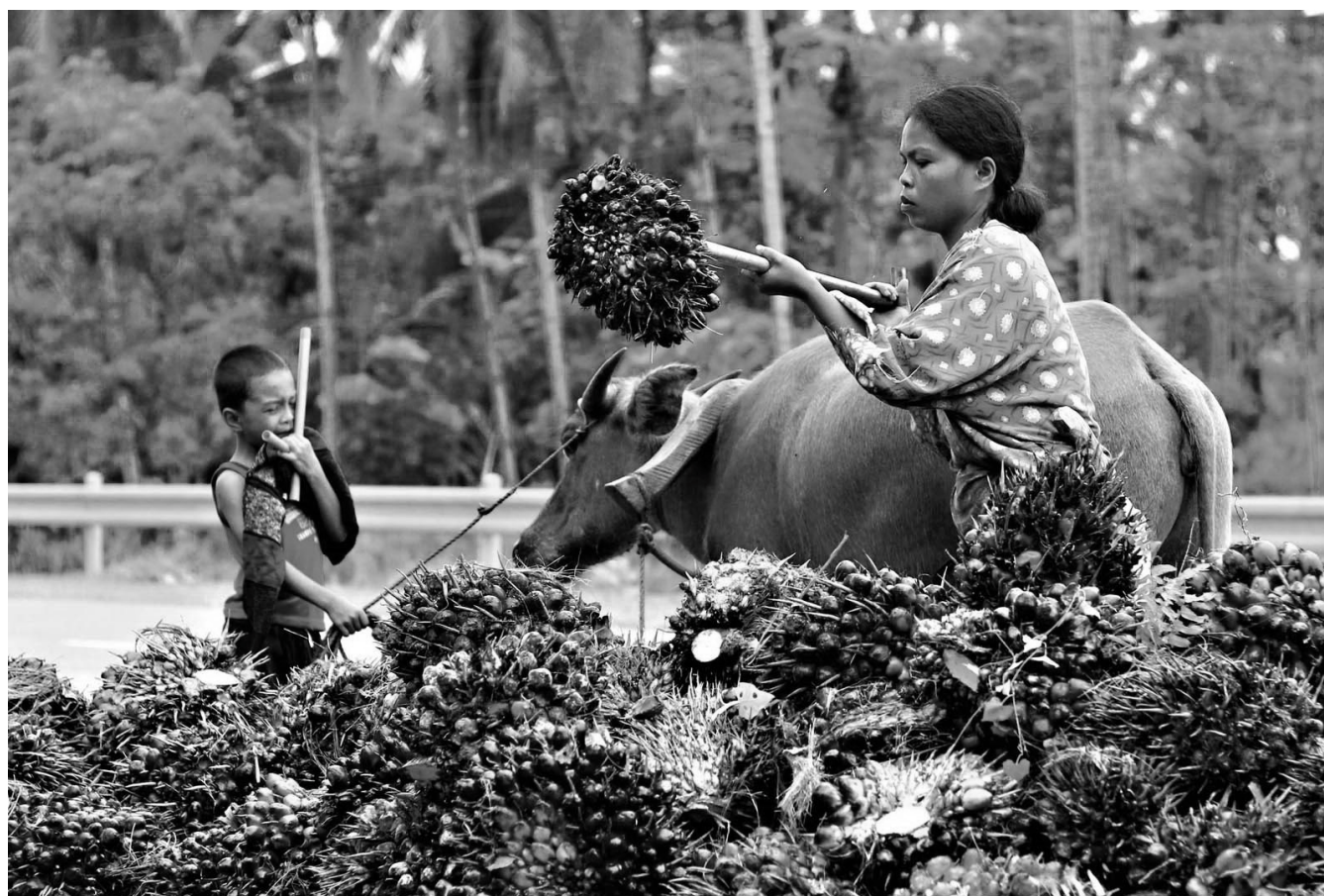
the control of multinational corporations (Section 8) and corporations or other business associations (Section 29) (Flores-Obanil and Manahan, 2006).

