

OF VARIANTS AND VARIANCE: DATA GATHERING ON AND REPORTING HUMAN RIGHTS VIOLATIONS DURING THE COVID-19 PANDEMIC

2021 Philippine Land and Resource Conflict Monitoring Report



Background of Study

In recent years, the Philippines has been in the global spotlight for the growing threats to its democracy. While human rights violations have persisted in the country for many decades, government policies and pronouncements by its leaders provided a seeming cloak of immunity for State agents, who commit human rights violations (HRVs) (UNHRC, 2020), and apathy for many.

The civic space to discuss and promote the protection of human rights have correlatively shrunk with many media outlets choosing their words “wisely” to avoid harassment or even closure, as one major media industry player suffered. Worse, human rights defenders (HRDs) have been red-tagged, criminalized, and even murdered. Those fighting for economic and social rights have been labeled as anti-government or an insurgent (UNHRC, 2020). The COVID-19 pandemic amplified the HRVs with the populace subject to mobility limits and authorities given the power to restrict rights in the guise of protecting the public from infection.

Land and resource conflict, being embedded in the social structures of the Philippines, became a Petri dish for HRVs. The year 2021 appears to be no different from the past years.

HRVs persist and the opposing interests remain the same. In some cases, HRVs are reported in the same geographic areas that have reported them in the past years or even decades. It also seems that decades-long conflicts have no resolution in sight.

In 2018 and 2020, land and resource conflict monitoring reports¹ in six Asian countries (including the Philippines) were prepared through the Land Watch Asia (LWA) Campaign, aiming to contribute in evidence-based advocacies at the national and regional levels. This 2021 land and resource conflict monitoring report for the Philippines serves as a continuation of the initiative and updating of data.

It is thus important to gather data to identify stakeholders, geographic areas, and circumstances that allow land and resource conflict to fester. In particular, the study:

- presented the prevalence and types of land and natural resource conflicts;
- analyzed the nature and causes of land and resource conflicts;

¹ “In defense of land rights: A monitoring on land conflicts in six Asian countries” volumes 1 (2018) and 2 (2020) can be accessed at <https://angoc.org/portal/in-defense-of-land-rights-a-monitoring-report-on-land-conflicts-in-six-asian-countries/> and <https://angoc.org/portal/in-defense-of-land-rights-a-monitoring-report-on-land-conflicts-in-six-asian-countries-vol-2/>, respectively.

- explained how conflicts are resolved and how communities respond; and,
- outlined recommendations to address such conflicts.

Definition of concepts used in the study

Following the 2018 study on Land Conflicts and Rights Defenders in the Philippines (Salomon, 2018; Salomon, 2019), *conflict* is defined as “a situation wherein two or more stakeholders compete for control over land and/or resources, including decision-making and truth’ (pp. 19).

This study investigated three facets of land and resource conflicts namely: a) case, b) relationships, and c) incidents.

The **case** details the storyline of the conflict. It describes the location, duration, size of land or resource in conflict, and the types of land and resource involved based on the actual use of communities. In this study, the types of land and resource in conflicts were summarized in five categories as follows:

- Agricultural lands used for growing crops, raising livestock, as well as agroforestry, people-based plantations/community plantations and other agricultural activities in the lowlands and forests/uplands.
- Ancestral domains or “areas generally belonging to indigenous cultural communities/ indigenous peoples (ICCs/IPs) comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare” (RA 8371, 1997).
- Resources used in fishing, aquaculture, and use of fishponds and coasts or resources used/accessed for activities related to breeding, rearing, and harvesting of fishes and other aquatic resources utilized as food.
- Rural residential area or land in a rural setting used for dwellings and are not primarily associated with agriculture, fishing, and/or an indigenous territory.
- Urban residential area or land in an urban/city setting consisting predominantly of residents.

Relationships are sets of competitive interactions between two or more stakeholders involved in a conflict. In this facet, the study explores the actors in conflict, the type of conflict, and the actors’ response to conflict. The key stakeholders in conflict were categorized into rights holders and duty bearers.

Rights holders refer to the individuals or communities whose rights to land under contestation are held under law, tenure reform/s or custom, and whose relationship to land is inherent to their survival and identity. This includes smallholder farmers/producers, landless farmers, tenants, indigenous peoples (IPs), fisherfolk, and forest users, dwellers and protectors. Rights holders also include individuals or communities who are physically occupying the land albeit lacking legal ownership or tenure rights such as informal settlers.

Duty bearers are entities identified by the rights holders as competitors and enablers with more power and whose claim over land under contestation is not inherent to their survival and

identity. This includes private companies/corporations, powerful individuals, government, State-owned enterprises, the military, as well as other rights holders.

Conflicts were categorized into six types which are enumerated and defined below:

- Private investments – conflicts between communities and privately-owned corporations
- Government projects – conflicts involving government-led infrastructure projects, demolitions or clearing operations, and military actions
- Clashing tenure systems – conflicts brought by inconsistencies in laws/policies, or clashes between laws and customs
- Resource conflicts – conflicts involving the use of resources designated for communal use, which include conservation areas and national parks, protected forests, forest use, and fisheries
- Resistance to land reform – conflicts involving landlords against landless or tenant farmers including resistance to land distribution, and prevention of land installation within the context of land and resource tenure reforms as legally-mandated by the State
- Public-private partnerships – includes economic zones/land concessions, projects on generating or harnessing power/electricity, and tourism, wherein the government and the private sector jointly implement an economic venture

To further describe the relationship of stakeholders involved in the conflict, the study looked into their **responses to conflict** which were categorized into the following:

- Withdrawal/Escape – leaving the conditions of conflict, often leading to abandoning or surrendering their rights to obtain conditions of non-violence;
- Retaliation – returning an attack or violence;
- Peaceful demonstration and other non-violent acts – non-violent conflict management and/or resolution strategies which may include, among others, dialogues, facilitation, mediation, and submission of petition letters; and,
- Conflict Management – a range of actions which includes:
 - Negotiation – direct parties in conflict engage in dialogue to arrive at a workable solution;
 - Court, National Human Rights Institution (NHRI), Legal remedy – conflict management approach which uses the legal system to facilitate the solution to conflicts and to seek justice - usually through courts, NHRIs or counsel, among others.
 - Administrative mechanism – parties approach administrative offices such as grievance desks of companies, local government units, and government agencies, in an attempt to resolve the conflicts; and,
 - Customary mechanism – using customary/traditional rules and laws in solving conflicts.

Incidents refer to events or a string of events that indicate an ongoing conflict. This facet describes the manifestations of a conflict such as the number of individual and/or community human rights violations (HRVs), number of victims, type of violation, sector of victims, alleged perpetrators, as well as responses to incidents of HRVs. Specifically, the study describes HRVs committed against the rights holders such as the following:

- Physical violations such as killing, injury, disappearance, detainment, eviction;
- Psychological violations such as grave threat, the threat of displacement, harassment/intimidation, persecution trauma, including threats of physical violations (of killing, injury, detention);

- Political violations such as criminalization, dispossession, forcible entry, trespassing or encroachment, tagging/coloring/labelling (“red-tagging”);²
- Economic violations such as destruction of property, termination of jobs/employment, unfair contracts, denial of benefits; and,
- Ecological violations such as contamination of resources, pollution, deforestation, destruction of biodiversity, depletion of forest/wildlife/ecosystem, depletion of productivity, increased climate vulnerability.

The study also looked into incidents of human rights violations committed against an individual or community considered as land and resource rights defenders. This was based on Global Witness’ definition of land and environmental defenders who are:

“People who take a stand and carry out peaceful action against the unjust, discriminatory, corrupt or damaging exploitation of natural resources or the environment. This covers a broad range of people. Defenders often live in communities whose land, health and livelihoods are threatened by the operations of mining, logging, agribusiness companies or other industries. Others will be defending our biodiverse environment. Others will be supporting such efforts through their work – as human rights or environmental lawyers, politicians, park rangers, journalists, or members of campaigns or civil society organisations, for instance.” (p. 40)

Perpetrators are actors identified by rights holders who committed violence against rights holders as well as land and resource rights defenders.

Methodology

The Land Reform Monitoring Initiative started back in 2012 by ANGOC and the Land Watch Asia (LWA) Campaign as our contribution in enhancing capacities of CSOs and land rights advocates for evidence-based policy work. Initial Land Reform Monitoring Reports focused on assessments on the legal framework and of policy implementation.

As land conflicts over time have increased in number, coverage, and intensity – resulting in violence and violations of human rights – ANGOC and LWA campaign produced studies in 2018 on land conflict in six countries in Asia (including the Philippines) to contribute towards a better understanding of land and resource conflicts, by providing evidence-based data for policy towards the prevention and resolution of such conflicts.

However, the use of different methodologies in the countries during the 2018 initiative limited the scope for consolidation, comparison, and analysis of data at national and regional level. Thus, in 2020, a methodology was formulated and implemented across the partner-countries. It also included the use of a common database developed for recording and analyzing land conflict data gathered from different sources. The said database was further refined for the updating of data for the 2021 land and resource conflict monitoring initiative.

The study consists of primary and secondary data. Primary data was sourced from government agencies and from partner-communities through case profile forms.