A leaseback is a form of agrarian reform modality, wherein a cooperative of agrarian reform beneficiaries in a plantation enters into renewable and long-term land-use agreements with multinational or agribusiness corporations for a defined price or number of years. In this arrangement, companies are given usufruct or management rights over the plantation, while agrarian reform beneficiaries are hired as plantation workers.

**Figure 3. Overlay of municipality-level locations of oil palm plantations and ancestral domains**



**Data sources:** PCA, 2021 (for the municipality-level spatial data on oil-palm plantations in the Philippines); and PAFID, 2012 and NCIP, 2016 (for the spatial data on ancestral domains in the Philippines)



Woman works on a pile of harvested palm oil fruit in Prosperidad town in Agusan del Sur on 25 June 2012. MindaNews photo by Erwin Mascarinas. Photo retrieved from <https://www.mindanews.com/wp-content/uploads/2012/06/29oil.jpg>

Other forms of agreements with ARBs include management contracts (wherein an individual or corporation manages the farm in exchange for a fixed wage or commission from the ARBs), marketing agreements (wherein an investor seeks out markets/buyers for the products of ARBs in exchange for a commission from sales), and service contracts (wherein ARBs outsource a contractor for performing particular farm activities for a fee) (DAR, 2006).

Plantations may also operate under an out-growership agreement or contract-growing scheme, wherein smallholders are expected to develop the land and cultivate crops using seedlings provided by or bought from the

corporation. Fresh fruit bunches (FFBs) are then delivered or sold to the company's mill. If seedlings and/or input materials were provided to farmers, their cost may be deducted from the company's payment. Under this arrangement, companies may provide technical and financial assistance to smallholders (Villanueva, 2011).

#### ***Expansion of Oil Palm Plantations in IP Lands***

The country's laws allow parts of ancestral lands to be utilized as plantation sites, upon the provision of free, prior, and informed consent (FPIC) by the concerned indigenous communities, and after careful negotiations on terms, pursuant to the Indigenous People's Rights Act of 1997 (IPRA).



Corporate activities shall not limit the extent of the ancestral domain, and must not disrupt the traditional ways of indigenous communities.

However, indigenous peoples fall victim to violations of existing safeguards and protocols on the creation and operation of oil palm plantations. Most notably, in many cases, FPIC is corrupted by the corporation's deception or coercion of communities, or is secured through improper channels.

Rural communities are made to enter contracts that are beneficial for the investment, but unjust for the communities and/or the environment. In some cases, the private sector colludes with the local or national government and uses the military or private armies to strong-arm the establishment and maintenance of the plantation (Huesca, 2016).

Several cases were revisited in Mindanao and in Palawan province where expansion of palm oil plantations in ancestral land of IPs have been targeted and implemented.

### **Oil Palm Plantations in Ancestral Lands in Mindanao**

Current oil palm production areas are said to reach 70 thousand hectares in Mindanao (Rappler, 2015), while official PSA data puts the number at a bit over 50 thousand hectares (PSA, 2020a). A few years ago, the government announced bold plans to expand oil palm plantations in the country to 500 thousand up to a million hectares (Rappler, 2015), with 98 percent of these being located in Mindanao (Miller, 2017). According to Mandawa (2013), many of the areas identified for palm oil expansion are burial, sacred, and worship sites of indigenous peoples.

Caraga Regional Director for Trade and Industry, Brielgo Pagaran even pondered upon the possibility of dedicating a million hectares of Mindanao land for oil palm development. Brielgo further mentioned that 500 thousand hectares of ancestral lands under Certificates of Ancestral Domain Title (CADTs) in the Caraga region may be utilized for cultivating oil palm (Crismundo, 2019).

In 2020, the Eastern Petroleum Group of Companies (EPGC) expressed intention to develop 50 thousand for oil palm plantations in Caraga (Crismundo, 2020).

Latest PSA data puts the number of hectares of oil palm production areas in Caraga at 17,000 hectares (PSA, 2020a), but Senior Trade and Industry Development Specialist Jorge Silaga of DTI-Caraga puts the figure at over 25,800 hectares (Crismundo, 2019).