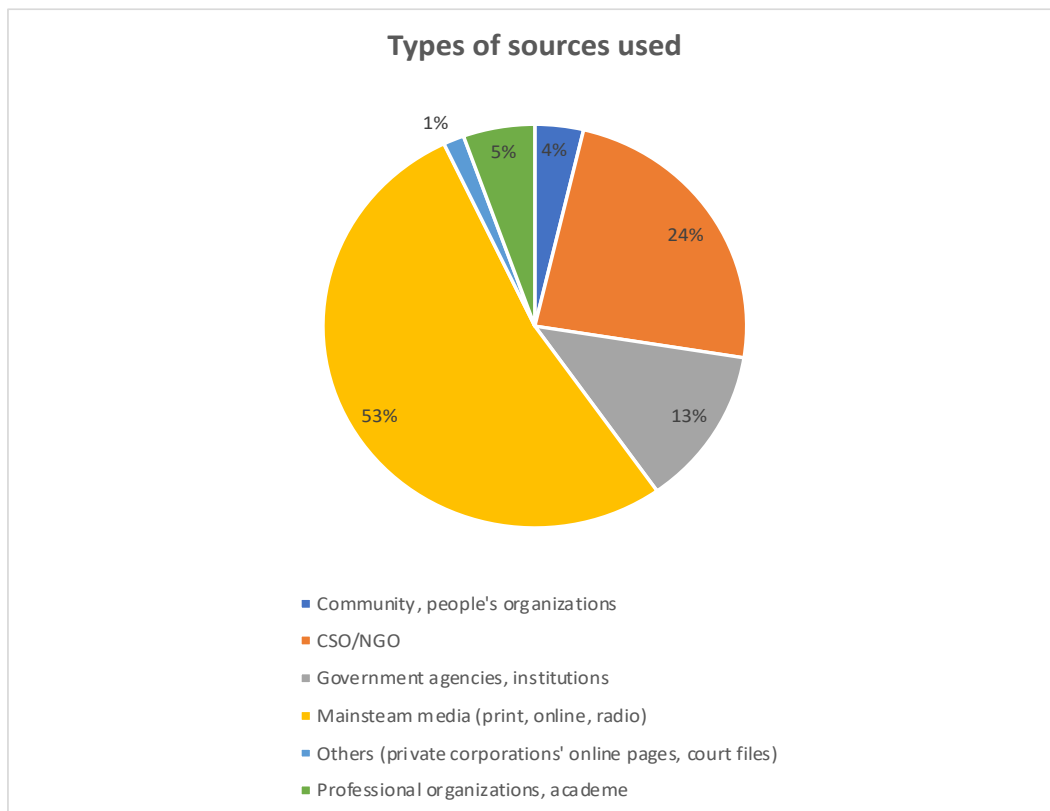
Because of the limitations on mobility brought about by the COVID-19 pandemic, secondary data were compiled from online and offline mainstream and alternative media reports. Due to the prevalence of fake news, cases and incidents found online were only counted if they were

² In the Philippine context, “red-tagging” is the term often used when activists, individuals, or groups are alleged by State institutions to be members or supporters of the Communist Party of the Philippines, the National Democratic Front, and/or the New Peoples’ Army.

published on credible online sources. Apart from mainstream news websites, these credible sources include accounts, platforms or websites of Peoples Organizations (POs) and civil society organizations (CSOs). To further test the veracity of the reports, the names, dates, locations, size of land or resource contested, rights holders and duty bearers involved are validated with two or more other online sources.

The pie chart below shows the distribution of data sources used in the study.

Figure 1. Distribution of Sources of Data



From a total of 567 sources, it can be seen that primary sources only constitute about 17 percent of all the data gathered. The rest, save for the component referring to court case in other sources, can be considered secondary sources. Only 13 percent of the data recorded were sourced from government agencies because of the difficulty in retrieving data from them since there is scant information that government agencies readily publish online. Most of the recorded data from the government were cases gathered in 2018 and 2020 that remained unresolved by 31 December 2021. There were no additional government-data gathered for the 2021 land and resource conflict monitoring as no responses were received from the government offices during the data collection process.

Some 53 percent of the sources pertain to mainstream media -- the data gathered were culled from newspapers and online platforms. News broadcast on radio were also a source of the data.

The data were gathered from 01 January 2021 to 31 December 2021. Throughout the year, data were validated and the reviewed case profiles from POs and CSOs were compiled

starting in October 2021 until December 2021. Ultimately, the data were encoded, processed, and cleaned³ until February 2022.

The data, findings, and initial recommendations were then presented in a roundtable discussion (RTD) with POs and CSOs in April 2022. The draft report was circulated for final feedback to the RTD participants. Inputs received were incorporated in this final report.

Scope and Limitations

The relevant data in the study is limited to those gathered within the calendar year starting on 01 January and ending on 31 December 2021. They include *structural* land and resource conflicts ongoing in 2021; incidents of human rights violation involving land and resources that occurred within the same time frame; and, conflicts and incidents in rural and urban areas. Structural conflicts refer to those caused by the issuance of policies or decisions from public officials, which then affect the economy, politics, and society.

Another limitation or challenge encountered in the study is the process of securing data from government agencies. In requests for information, the agency may take time to respond or the data requested is still being processed or encoded. There are also instances where government simply does not gather data for a specific information.

Major Developments in 2021

To provide some context on the data gathered, significant events during the year are presented in this section. While these events may provide context, it must be emphasized that a concrete correlation with the data gathered cannot always be established. A deeper investigation and study, in most instances, should be initiated to provide the nexus between the event and the data.

COVID-19 Pandemic

The Philippines (and the world for that matter) continued dealing with COVID-19 in 2021. While vaccines against COVID-19 started to be administered towards the end of the first quarter of the year, new variants of the virus also emerged and found their way into the country.

The variants that emerged had different characteristics, but they were consistent in being more contagious than the preceding one. Thus, major spikes in positive cases could be observed throughout the year, as the variants crossed into the Philippine territory.

The quarantine restrictions during the COVID-19 pandemic have not hindered land and resource conflict-related human rights violations against rights holders and their defenders. In 2020, the first year of the pandemic, human rights violations related to land conflicts were inflicted on 287 individuals and 58,295 households (Salcedo, 2021). In fact, incidents of human rights violations were highest during the first four months (March, April, May, and June) of “hard lockdowns” to curb the spread of COVID-19. Red-tagging by the military and police, which intimidate NGOs and CSOs through visits and raids, also persisted during the pandemic (OHCHR, 2020).

³ Data cleaning is the process of improving the quality of data by correcting inaccurate records from a record set. The term specifically refers to detecting and modifying, replacing, or deleting incomplete, incorrect, improperly formatted, duplicated, or irrelevant records, otherwise referred to as “dirty data,” within a database. Data cleaning also includes removing duplicated data within a database” (Allen (Ed.), 2017 – in The SAGE Encyclopedia of Communication Research Methods).

With the arrival of vaccines coupled with the pressure from the business sector to increase economic activity, quarantines or lockdowns implemented by the government evolved to less stringent measures where people were generally mobile. Nevertheless, the police remained in charge in enforcing restrictions.

Bloody Sunday

On 07 March 2021, human rights defenders were either killed or harassed in simultaneous raids conducted by both police and military agents in the CALABARZON region. The raids were conducted at pre-dawn. As the date fell on a Sunday, the day immediately gained infamy and has been referred to as “Bloody Sunday.”

Nine HRDs died in the raids that the UNHCHR immediately condemned (UNHCHR, 2021). Among those killed included a labor rights activist, an activist representing fishing communities, two activists advocating for housing rights, and two indigenous peoples activists (UNHCHR, 2021). The NBI would later file murder complaints against 17 policemen as their investigation found that the operatives had “deliberate intent to kill” in the conduct of the raids (Bolledo and Buan, 2022). A total of 34 policemen have since been charged for murder for their involvement in the Bloody Sunday killings (Cabico, 2022).

A few months later, the UN’s Michelle Bachelet called on the government to stop the rhetoric that justify unfettered killings by State agents (Santos, 2021). It should be noted that Bloody Sunday happened after the president endorsed killings of persons connected to the communist insurgency (Regencia, 2021).

Kaliwa Dam Construction

In 2021, the Commission on Audit (COA) released its 2020 audit report showing that the construction of the Kaliwa Dam Project proceeded even if certain documentary requirements had yet to be fulfilled (Sarao, 2021). COA found that Metropolitan Waterworks and Sewerage System (MWSS) and its contractor did not comply with the requirements of the National Integrated Protected Areas System (NIPAS) law and neither did they secure requisite documents from the National Commission on Indigenous Peoples (NCIP) (Sarao, 2021). The MWSS maintains that the construction activity is outside the area of any ancestral domain.

This infrastructure project is touted by the government as the solution to Metro Manila’s dwindling water supply (Sarao, 2021). Incidentally, the project is funded by a loan from China and to be constructed by a Chinese contractor. The contractor, China Energy Engineering Corporation, was reported to have started construction even if many indigenous people stand to be displaced (Sarao, 2021).

Other controversies continue to surround the Kaliwa Dam’s construction, the *Dumagats* assert that their right to free, prior, and informed consent (FPIC) were violated in the process of arriving at a Memorandum of Agreement (MoA) between the *Dumagats* and the MWSS (Jocson, 2022). The negotiations and the signing of the MoA happened on 24 and 29 January 2022 in General Nakar, Quezon while the place was under Alert Level 3, signifying a high incidence of COVID-19 cases (Jocson, 2022). Thus, some IP representatives felt the MoA was rushed. In addition, 20 IP representatives were barred from participating in the negotiation process because they were not vaccinated from COVID-19 (Jocson, 2022).

Issuance of Executive Order No. 130, s. 2021.

The president signed Executive Order (EO) No. 130 on 14 April 2021. The EO lifts the 9-year ban on new mining agreements (Bisenio and Guzman, 2021) imposed by EO 79. The rationale given by the Department for Environment and Natural Resources (DENR) for the EO is that the Philippine natural resources remain generally untapped and the lifting of the moratorium would generate PhP 21 billion for the economy (Bisenio and Guzman, 2021). The EO itself says only five percent of the country's mineral resources has been extracted (EO 130). It would also supposedly provide raw materials for the government's Build, Build, Build Program (EO 130).