According to a report by Center of Trade Union and Human Rights (CTUHR) and Asia Monitor Resource Centre (AMRC) in 2013, Caraga's history with oil palm dates back to the 1970s and even then, displacement of communities and violence were already in place. Indigenous and farmer groups who remained on their land became casual plantation workers for big plantation companies in Agusan del Sur: Filipinas Palm Oil Plantations Inc., Agusan Plantation Inc., and Agumil Philippines, Inc. More than 30 years later, many remain as plantation workers, owning less than minimum wage with no benefits and no security of tenure. Women in the community hardly found any employment opportunities in the industry, and children were even found to have been working on these plantations (CTUHR and AMRC, 2013).

Many indigenous groups and farmers presently working on oil palm plantations in other parts of Mindanao are thrown into similar unfortunate





A large palm oil plantation in southern Palawan. Photo by an anonymous source. Photo retrieved from <https://img.mongabay.com/wp-content/uploads/sites/20/2015/10/03142746/21.jpg>

situations. In Impasug-ong, Bukidnon alone, oil palm is planted in six of its thirteen barangays (Villanueva, 2011). The population of Impasug-ong is composed mostly of indigenous Higaonon tribe members with the rest of the residents belonging to mixed tribes.

In *Barangay* Hagpa, Nakeen Development Corporation (now merged with ABERDI) entered into an agreement with the indigenous group Agtulawon-Mintapod Higaonon Cumadon (AGMIHICU), to lease their land for *8,000 PHP<sup>1</sup> per hectare, annually*. Two hundred hectares of ancestral domains have been converted into oil palm plantations. Though selling of ancestral lands

to non-IPs is not allowed in law, the converted 200 hectares have reportedly been “sold” to non-indigenous peoples. The indigenous members of AGMIHICU signed the agreement with Nakeen, reportedly provided the new *owners* of their lands with the payment from the company, and are reported to be content to be hired as plantation workers (Villanueva, 2011).

These unfortunate economic conditions are among the reasons why many indigenous groups and farmers in Mindanao oppose oil palm plantations. In other instances, indigenous groups are faced with violence because of oil palm plantations.

<sup>1</sup> Approximately 167 USD (as of February 2021)



In Opol, Misamis Oriental, according to members of the Higaonon tribe, the local Department of Environment and Natural Resources (DENR) entered into negotiations with ABERDI/Nakeen for an oil palm plantation without seeking the Free, Prior, and Informed Consent (FPIC) of the affected community.

Those who did not give up their lands were barred by company guards from entering their farms. Those who opposed ABERDI/Nakeen's operations were branded as members of the insurgent New People's Army, harassed, had their crops destroyed, or had their houses burnt (Miller, 2017c).

In 2012, tensions escalated further when Gilbert Paborada, a Higaonon tribal leader who opposed the palm oil plantation, was killed by an unknown suspect (Albasin, 2012).

In 2016, Nakeen suspended its operations in Opol and Impasug-ong leaving workers with unfulfilled promises on work opportunities and social services, and without any benefits. Several KASAMAKA members were left in crisis, without land of their own and with no employment (Miller, 2017b).

Contrary to the government's claim that idle and unutilized lands are being targeted for oil palm plantations, the Mindanao experience shows that these plantations are being established in agricultural, ancestral, or forest lands, where prior tenurial arrangements already apply (CTUHR and AMRC, 2013).

Moreover, while palm oil production is being promoted by the government as key to poverty alleviation and to achieving peace in rural areas, the mentioned cases suggest that these investments may be unjust and may actually lead to further impoverishment and conflict.

## **Oil Palm Plantations in Southern Palawan**


Palawan is a haven of natural resources in the Philippines and is dubbed as the country's "Last Frontier." The province is home to seven protected areas, it is a Game Refuge and Bird Sanctuary, a Mangrove Reserve, and a UNESCO-recognized Man and Biosphere Reserve (ICCA Consortium, 2014; World Rainforest Movement, 2013).

Sister companies AGPI and PPVOMI, under the Agusan Plantations Inc., were among the first to engage in the oil palm industry in the province. AGPI is the contractor for oil palm cultivation, while PPVOMI operates an oil palm mill and nursery (Salcedo, 2016). Corporations have the license to develop over 15,000 hectares of land for oil palm, the majority of which are in the towns of Aborlan, Sofronio Espanola, and Bataraza (Larsen, et al., 2014; Salcedo, 2016).

In 2012, members of indigenous groups noticed their communal forests being cleared down by AGPI without prior consultation nor permission, to plant oil palm saplings on 200 hectares of ancestral lands. Many indigenous landowners and farmers cooperatives then entered into agreements with AGPI, either as contract-growers or by leasing/selling parcels of land (Harbinson, 2019). In several cases, out-growership schemes were entered into without formal land titles.

Transactions were at times carried out by middlemen who pretended to own land, or were forced through pressure from influential people. Several instances of FPIC violations were flagged as well – either FPIC was not obtained at all or was obtained after the project began (Larsen, et al., 2014).

To jumpstart the land development and oil palm planting, AGPI lent capital for smallholders to acquire loans from the Land Bank of the



Philippines (LBP). Titles to the leased lands were used as collateral, and now remain with the LBP (Harbinson, 2019). Smallholders now are unable to pay off their growing loans to AGPI and LBP, due to the high-interest rates of LBP that reached 12 to 14 percent per annum, and the low buying rates for fresh fruit bunches (FFBs). Further, any payment supposedly received by the growers is instead sent to LBP for paying off the loans. AGPI controls the operations, bank withdrawals, and finances in these agreements (Harbinson, 2017; Salcedo, 2016).

According to Palawan-based CALG, the Indigenous People's Rights Act (IPRA) and the Strategic Environmental Plan (SEP) for Palawan Act have been bypassed. The group also claims that the DENR should never have issued environmental compliance certificates to the plantation companies (Harbinson, 2019). Residents are concerned about the environmental effects of these plantations.

Long-term impacts of the industry may include soil compaction, soil degradation, water pollution, and water contamination by fertilizers and pesticides (Larsen, et al., 2014). Indigenous communities also observe that the presence of common animals and birds have been declining in areas where oil palm is being cultivated, while a study by the Ancestral Land/Domain Watch (ALDAW) revealed a decrease in non-timber forest products and medicinal plants in these areas (ICCA Consortium, 2014).

More than 200 thousand hectares in Palawan have been identified by the government as suitable for oil palm cultivation (Barraquias-Flores 2010, in Larsen, et al., 2014). According to CALG, around 9,000 hectares in Palawan have already been cleared out for oil palm, and the government is inviting more investors to venture into the industry. AGPI also eyes the expansion

of their business in the oil palm industry but is presently focused on the consolidation of their operations in Palawan (Harbinson, 2019).

CSOs, indigenous groups, and farmers in Palawan continue to advocate for a province-wide moratorium on oil palm expansion, at least until reliable data on the actual benefits of the plantations vis-à-vis the negative externalities become available (World Rainforest Movement, 2013).

Several local governments in the province have already taken a step further. The municipalities of Rizal and Quezon have declared moratoria on oil palm plantation expansion within their jurisdictions (Harbinson, 2019), while the municipality of Brooke's Point has also disallowed the expansion of oil palm plantations in their Forest Land Use Plan (Ibañez, 2019).

### **Impacts of Establishing Oil Palm Plantations in Ancestral Lands**

Plantation investments adversely affect communities from the negotiation to the development, operation, and closure stages of the project. In many cases, such investments inflict human rights violations and damages to the environment, livelihoods, food supply, and local culture.

### **Livelihood of Indigenous Peoples**

Many indigenous peoples and farmers are promised employment and wealth in exchange for the use of their land for oil palm cultivation. In reality, however, many oil palm plantations operate through unfair contracts and the exploitation of laborers. Farmers and indigenous peoples report being deceived into renting out their land for low costs.



**Low Wages.** Smallholders become workers on their own land. Though preferential employment is promised to landowners and communities, companies operating oil palm plantations have been exploiting their workers through heavy workloads, low wages with insufficient benefits, and no-work, no-pay arrangements, among others, as was documented by the joint fact-finding mission led by PAN Philippines in 2017 (Campaign Against Agricultural Plantations, 2017). In many circumstances, palm oil plantation workers were paid less than P200 to P300 per day, some even below the regional minimum wages (Olea, 2015; Villanueva, 2011).