It has been observed that mining does not contribute significantly to the national economy, as the sector only accounts for 1.02 percent of the country's GDP (Bisenio and Guzman, 2021). This should be assessed in light of the possible damage the EO would cause to the environment and communities. The erstwhile moratorium also limited full blast mining, which is now predicted to be in use once again (Bisenio and Guzman, 2021). Even local government policies that protect the environment have been reversed, as South Cotabato's ordinance banning open pit mining has been lifted by the Sangguniang Panlalawigan (Sarmiento and Lagare 2022), but such resolution was vetoed by the province's governor (Taqueban and Lasco, 2021).

Concerns regarding the EO immediately grew following the renewal of the mining agreements with OceanaGold and Saguitarrius Mines, Incorporated (SMI) for mines in Didipio, Nueva Ecija and Tampakan, South Cotabato, respectively (Taqueban and Lasco, 2021).

OceanaGold's operations was controversial at one point when the Commission on Human Rights (CHR) declared the company's demolition of community members' houses as violations of human rights (UNHRC, 2020). OceanaGold's operations have also changed the landscape, prompting a member of the IP community of Tawali-Ifugao to observe that the mountain he used to see is gone (Taqueban and Lasco, 2021).

SMI's Tampakan Copper and Gold Mining projects would affect the Buayan, Taplan, Padada, Alip, and Manteo river systems in Southern Mindanao. Any adverse effect would include the Ligawasan Marsh, one of the largest wetlands in the country, and ultimately, the Davao Gulf and Sarangani Bay (Taqueban and Lasco, 2021). The operation of the Tampakan mine is touted by the Chamber of Mines of the Philippines to bring post-pandemic recovery to the economy that would outweigh any negative impacts (Sarmiento & Lagare 2022).

Supreme Court ruling on the Anti-terror Bill

As the year was about to end, the Supreme Court released its decision on the question of constitutionality of the Anti-Terrorism Law. Two controversial provisions were declared unconstitutional by the Court.

It can be recalled that the European Parliament previously voiced its collective concern over the Anti-Terrorism bill. In a resolution, the European Parliament stated that it expresses serious concern at the recent adoption of the Anti-Terrorism Act and recalls that in no circumstance can advocacy, protest, dissent, strikes, and other similar exercise of civil and political rights be considered terrorist acts (Europarl, 2020). The UN High Commissioner for Human Rights also viewed the law as one having a chilling effect on human rights and humanitarian work and would dilute human rights safeguards (UN News, 2020).

Nevertheless, the Supreme Court has so far only held two contentious provisions as unconstitutional. It considered the proviso under Section 4, which defines what constitutes an

act of terrorism, to contravene the freedom of expression clause of the Constitution and likewise, for being overbroad. The proviso states:

...Provided, That terrorism as defined in this section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, which are not intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety.

The Supreme Court found the underscored clause to shift the burden of proof on the accused rather than on the prosecution. This also creates a chilling effect for any person exercising his right to freedom of expression to consider first what he or she will utter will be interpreted by authorities as an act of terrorism and allowing the same authorities to implement a policy of “arrest now and explain later.”

It also found Section 25 as unconstitutional. Section 25 provides for the modes of designation of a person as a terrorist. The Supreme Court struck down the second and third modes of designation provided by law for lack of sufficient standards to guide the Anti-Terrorism Council, the body tasked to designate terrorists. The law also does not provide remedies for erroneous designations.

Filing of Certificates of Candidacy for the 2022 Elections

In October 2021, election season in the Philippines unofficially began. While the campaign period would not officially start until February 2022, aspirants for elective offices had nevertheless revealed themselves and had started barnstorming localities. Many fiery issues had once again been inserted in discourses for politicians to address and propose solutions.

Main Findings

Prevalence of Land and Resource Conflict in the Philippines

Based on the data gathering process described above, there were 235 cases of land and resource conflict in 2021. These cases involved 1,978,115.24 hectares that affected 551,645 households (see Table 1).

Table 1. Total number of cases, area, and households affected by land and resource conflicts in the Philippines

Ongoing cases	Number
Total number of cases	235
Total number of hectares affected	1,978,115.24
Total number of households affected	At least 551,645

However, in order not to skew the data, the hectares affected did not include the area involving the maritime conflict at the Kalayaan Group of Island and the Bajo de Masinloc between the Philippines and China. These conflicts involve 16,834,923 and 15,000 hectares, respectively.

Scarborough Shoal/Bajo de Masinloc

Scarborough Shoal, which is also known as Bajo de Masinloc, is a high tide elevation and as such, the Philippines has a territorial sea of 12 nautical miles extending from the edges of Scarborough Shoal (Carpio, 2016). The rocks of *Scarborough Shoal* are located within the 200 nautical miles EEZ and 200 nautical mile continental shelf of the Philippines (DFA 2012). It is not part of the Spratlys and is part of the Province of Zambales (DFA 2012).

Scarborough Shoal is uninhabited. Nevertheless, it has been long considered part of the Philippines dating back to the Spanish colonial era (Baviera and Batongbacal, 2013). It is only 124 nautical miles from the main archipelago's coastline (Baviera and Batongbacal, 2013). This proximity makes Scarborough Shoal important to the Philippines in terms of national security (Baviera and Batongbacal, 2013). Likewise, being a rich fishing ground, the area is also important in the light of food security (Baviera and Batongbacal, 2013).

China claims Scarborough Shoal as its territory on the basis of the Nine Dash Lines appearing in certain maps (Carpio, 2016). China considers those within the Nine Dash Lines, now Ten Dash Lines, as its territory and effectively claims 80 percent of the Philippines' EEZ (Carpio, 2016). This Philippine territory was seized by China in 2012, though since it is Philippine territory, Justice Antonio Carpio more accurately describes it as an invasion (Carpio, 2016). In any event, the Arbitral Tribunal struck down the Nine-Dash Lines to be in violation of the UNCLOS especially since China would have extended its waters over 350 nautical miles from land (Carpio, 2016).

The Philippines considers China's occupation of the Scarborough Shoal as a violation of its sovereignty and international law. The Philippines dismisses China's historical claim over the Scarborough Shoal as its territory because China never exercised any of the means under international law to make Scarborough Shoal its territory (DFA, 2012). The Philippines also asserts that China cannot claim the waters around Scarborough Shoal as its territory just because they are their traditional fishing waters. Fishing is an economic activity which cannot legally give rise to a territorial claim under international law (DFA, 2012).

Taiwan also claims Scarborough Shoal as part of its territory.

2021 Incidents

Chinese vessels continued to gather in parts of the Scarborough Shoal. The seeming flotilla is made up of the Chinese Coast Guard and suspected Chinese naval militia (Barker, 2021). The Philippines filed successive diplomatic protests that never swayed the Chinese government. It continues to assert that the waters are part of its territory. In fact, in May of 2021, the Philippines observed at least 287 Chinese vessels that entered the area (Barker, 2021).

Filipino fishermen are wary of venturing into the disputed waters for fear of being apprehended by the Chinese Coast Guard (Barker, 2021). Many fishermen have lost their livelihood. Many big boat owners have even chosen to sell their boats and abandon fishing altogether (Barker, 2021).

To illustrate the enormity of these conflicts, one may refer to the two of the largest cities in the country, Quezon City and Davao City, which measure 16,113 hectares and 244,400 hectares, respectively. As of 2015, Quezon City has 683,126 households while Davao City has 409,951

households. Another point of comparison is Isabela, the largest province in Luzon, which covers 1.0655 million hectares with 22,916 households.

This means that the number of households affected are somewhere in between the number of households in Quezon City and Davao City. As to the area affected, excluding the special cases, land and resource conflicts in 2021 affected almost twice the size of Isabela province

Table 2. 2021 Land and Resource Conflicts and Incidents of HRVs

	2017 to 2018	2020	2021
Number of land and resource conflict cases	352	237	235
Size (ha) of land and resource affected	1,321,501	1,665,399	1,978,115.24
Number of households affected by the ongoing cases	At least 186,796	At least 507,889	At least 551,645
Number of incidents of HRVs	431	147	106
Number of individuals affected by the incidents	215	287	193
Number of households affected by the incidents	74,853	58,295	64,848

It is dangerous to draw conclusions from the data and trends apparent in the numbers at face value. There are numerous factors that affect the data, primary of which is the pandemic and the difficulty of gathering data. In fact, the challenges of reporting during the pandemic could possibly also affect the data.

The present numbers cannot also be compared to the numbers from 2018 because of the process to verify and clean-up the data that was employed in the 2021 study. In addition, the 2018 study extended from 2017 to 2018 so the period covered is longer.

In Table 2 above, on-going land and resource conflicts seem to have decreased, but the area covered and the number of households affected increased. Ongoing human rights violations and the number of individuals affected appear to have decreased, but the number of individuals affected slightly increased from 2020. Nevertheless, the numbers are still fewer than those recorded in 2017 to 2018. As already stated, such generalizations cannot be made about the data.

What is undeniable is that the data show that cases and HRVs persist. In the following tables, it can be seen that the problems in the system continue, like the non-resolution of cases, where some have continued for over two decades or a generation.

The data also helps in improving data gathering itself and identifying gaps. It is difficult to gather data in the pandemic, but when people can safely go out, the methodology of gathering the data can be enhanced.