**Unfair Agreements.** In other arrangements, where the smallholders are responsible for growing the oil palm to be sold to the company, smallholders take up loans with high interest rates, which they are later unable to pay. Fresh fruit bunches are bought by the company at low prices. Unfavorable economic circumstances in oil palm plantations lead many farmers and indigenous peoples into acquiring large debts.

### Impact on the Environment

Per the roadmap of the Philippine Coconut Authority (PCA) for 2014 to 2023, the biggest expansion areas will be in CARAGA (at 35 percent of production areas) and SOCKSARGEN (at 30 percent) Regions – both situated in Mindanao. Further, Palawan, a province in Luzon, is an emerging area for oil palm plantations with a prospective expansion of 100,000 hectares.

These regions are home to approximately 27 percent of ancestral domains, 13 percent of watersheds, and 22 percent of forest areas of the country (based on GIS calculations [spatial data sources: PAFID, 2017; DENR]).

While the information on the official geospatial coverage of oil palm plantations in the Philippines is still limited and generally inaccessible, the above figures may provide an overview of the level of exposure of natural resources and indigenous peoples from the long-term effects of the oil palm industry.

**Deforestation.** While national data on deforestation brought by oil palm plantations is still difficult to estimate, similar consequences as in Indonesia (where conversion to oil palm accounts for 16 percent of deforestation in 2011) may be felt here if oil palm plantations continue to expand at the expense of natural forest in the Philippines (Carandang, et.al. 2013).

**Loss of biodiversity.** Denuded forests come with loss of habitat of species. Further, oil palm plantations support much fewer species than forests do and often also fewer than other tree crops (Fitzherbert et al., 2008).

There have been a number of studies showing the detrimental effects of oil palm expansion on mammals, lizards, birds, arthropods, and insects. According to the International Union for Conservation of Nature (2018), “oil palm expansion could affect 54 percent of threatened mammals and 64 percent of threatened birds globally.”

**Carbon emissions.** By converting forests into plantations, intact forests are cleared releasing the carbon stock into the atmosphere contributing to greenhouse gas emissions. With the expansion of oil palm plantations in forest areas and ancestral lands – housing the last primary forests of the country – oil palm trees will not be able to sufficiently compensate the carbon stock emitted from clearing the forests.



Primary forest displaced for palm oil production on Palawan. Photo by an anonymous source. Photo retrieved from <https://imgs.mongabay.com/wp-content/uploads/sites/20/2015/10/03142754/1.jpg>

Between 2003 and 2010, rapid deforestation took place in Southern Palawan's forests, with closed forest cover declining from around 130,000 to 28,000 hectares. This has resulted in major impacts on the carbon stock in the region's forests – from 16 million tons of carbon in 2003 dropping to 9.2 million tons in 2010 (WAVES, 2016).

**Water scarcity.** With the loss of forest cover, rainwater is rapidly drained from the watershed. In Pulot Watershed in Southern Palawan, 1,012 hectares of oil palm trees (coming second to coconut as the most planted crop in the watershed) have been planted as of 2014. Clearing of the closed forest for these plantations reduced the water supply in the area as irrigated paddy fields have decreased from 2010 to 2014.

### On Cultural Traditions

**Sacred Areas.** In the village of Pulot-II in the municipality of Safronio Española in Palawan – the municipality with the highest percentage of

land covered by oil palm plantations – indigenous burial and hunting grounds are impinged due to the encroachment of oil palm plantations in the ancestral domain within the municipality. The indigenous inhabitants “perceive the destruction of these historical and natural landmarks as an obliteration of their history and collective memories of the past” (ALDAW, 2014).

**Traditional agricultural practices.** With the expansion of oil palm plantations in forests, indigenous peoples are losing fallow lands (or second-growth forests) for swidden farming. In cases where there are available fallow lands, they are now leased out (as opposed to the traditional practice of land-borrowing) by their fellow indigenous smallholders as lands become limited and converted for planting oil palm trees (Montefrio, 2015).

Indigenous peoples who are forced to give up their lands and live in the lowlands – alienating them from their customary practices and



Philippine indigenous people driven from home. Photo by ABS-CBN News. Photo retrieved from <https://sa.kapamilya.com/absnews/abscbnnews/media/2018/news/04/19/lumad-davao.jpg>

sovereign control over their land – face unreliable sources of incomes and increased dependency on purchased food challenging the state of their food security in the household level (ALDAW, 2014; Montefrio, 2015). “Indigenous households are further marginalized as they are drawn into the local economy’s periphery due to an inability to access their surplus for food and/or profit” (Montefrio and Dressler, 2018).


### Violence against Communities

Faced with opposition from indigenous peoples, conflicts over palm oil plantations have led to violence against communities and rights defenders. In many cases, corporations would hire private armies, vigilante groups, and would

seek the assistance of the military to protect the investment.

With armed support, oil palm corporations are able to drive out indigenous peoples from their land and silence opposition. In cases where the military is involved, opposition to plantations leads to *red-tagging* and accusations that community members are supporters or members of the communist rebel group, the New People’s Army (NPA).

<sup>2</sup> The international fact-finding mission was conducted from 6 to 10 May 2012, in Tingalan and Bagooboc, in Opol, Misamis Oriental. It was a joint effort by Pesticide Action Network Asia and the Pacific (PAN AP), Kilusang Magbubukid ng Pilipinas (KMP), Asian Peasant Coalition (APC), Sentro Kitanglad and the Kalumbay Regional Lumad Organization, among other organizations, to investigate complaints by indigenous peoples (Quijano, 2012). Related to this, PAN AP also investigated reports of adverse effects of chemicals used in banana and oil palm plantations in Mindanao on 15 to 18 January and 10 to 13 May 2012 (PAN AP, 2013).



A joint fact-finding mission in Northern Mindanao in 2012<sup>2</sup> documented cases of human rights violations linked to oil palm plantations, including illegal arrests, holding farmers at gunpoint, and forced displacement of indigenous peoples (Mandawa, 2013; Quijano, 2012). In the province of Misamis Oriental, members of Pangalasag, an indigenous peoples' group in opposition to the establishment of an oil palm plantation in their ancestral domain, reported receiving death threats. In October of 2012, Pangalasag's chairperson, Gilbert Paborada, was shot dead by an unidentified assailant (Albasin, 2012).

## ANALYSIS

Small agricultural producers such as the indigenous communities need financial and infrastructure support to survive in a liberalized global economy. While they have the advantage of having land, they require access to financing to procure the required inputs and attain economies of scale in their production.

It would have thus been sensible for the government to invest in this much-needed assistance towards a more inclusive and sustainable development in the country. However, for various reasons, primarily because of lack of the needed funds, it opted to invite the private sector to invest in agriculture, such as in oil palm, hoping that these investments will generate jobs, augment income and provide the needed basic services of rural households.

**Foreign Investments in Oil Palm.** These investments are envisioned to address widespread poverty in rural areas by providing rural employment, increasing income, and ensuring food security.

The Philippine Government prioritized oil palm given the increasing demand for oil palm products

and the perceived availability of land, particularly in Mindanao and Palawan. It targeted foreign companies to invest in the country principally those large firms that are already into oil palm business in Malaysia, Indonesia, and Singapore.

In its "Philippine Palm Oil Road Map 2014 to 2023," the Philippine Coconut Authority, which is the government body overseeing palm oil production, foresees that 300,000 farmers will receive benefits like jobs, schools, health care, and housing due to the cultivation of new oil palm plantations covering 350,000 hectares by 2023.

**IP Lands as Target Areas.** Given this context and commodity prerequisites, the Philippine Palm Oil Road Map eyed the utilization of under-productive and idle areas. These areas would include the ancestral domain of indigenous peoples and former logging concessions areas. If existing policies preclude for such use, amendments to these policies and executive orders will be pursued to allow access of these companies to these resources.