Table 3. Duration of Conflicts in Terms of Number of Years

# of Years	Number
1.9 years and below	7
2 to 5 years	27
6 to 10 years	40
11 to 15 years	49
16 to 20 years	23
21 years or more	58
Unknown	31
Total	235

This data set cannot be compared to the 2018 study. The 2018 study had different brackets of periods, as the durations were in terms of decades. But there were 67 cases included in the bracket of those cases unresolved for more than 21 years which is 31.75 percent of the cases then recorded. In the present study, there are 58 cases in the 21 years or more bracket, equivalent to 24.68 percent of the cases recorded.

Table 4. Location by number of hectares affected by conflict

Name of Province	Number of cases per province*	Name of Region	Total number of cases per region*	Total area (ha) contested**
La Union	1	1 (Ilocos Region)	2	87,041
Pangasinan	1			
Cagayan	1	2 (Cagayan Valley)	5	401,786
Isabela	2			
Nueva Vizcaya	1			
Quirino	1			
Aurora	1			
Bataan	4	3 (Central Luzon)	17	226,879.26
Bulacan	7			
Pampanga	1			
Tarlac	1			
Zambales	3			
Batangas	10	4-A (CALABARZON)	22	31,592.62
Cavite	5			
Laguna	2			
Quezon	4			
Rizal	1			
Marinduque	1	4-B (MIMAROPA)	19	144,818.72
Oriental Mindoro	3			
Palawan	14			
Romblon	1			
Masbate	2	5 (Bicol Region)	3	4,566.80
Albay	1			
Aklan	1	6 (Western Visayas)	19	199,210.02
Antique	4			
Boracay	2			
Capiz	1			
Iloilo	4			
Iloilo City	1			

Negros Occidental	6			
Cebu	3	7 (Central Visayas)	4	2,076
Negros Oriental	1			
Eastern Samar	2	8 (Eastern Visayas)	12	38,178.67
Leyte	10			
(Region 9 provinces)	No data	9 (Zamboanga Peninsula)	(no data)	(no data)
Bukidnon	12	10 (Northern Mindanao)	23	247,165.99
Cagayan de Oro	2			
Misamis Occidental	1			
Misamis Oriental	8			
Davao de Oro	4	11 (Davao Region)	35	38,900.80
Davao del Norte	19			
Davao del Sur	10			
Davao Oriental	2			
North Cotabato	4	12 (SOCCSKSARGEN)	14	86,549.17
Sarangani	1			
South Cotabato	4			
Sultan Kudarat	5			
Agusan del Norte	2	13 (Caraga)	52	124,826.91
Agusan del Sur	42			
Surigao del Norte	2			
Surigao del Sur	6			
Metro Manila	7	National Capital Region	7	30,033.50
Apayao	1	Cordillera Administrative Region	5	14,489.77
Benguet	2			
Ifugao	1			
(Unidentified province in CAR)	1			
Maguindanao	2	Bangsamoro Autonomous Region in Muslim Mindanao	2	300,000
Total	241		241	1,978,115.24

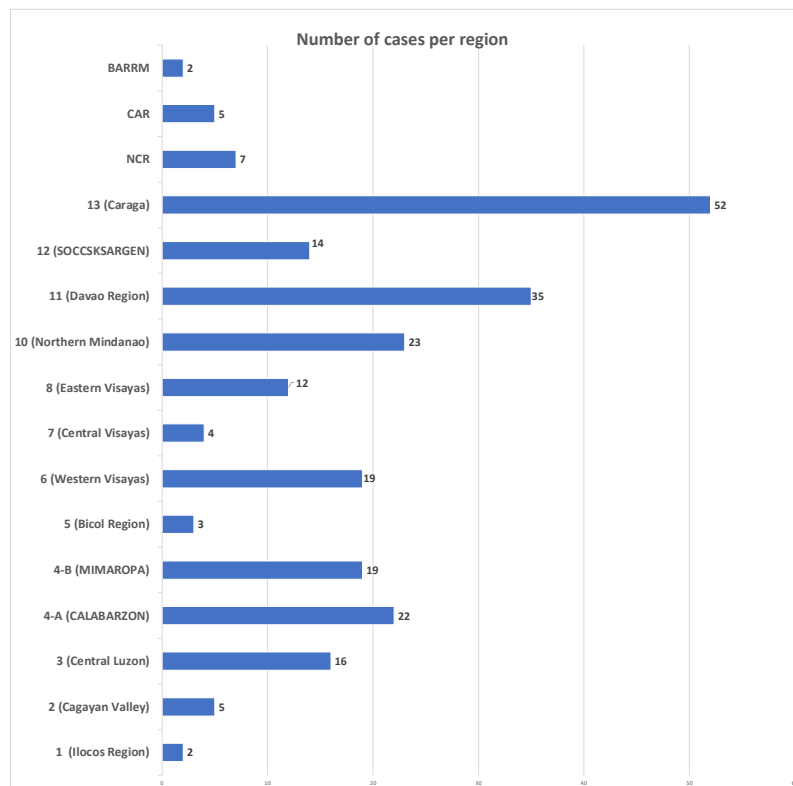
* some cases involve more than one provinces/region

** excluding the cases involving Bajo de Masinloc in Region 3 (15,000 hectares) and the Kalayaan Group of Islands in Region 4-B (16,834,923 hectares).

The case covering the largest land size (ha) under contestation is in Ilagan, Isabela in Region 2 (conflict started in 1980s); with an area of 359,486 ha involving a resource conflict in the Northern Sierra Madre Natural Park within an ancestral domain; stakeholders in conflict involve IPs and forest protectors vs. the Government and private corporation.

The data in Table 4 can be interpreted in terms of the number of cases per region, as shown in Figure 2.

Figure 2. Number of Cases Per Region



Based on the graph (Figure 2), CARAGA, Davao Region, and Northern Mindanao have the highest number of cases while Ilocos Region, BARMM, and Bicol have the lowest incidence of conflict.

In CARAGA, out of the 52 cases in the region, 42 are in Agusan del Sur. In the Davao Region, there are 35 recorded cases, 19 of which are in Davao del Norte. In Northern Mindanao, 12 of the 23 cases are in Bukidnon. It must be highlighted that Palawan and Batangas have 14 and 10 cases, respectively. Thus, prevalence of land and resource conflict cannot be said to be confined to Mindanao.

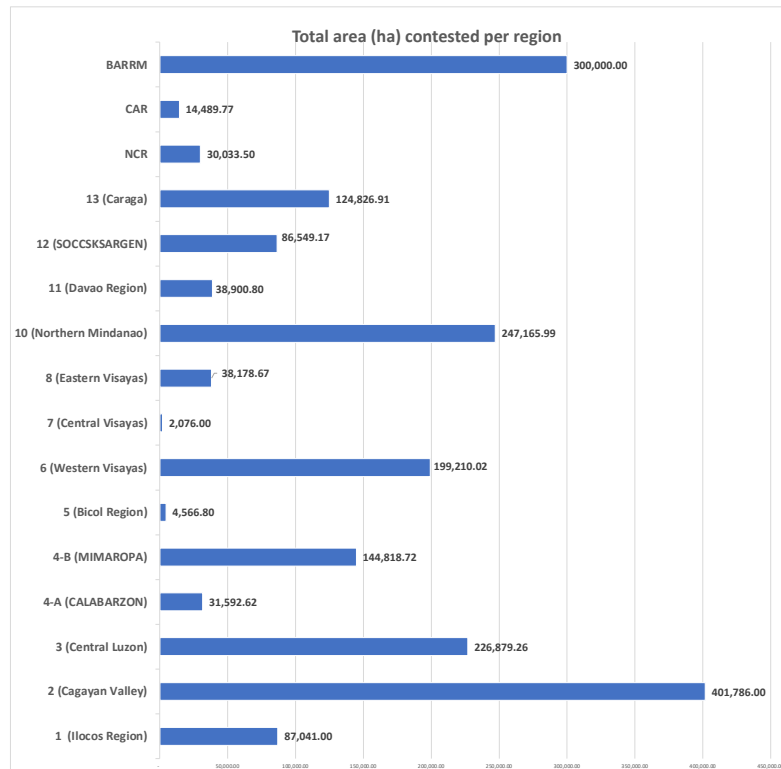
In the 2020 data, CARAGA, Davao Region, and Northern Mindanao, all ranked similarly with 50, 36, and 24 cases, respectively. In the 2018 study, 72 cases were recorded in CARAGA, Davao Region had 64, and Northern Mindanao had 55. Both studies showed consistent results with the regions with the three highest number of cases in the present study.

For context, CARAGA is a resource rich region where as early as the American period, mining was set up as a major industry (Quitoriano, 2009). In the 1960s, it was logging that was initiated in the region. The size of the logging operations increased the demand for labor that prompted workers from other regions to migrate into Bislig, Butuan, and Nasipit (Quitoriano, 2009). Later, when timber extraction ceased in certain lands, these were converted into farmlands (Quitoriano, 2009). In the process, people from the lowlands displaced the IPs who used to occupy the forestlands (Quitoriano, 2009). Over the decades, land and resource conflict in the region continued to fester.

In 2007, the government designated CARAGA as a priority area for mining investments under its National Mineral Action Plan (Quitoriano, 2009). As a result, the CARAGA region appears

to be representative of the land and resource conflicts which affect the entire country. Issues include differing policies of the national and local governments on ancestral domains and IPs, forestry, protected areas, and mining; overlapping mandates of agencies; and, migration (Quitoriano, 2009).

Figure 3. Areas contested per region



Based on Figure 3, Cagayan Valley, BARMM, and Northern Mindanao have the largest contested areas. Do note, however, that BARMM and Cagayan Valley have the fewest number of cases but have the largest affected areas. Meanwhile, Bicol, Central Visayas, and CAR have the least area affected.