Ancestral lands have been attracting investors, not only for oil palm but for other commodities as well, given the vast area coverage. With their legal recognition under the Indigenous People's Rights Act (IPRA or Republic Act 8371) and the issuance of Certificates of Ancestral Domain Titles (CADTs), more than 18 percent of the total land area of the Philippines covering some 5.4M hectares are now covered by CADTs. This has been considered a landmark legislation. Unfortunately, implementation has been slow, problematic, and challenging.

**Is the Strategy Fruitful?** Recent reports, however, showed that such a strategy is not beneficial to indigenous communities. The scheme has resulted in unfair labor practices, exclusion of communities, and disrespect of cultural



traditions. In many instances, these mishandlings have resulted in loss of tenure security, conflicts, and violence.

Conventional technological practices of these corporations have also impacted negatively on the environment. The ancestral domains of indigenous peoples play a critical role in the ecosystem particularly in regulating water and conserving biodiversity. Transforming them indiscriminately into agricultural production areas has resulted in environmental destruction with a number of negative consequences.

Moreover, the use of pesticides and other chemical inputs has adverse impacts on the health of the community. This also contaminates the water supply of those living downstream.

***Delusion of the Strategy.*** It is not a sound strategy to entrust development to a corporation or an institution when it is not its priority objective. The corporation may have adopted business and human rights principles and even instituted corporate social responsibility, but they come secondary to their primary goal of increasing return on investment (ROI). When push comes to shove, ROI is first and foremost consideration for the corporation.

It is the government's responsibility to ensure that its development objectives are attained. Unfortunately, administrative lapses in the leasing of the lands are a common occurrence. The downside to these investments, especially if not properly monitored, is that they displace communities and degrade the environment. And based on the reports, these are already happening. These negative impacts on the communities and resource utilization have already resulted in abuses and violence.

Moreover, what may not be clear to investors (and even to the government) is that IPs treat their lands and forest resources with reverence. It is the source of their food, medicine, and a sacred place for worship. It is much more than just production areas; it is part of their lives. They also have agricultural practices such as swidden agriculture that they have been practicing for generations. In this practice, some lands may appear to be idle and unproductive, but it is their way of land conservation by allowing the soil to regenerate. These differences in the use and management of ancestral lands should have been considered in planning and implementation.

Many of these emerging problems may have been avoided if only the communities have enough leverage in dealing with corporations. Land titles, or CADTs in the case of IPs' ancestral domain, would have provided them the power in negotiating for better partnership arrangements.

## RECOMMENDATIONS

The sad experiences of IPs with oil palm companies are not entirely new. Many complaints have been filed against business corporations on unfair transactions and human rights abuses. Thus, the United Nations Human Rights Council endorsed in 2011 the UN Guiding Principles on Business and Human Rights (UNGPs-BHR) as part of implementing the UN "Protect, Respect and Remedy"<sup>3</sup> Framework (OHCHR, 2011).

Using the UNGP on Business and Human Rights "Protect, Respect and Remedy" Framework, recommendations in addressing current oil palms concerns are forwarded.

<sup>3</sup> PROTECT: States must prevent, investigate, punish and redress human rights abuses that take place in domestic business operations. RESPECT: Business enterprises must prevent, mitigate and, where appropriate, remedy human rights abuses that they are involved with, including those abuses that may have been carried out by their suppliers or partners. REMEDY: When a right is violated, victims must have access to an effective remedy.





## **Protect**

Other than ensuring that FPIC is followed, a good way to protect the indigenous communities especially those wanting to lease their lands or enter into a joint venture with agricultural corporations is to strengthen their tenurial rights over ancestral domain.

Ideally, this would mean securing legal titles recognized by governments. In the absence of such titles, government agencies should strengthen and strictly enforce safeguards and government regulations to protect tenurial rights given to indigenous peoples, may they be right to use, lease, or other management agreements.

Contracts with corporations especially those facilitated by the government should follow government processes and protocols and be regularly monitored. Both government and corporations must ensure that the communities to be affected are involved in all stages of negotiation and are able to fully comprehend all aspects of the proposal. Partnership with CSOs is highly encouraged to provide the needed support.

CSOs should continue to provide capacity-building support to local communities by conducting training courses on negotiating contracts, proposal development, understanding financial statements, and the like. Further, CSOs must continue documentation and monitoring of investments that affect rural communities such as IPs.