The Cagayan Valley region includes the province of Isabela. Isabela has two cases which include the largest case in terms of hectares. The region has 401,786 contested hectares, but includes one case covering 359,486 hectares. Hence, about 40 percent of Isabela’s land area is contested.

The case refers to a contested area in Ilagan, Isabela dating back to the 1980s. The contest is a resource conflict in the Northern Sierra Madre Natural Park. This natural park can be found within an ancestral domain. Hence, the stakeholders in conflict involve IPs and forest protectors against the government and a private corporation.

There are around 25,000 residents in the natural park that includes at least 1,800 members of the indigenous group of Agtas (Salcedo, 2021). Illegal logging in the area have resulted in widespread deforestation, irreversible biodiversity loss and soil erosion (Salcedo, 2021). For obvious reasons, the Sierra Madre’s absorptive capacity for floodwaters was greatly diminished (Salcedo, 2021).

Table 5 shows the ongoing conflicts that are classified according to resource use, frequency and size. As conflicts do not pertain exclusively to only one resource use, the table takes into account overlapping resource uses in certain conflicts.

Table 5. Distribution of ongoing conflict cases by type of resource use, frequency, and size

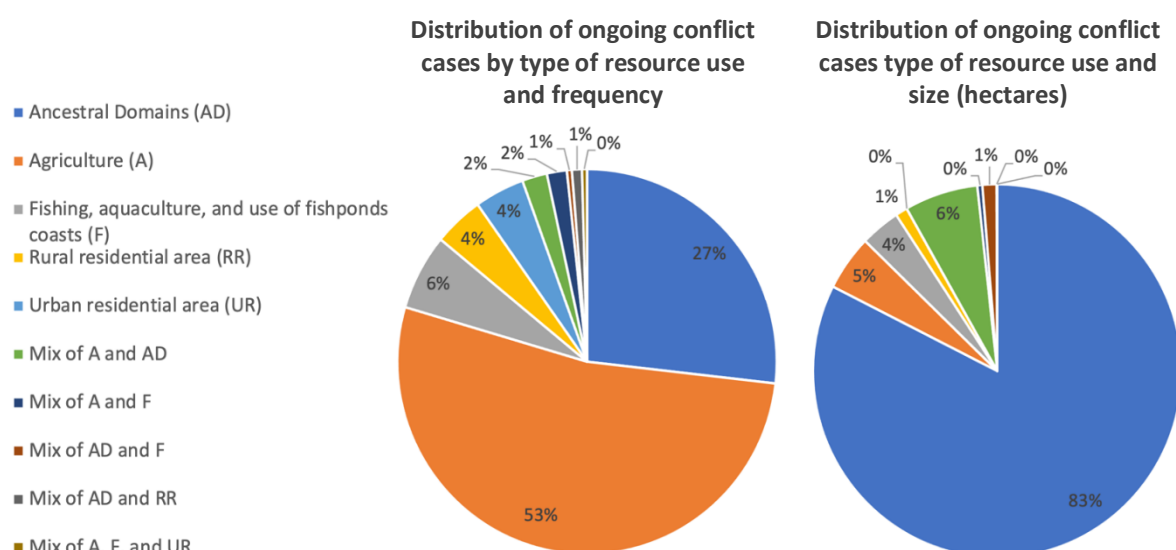
Type of Resource Use	Frequency	Distribution (%)	Size (ha)	Size (%)
Ancestral Domains (AD)	63	26.81	1,631,305.27	82.47
Agriculture (A)	124	52.77	95,004.82	4.80
Fishing, aquaculture, and use of fishponds and coasts (F)	15	6.38	68,999.61*	3.49
Rural residential area (RR)	10	4.26	20,880.00	1.06
Urban residential area (UR)	10	4.26	33.50	0.00
Mix of A and AD	5	2.13	127,568.71	6.45
Mix of A and F	4	1.70	8,723.32	0.44
Mix of AD and F	1	0.43	24,520.00	1.24
Mix of AD and RR	2	0.85	1,052.00	0.05
Mix of A, F, and UR	1	0.43	28.00	0.00
Total	235	100.00	1,978,115.24	100.00

*Excluding the 16,849,923-hectare resource from the two special cases on maritime conflicts involving Kalayaan Group of Islands and Bajo de Masinloc.

The case covering the largest land size under the ancestral domains resource is in Ilagan, Isabela in Region 2 (conflict started in 1980s); with an area of 359,486 hectares involving a resource conflict in the Northern Sierra Madre Natural Park within an ancestral domain; stakeholders in conflict involve IPs and forest protectors vs. the government and private corporation.

The following pie chart (Figure 4) illustrates the above numbers. The overlapping resource uses are shown in a separate portion of the pie.

Figure 4. Distribution of ongoing conflict cases by type of resource use, frequency, and size



As the data shows, in terms of frequency, the highest percentage involves agricultural lands (53 percent). This is followed by ancestral domains at 27 percent of the cases. In terms of area, the most affected are ancestral domains at 83 percent. Do note that there are overlaps consisting of six percent in size where the majority are ancestral domains and agricultural areas. Thus, the total affected area consisting of ancestral domains is 89 percent of all conflict cases.

NATURE AND CAUSE OF LAND RESOURCE CONFLICT

Land and resource conflicts involve competing interests and parties are oftentimes not on equal footing. Thus, it is crucial to analyze the relationships of stakeholders in any conflict, especially when there are stakeholders that are overly aggressive in advancing their interests, resulting in HRVs. Table 6 shows the many stakeholders that may be involved in any land and resource conflict.

Table 6. Stakeholders in Land and Resource Conflict

Rights holders	Duty-bearers						TOTAL
	Government	State-owned enterprise	Private company/corporation	Powerful individual	Military	Others	
Smallholder farmers/producers; landless; tenants, sharecroppers	13	1	110	19	2	5 ⁴	150
Indigenous peoples	24	3	43	1	8	20 ⁵	99
Forest protectors	2	(no data)	1	0	0	2 ⁶	5
Fisherfolk	10	(no data)	17	1	1	3 ⁷	32
Urban slum-dwellers, unorganized dwellers	7	1	3	0	0	1 ⁸	12
Rural community residents	5	(no data)	12	1	(no data)	(no data)	18
Others	(no data)	(no data)	(no data)	(no data)	(no data)	1 ⁹	1
TOTAL	61	5	186	22	11	32	317

The following pie charts (Figure 5) show the distribution of relationships among the stakeholders. The pie chart on the left shows the affected communities in conflicts and the percentage of conflicts affecting them. The affected communities are either smallholder farmers/producers, landless, tenants, sharecroppers; indigenous peoples; forest protectors; fisherfolk; urban slum dwellers and unorganized dwellers; rural community residents; and, other types of communities. Some issues encountered by rights holders, such as ARBs, IPs, and fisherfolk are elucidated in the following paragraphs.

⁴ "Others" of the Smallholders vs. Others relationships refer to: 3 from the academe; 1 from the farmer sector; 1 from the IP sector

⁵ "Others" of the IPs vs. Others relationships refer to: 11 from the farmer sector; 4 from the IP sector; 1 illegal logger; 1 rebel; 1 fisherfolk; 1 paramilitary; 1 non-State armed group

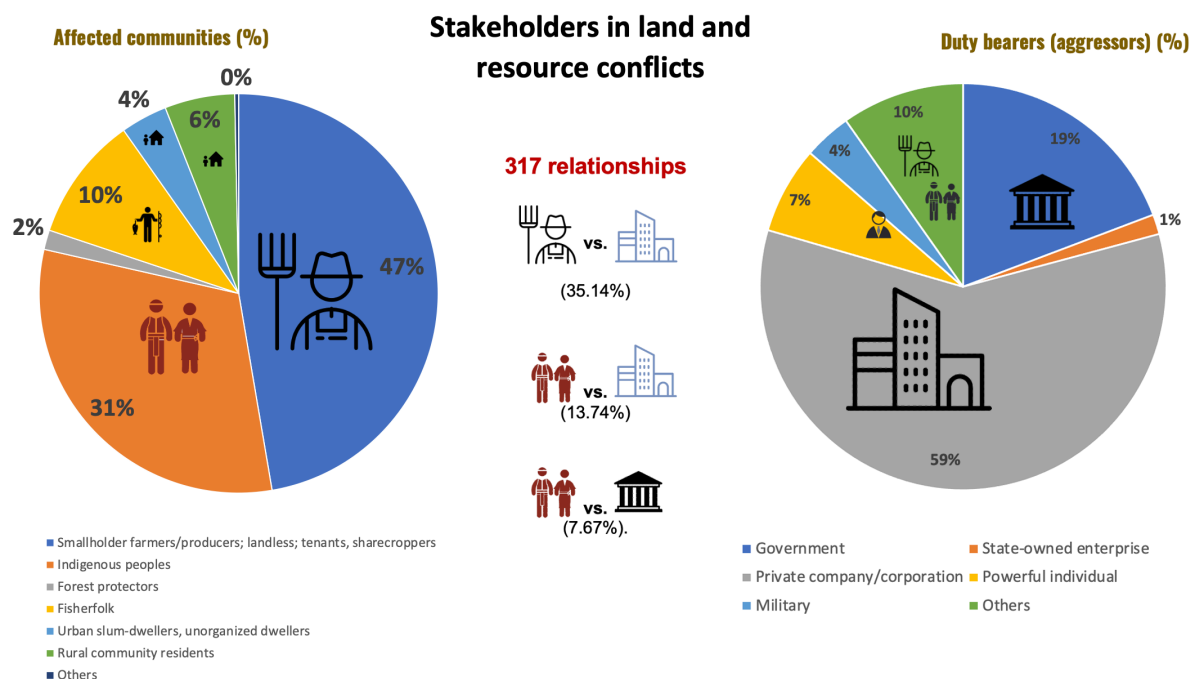
⁶ "Others" of the Forest Protectors vs. Others relationships refer to: 1 from illegal loggers; 1 from the farmer sector