Related to monitoring, official spatial data that includes technical descriptions and geographic boundaries of plantation sites and other investment areas must be made available, for government to observe overlaps with ancestral domains that signify potential conflicts.

It is also recommended that government, with the private sector, CSOs, and communities, embark on a *comprehensive* study on the environmental, social, and economic impacts (both positive and negative) of oil palm plantations. Such initiative shall provide basis on where we can strike the balance between meeting the domestic demand for palm oil and securing the rights of smallholders, while preserving our environment and natural resources. The study should also include assessments of the productivity of existing plantations and infrastructure (ex. oil mills, farm-to-market roads, etc.) vis-à-vis the needed volume of palm oil for sufficient local consumption.

## **Respect**

Corporations should observe FPIC in engaging IP communities. It is the responsibility of NCIP to ensure that all corporations investing in ancestral lands respect this process. Regular consultations, updating, and dialogues should be observed.

However, government agencies and corporations alike should remember that indigenous peoples have *“the right to say no,”* and may decline the entry of investments into their lands. Project negotiations are not merely avenues where IPs, corporations, and governments work out terms and implementation mechanisms for projects that are sure to push through. During discussions on projects, the right to say "no" should be reiterated and emphasized. When this right is exercised, it should be respected.

## **Remedy**

It is also sensible for corporations to set up help/grievance desks to provide a venue for complaints and other concerns.




Complaints and grievances should be properly documented and addressed. Agencies may also dedicate offices that may receive and process such complaints. Partner CSOs and/or legal offices should be tapped. Remedial processes can start with the grievance desk of a company, if it has one. If not, the complainant can get an endorsement from the Commission on Human Rights (CHR) before filing a case in the appropriate legal court.

It is also important that exit strategies such as contract cancellation or termination should be in place even before the contract is signed.

In addition, given that these investments are continuing and that more ancestral lands of IP communities are targeted, the establishment of local help desks that IPs can contact is recommended. This would be convenient for IPs who are residing in remote locations. The provision of help desks can be coordinated with the CHR. ■

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## DISCLAIMER

The views expressed in this study do not necessarily reflect those of ILC.

## ACRONYMS

ABERDI	A Brown Energy and Resources Development, Inc.
AGMIHICU	Agtulawon-Mintapod Higaonon Cumadon
AGPI	Agumil Philippines, Inc.
ALDAW	Ancestral Land/Domain Watch
AMRC	Asia Monitor Resource Centre
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
ARBs	agrarian reform beneficiaries
AVA/s	Agribusiness Venture Agreement/s
BARMM	Bangsamoro Autonomous Region in Muslim Mindanao
CADT	Certificate of Ancestral Domain Title
CALT	Certificate of Ancestral Land Title
CALG	Coalition Against Land-Grabbing
CARL	Comprehensive Agrarian Reform Law
CBFM	Community-Based Forest Management
CSOs	civil society organizations
CTUHR	Center of Trade Union and Human Rights
DA	Department of Agriculture
DENR	Department of Environment and Natural Resources
DTI	Department of Trade and Industry
EPGC	Eastern Petroleum Group of Companies
FFB	Fresh fruit bunches
FPIC	Free, Prior, and Informed Consent
FPPI	Filipinas Palm Oil Plantations, Inc.
IFMA/s	Integrated Forestry Management Agreements
IP/s	Indigenous people/s
IPRA	Indigenous People's Rights Act
KASAMAKA	Kapunungan Sa Mga Mag-uuma sa Kaanibungan
LBP	Land Bank of the Philippines
NCIP	National Commission on Indigenous Peoples
NGPI	NDC-Guthrie Plantations, Inc.
NTFP/s	non-timber forest product/s
NTFP-EP	Non-Timber Forest Products Exchange Programme
PPDCI	Philippine Palm Oil Development Council, Inc.
PPOIDC	Palawan Palm Oil Industry Development Council
PPVOMI	Palawan Palm & Vegetable Oil Mills Inc.
PCA	Philippine Coconut Authority
PSA	Philippine Statistics Authority
ROI	return on investment