⁷ "Others" from the Fisherfolk vs. Others relationships refer to: 2 from the foreign Government; 1 from the migrant fisherfolk sector

⁸ "Others" of the Slum-dwellers vs Others relationship refers to the police

⁹ Refers to small-scale miner vs. large-scale miner relationship

Figure 5. Stakeholders in Land and Resource Conflicts



In agrarian reform, one of the main flash points is the continued prevention by private persons or business entities of entry and possession into land owned by agrarian reform beneficiaries. In Eastern and Western Visayas, even if lands had been awarded to the beneficiaries, the previous landowners continue to hold them and prevent the beneficiaries from having possession (Quizon et al., 2018). In order to prevent beneficiaries from taking hold of the awarded land, the previous landowners resort to legal cases, threats, intimidation, physical violence, and even killings (Quizon et al., 2018). They also circumvent the law by subdividing titles or the practice referred to as “chop-chop” (Quizon et al., 2018). Landlord resistance and agrarian disputes have increased dramatically since 2009 (Quizon, 2019) and has been encouraged by government’s failure to fully implement the agrarian reform program, install the beneficiaries into the land, and prosecute the violators (Quizon et al., 2018).

Indigenous peoples have grave and varied concerns regarding their ancestral domains, aside from violations of FPIC. Their land rights are threatened by private claims on their land, the entry of migrants and businesses, including mining activities, and even public investments within their ancestral domains (Quizon, 2019). In fact, the first ecozones in the Philippines were built within ancestral domains (Quizon, et al., 2018). Mining activities should be singled out, as it is the largest industrial intrusion into ancestral domains (Quizon and Pagsanghan, 2014).

Ancestral domains also host the remaining vital resources of the country and are therefore the target of extractive businesses (Quizon et al., 2018). Ancestral domains are also threatened by large-scale agricultural investments (Quizon et al., 2018).

Fisherfolk are also stakeholders in the discussion on land rights, as aside from their right to settlement areas, their tenure rights and resource-based livelihood are also threatened by business activities on land. For instance, the environmental degradation caused by the conversion of coastal habitats for tourism and other infrastructure, siltation due to soil erosion (Quizon et al, 2018), mangrove destruction, and reclamation have adverse effects on small fisherfolk. Large tourism enterprises compete with fisherfolk for access to foreshores and coastal waters. Developments also privatize foreshores or extend them through reclamation;

thus, depriving fisherfolk of docking areas (Quizon et al., 2018). These activities combined with the continued intrusion of commercial fishers into municipal waters and other illegal fishing activities violate fisherfolk's land and tenure rights.

Box 2. Maritime Conflict in the Kalayaan Group of Islands

Kalayaan Group of Islands

The Kalayaan Island Group is only a portion of what is known as the Spratly Islands. Consisting of at least 50 features in Philippine waters, the island group is a municipality of the province of Palawan (Baviera and Batongbacal, 2013). As of 2013, there are nine features in the island group that are occupied by Filipinos (Baviera and Batongbacal, 2013).

The island group is important to the Philippines in terms of national security, considering that the Japanese launched its occupation in World War II from one of the features in the Spratlys (Baviera and Batongbacal, 2013). The surrounding waters also support the country's food security with its rich fisheries that have the potential of producing 11 percent of the Philippines' catch (Baviera and Batongbacal, 2013). The area may also yield petroleum and minerals (Baviera and Batongbacal, 2013).

In 1995, China started erecting military shelters in Mischief Reef (Baviera and Batongbacal, 2013). In 2013, Chinese fishing vessels swarmed the Ayungin shoal and they were backed by armed Chinese vessels (Baviera and Batongbacal, 2013).

Taiwan, Vietnam, Malaysia and Brunei also have claims of sovereignty over features in the Kalayaan Group of Islands (Baviera and Batongbacal, 2013).

2021 Incidents

In the first quarter of the year, hundreds of Chinese vessels were monitored by the Philippines maintaining unauthorized presence in Philippine waters, including the areas surrounding the Kalayaan Group of Islands (DFA, 2021).

On 16 November 2021, three Chinese Coast Guard vessels blocked and fired water cannons at Philippine supply vessels headed to Philippine armed forces in the area (CNN, 2021). The incident happened near Ayungin Shoal, which is part of the Kalayaan Group of Islands. This incident caused the vessels to abort their mission.

As can be seen in Figure 5, the groups mentioned above are part of the three most affected communities of land and resource conflict with smallholder farmers and other producers at 47 percent, IPs at 31 percent, and fisherfolk at 10 percent.

The pie chart on the right of Figure 5 shows the percentage of conflicts and the involvement of certain duty-bearers in all tallied conflicts. Duty-bearers may be the government, corporations, military, and powerful individuals.

There are 317 relationships recorded among the various stakeholders. The top three relationships are farmers vs. private company (35.14 percent), followed by IPs vs. private company (13.74 percent), and then by the IPs vs. State (7.67 percent).

Looking at the data from 2018, community vs. business constituted 48 percent of the conflicts recorded. This is basically equal if you add the percentages of farmer vs. private company and

IP vs. private company, as the data from 2018 did not distinguish between farmer and IP communities.

Relationships should be distinguished from cases. Again, it is defined as sets of competitive interactions between two or more stakeholders involved in a conflict. All cases are relationships, but not all relationships are cases.

Figure 6. Sources of Conflict by Number

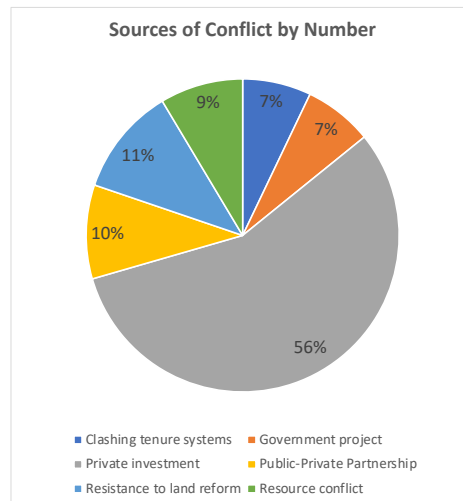
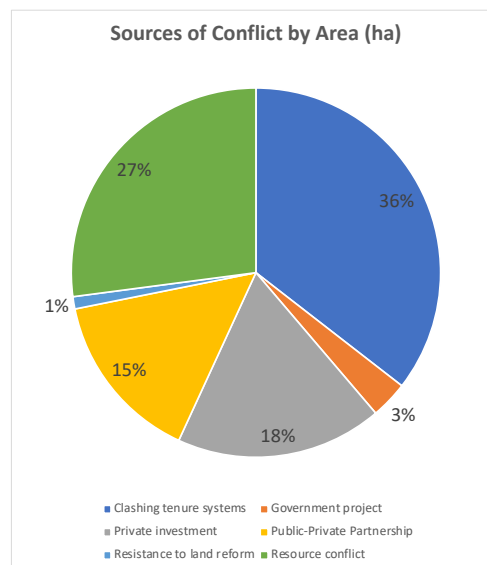


Figure 7. Sources of Conflict by Area



In terms of frequency (see Figure 6), majority (56 percent) of the conflicts are due to private investments; followed by resistance to land reform (11 percent); public-private partnership (10 percent). In terms of size (see Figure 7), majority (36 percent) are due to clashing tenure systems; followed by resource conflicts (27 percent); then private investment (18 percent).

The case covering the largest land and resource size of 300,000 hectares involving clashing tenure systems conflict typology is in South Upi, Maguindanao. The stakeholders in conflict

are IPs from the Teduray and Lambangian indigenous communities and the Moro Islamic Liberation Front (MILF).

Table 7. Type and sub-type of conflicts by frequency and size

Type of Conflicts	Number	Size (hectares)
Clashing tenure systems	19	702,202.20
Encroachment into ancestral domains	7	266,175.00
Overlapping claims	11	432,879.00
Protected Area	1	3,148.20
Government project	19	64,643.21
Dam project	1	33,310.00
Rice variety experimentation	1	(no data)
Infrastructure projects	9	9,464.40
Military operations	3	(no data)
Property development	1	(no data)
Reclamation projects	1	1,331.00
Reforestation	1	20,500.00
Tourism	2	37.81
Private investment	151	358,005.25
Projects on harnessing/generating power/electricity	6	189.00
Dam project	1	2,803.54
Mining/extraction	37	234,705.10
Plantation	86	109,304.10
Military operations	1	(no data)
Property/real estate development	12	1,479.70
Tourism	3	9,252.00
Demolitions or clearing operations	1	(no data)
Reclamation projects	1	(no data)
Other private businesses (agricultural supplies , brandy production, shipyard)	3	271.81
Public-Private Partnership	26	296,338.00
Conversion of Protected Area	2	(no data)
Housing/relocation/resettlement projects	6	10,620.00
Economic Zones/Land Concessions	2	(no data)
Infrastructure projects	2	30.00
Reclamation projects	4	32,500.00
Projects on harnessing/generating power/electricity	10	253,188.00
Resistance to land reform	30	21,219.72
Resistance to land distribution	26	20,832.72
Prevention of land installation	4	387.00
Resource conflict	23	535,706.86
Mining/extraction	3	17,800.00
Conversion of Protected Area	4	3,719.00
Encroachment into ancestral domains	2	8,106.13
Farming	2	6,360.73
Fishery	3	(16,849,923.00)*
Illegal Forest Activities	7	498,689.00
RIDO	1	(no data)

Tourism	1	1,032.00
Grand Total	268	1,978,115.24
* The 16,849,923-hectare resource under contestation refers to the two special cases on maritime conflicts involving the Kalayaan Group of Islands and Bajo de Masinloc; hence, was not included in the total figure for analysis.		
The case covering the largest land and resource size (300,000 hectares) involving clashing tenure systems conflict typology is in South Upi, Maguindanao; conflicting stakeholders are IPs (Teduray and Lambangian indigenous communities) and a non-State group (MILF).		

Conspicuously, mining is not listed as one of the conflicts under government project (see Table 7). Under the law, government or the State owns all mineral resources and private companies merely enter into mineral agreements with it in order to have the privilege of extracting the natural resource. In essence, it is also a public private partnership. Therefore, the types of conflict may overlap.

It can be noted from Table 7 the common types of conflict between government projects, private investments and Public-Private Partnerships (PPPs). Dam projects, reclamation, and property development may also fall under PPPs.

It is worrying that military operations are also listed under private investments when they are State agents. This underscores the reported incidents on the ground where members of the police or military allow themselves to act as private armed agents of private companies. While human rights violations were also committed by State agents in the guise of performing their mandate, many were also committed at the behest of private interests or businesses (Salomon, 2018; Quizon, 2019).

HUMAN RIGHTS VIOLATIONS (HRVs)

It should be maintained that with competing interests, there is an inherent push and pull between the stakeholders in land and resource conflicts. Having a competing interest, in particular if one is at the other side of rights holders, does not equate to HRVs. However, it cannot be discounted that land and resource conflicts provide the setting for HRVs. Table 8 shows the tally of HRVs found in 2021 in land and resource conflicts.

Table 8. Human Rights Violations

Philippine incidents	Number
Incidents of HRVs against individuals	63
Incidents of violence against communities	43
Total number of incidents	106

In 2020, the incidents of violence against individuals and communities numbered 147 that affected 287 persons and 58,295 households. The 106 incidents in 2021 affected 193 persons and 64,848 households. Again, this illustrates that the numbers cannot be taken at face value.

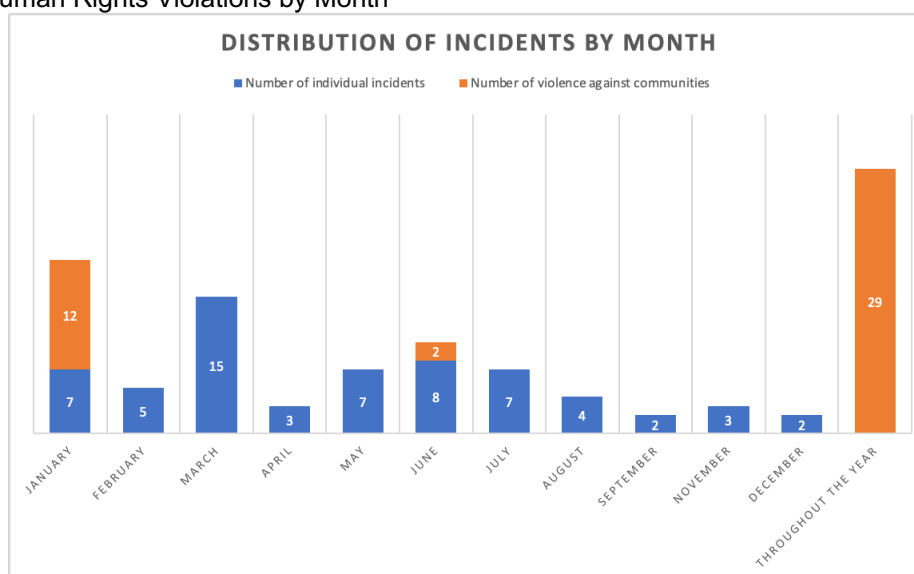
Table 9 distills the above data to show the incidents of HRVs by month and the corresponding number of victims and households affected.

Table 9. Distribution of incidents (individual and community) and number of affected individuals and communities by month

Month	Number of individual incidents	Number of community violence	Total number of incidents	Number victims affected by individual violence	Number of households affected by community violence
January	7	12	19	34	6,002
February	5	(no data)	5	30	(no data)
March	15	(no data)	15	20	(no data)
April	3	(no data)	3	4	(no data)
May	7	(no data)	7	13	(no data)
June	8	2	10	10	22
July	7	(no data)	7	14	(no data)
August	4	(no data)	4	7	(no data)
September	2	(no data)	2	2	(no data)
November	3	(no data)	3	53	(no data)
December	2	(no data)	2	6	(no data)
(throughout the year)	(no data)	29	29	0	58,824
Grand Total	63	43	106	193	64,848

The incidents by month are illustrated in the following bar graph (see Figure 8).

Figure 8. Human Rights Violations by Month



At face value, the data shows that incidents of violence against communities happened in January and June. Some 29 incidents of year-round violence against communities were reported in 2021. It can be seen that most individual violence happened in March.

No conclusion can be made as to the prevalence of HRVs in terms of months at the risk of insinuating that violence is seasonal. Thus, there is a need to look into the events that transpired in the relevant time frame.

In 2020, the highest number of incidents of HRVs were seen in the first four months of the lockdown. However, no increase in numbers of HRVs were observed during the periods of lockdown in 2021. This can be attributed to the different scheme of lockdowns implemented in 2021 coupled with the vaccination of members of the population against COVID-19.

In 2021, the high number in March coincides with *Bloody Sunday*.

The following table (Table 10) shows the distribution of HRVs by region and the corresponding number of victims and households affected.

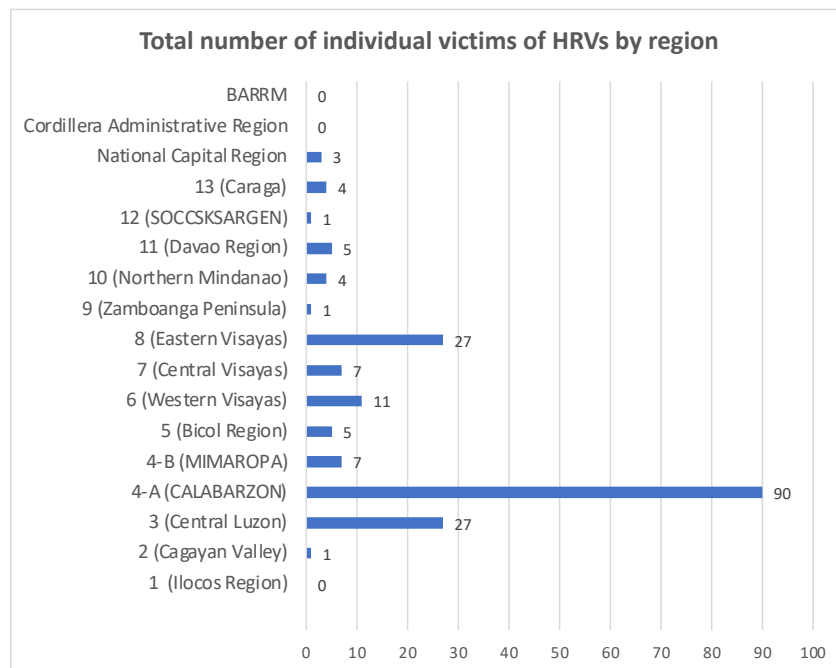
Table 10. Individual and community HRV victims per region

Region	Total Number of Incidents				Total number of individual victims of HRVs	Total number of community (HH) victims of HRVs
	No. of individual incidents	No. of violence against communities	Total Number	%		
1 (Ilocos Region)	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)
2 (Cagayan Valley)	1	1	2	1.89	1	(no data)
3 (Central Luzon)	7	19	26	24.53	27	6,000
4-A (CALABARZON)	20	10	30	28.30	90	41,826
4-B (MIMAROPA)	3	3	6	5.66	7	(no data)
5 (Bicol Region)	3	(no data)	3	2.83	5	(no data)
6 (Western Visayas)	7	(no data)	7	6.60	11	(no data)
7 (Central Visayas)	7	1	8	7.55	7	17,000
8 (Eastern Visayas)	2	1	3	2.83	27	(no data)
9 (Zamboanga Peninsula)	1	(no data)	1	0.94	1	(no data)
10 (Northern Mindanao)	2	1	3	2.83	4	(no data)
11 (Davao Region)	5	(no data)	5	4.72	5	(no data)
12 (SOCCSKSARGEN)	1	1	2	1.89	1	(no data)
13 (Caraga)	2	4	6	5.66	4	22
National Capital Region	2	1	3	2.83	3	(no data)
Cordillera Administrative Region	(no data)	1	1	0.94	(no data)	(no data)
Bangsamoro Autonomous Region in Muslim Mindanao	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)
Total	63	43	106	100.00	193*	64,848

* Of which, seven were reported elders while four were minors.

The following graph (Figure 9) illustrates the number of HRV victims per region.

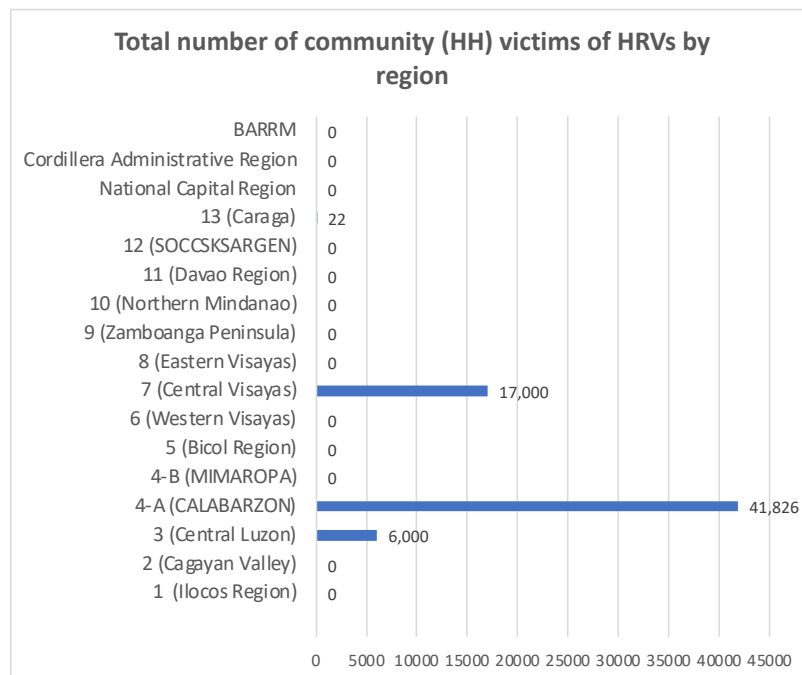
Figure 9. Individual HRV victims by region



As found in the data, the highest number of victims of HRVs were in CALABARZON. Many of the victims in CALABARZON were due to the 2021 CALABRZON raids, also referred to as Bloody Sunday.

The community victims per region are shown in the following graph (Figure 10).

Figure 10. Community victims of HRVs by region



There is a direct correlation between violence against individuals and communities in CALABARZON. Partly, this can be traced to Bloody Sunday. At the same time, the structures in that region should be looked into to determine if such encourage perpetrators to commit

HRVs. In the 2020 study, CALABARZON also recorded the highest number of community victims.

Nevertheless, it should also be determined if CALABARZON's proximity to NCR affects the media coverage of such incidents. Thus, incidents are easily monitored and counted.

In the data gathered, there are many types of HRVs recorded. One type does not exclude the others. Hence, different types of HRV may be suffered by an individual victim (see Table 11).

Table 11. Types of HRVs

Type of HRV	No. of individual HRVs reported by the 193 victims
Physical	127
(Legal) arrest (implies criminalization)	22
Disappearance	2
Eviction	16
Illegal arrest	37
Injury or assault	11
Killing	39
Psychological	12
Threat of displacement	8
Threat of killing	3
Trauma	1
Economic	2
Destruction of property	2
Political	178
Criminalization	48
Dispossession	1
Red-tagging	128
Coercion	1
Total	319

Note: Some individuals have experienced more than one type of HRV

In addition to the above table (Table 11), seven of the victims were reported as elders while three were reported as minors.

What is alarming here is the continued harassment directed against individuals through criminalization and red-tagging. In 2020, the victims of criminalization numbered 60 while those of tagging numbered 80.

Criminalization could even be more than the 48 incidents recorded since there were 22 “legal” arrests and 37 illegal arrests recorded. In criminal procedure, when one speaks of arrest, this means that the prosecutor has found probable cause to file a case in court and a judge has issued a warrant. Therefore, the data does not even include those criminal complaints that have been filed or are still being investigated by the prosecutor.

The types of HRVs are illustrated in Figure 11.

Figure 11. Types of HRVs against Individual Victims

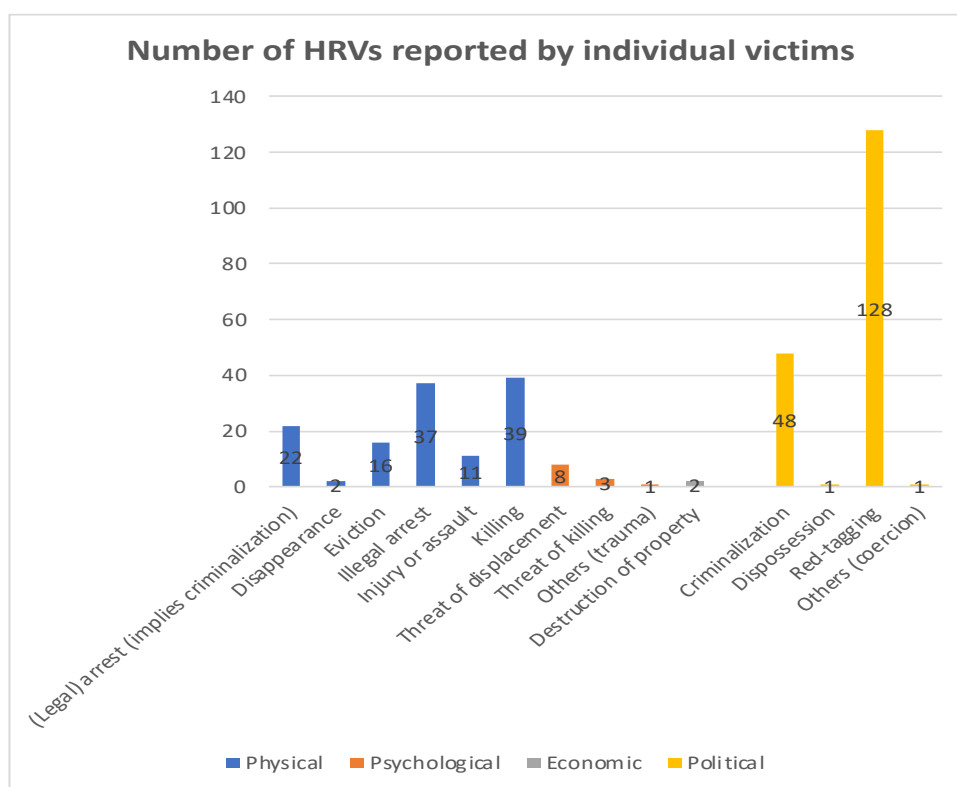


Table 12. Distribution of HRV by sex

Type of HRV	Male (%)	Female (%)	Unidentified (%)
Physical	44.88	14.17	40.94
(Legal) arrest (implies criminalization)	63.64	31.82	4.55
Disappearance	100.00	0.00	0.00
Eviction	0.00	0.00	100.00
Illegal arrest	18.92	10.81	70.27
Injury or assault	36.36	0.00	63.64
Killing	76.92	17.95	5.13
Psychological	33.33	8.33	58.33
Threat of displacement	12.50	12.50	75.00
Threat of killing	66.67	0.00	33.33
Others (trauma)	100.00	0.00	0.00
Economic	50.00	50.00	0.00
Destruction of property	50.00	50.00	0.00
Political	29.21	10.11	60.67
Criminalization	41.67	16.67	41.67
Dispossession	100.00	0.00	0.00
Red-tagging	0.00	100.00	0.00
Others (coercion)	24.22	7.03	68.75
Total	35.74	11.91	52.35

Note: Some individuals have experienced more than one type of HRV

Note that half are not identified, but if the ratio is to be taken at face value, majority of victims are male (see Table 12 and Figure 12).

Figure 12. Distribution of Individual HRV victims by sex

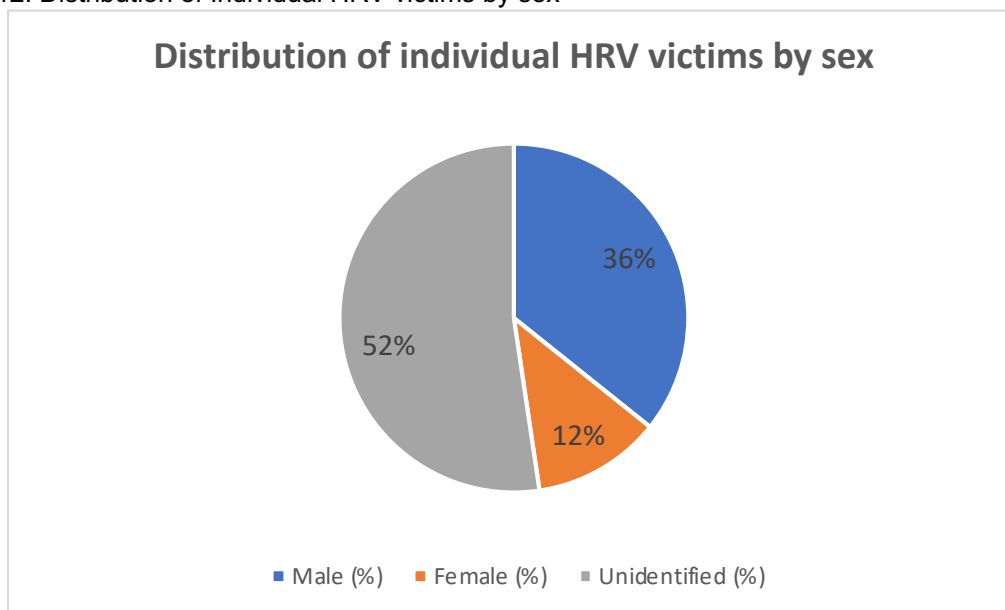


Table 13 shows the distribution of the violence committed based on the perpetrator. They may either be State agents like the military or police; businesses, criminal syndicates, private armed groups, and other perpetrators.

Table 13. Frequency of Individual violence by perpetrator

Type of Individual violence	Perpetrator								Total
	Army, military	Business	Criminal syndicate	Police	Private armed group	Alleged/Suspected military or State	Unidentified armed men or assailants	Others*	
Individual Physical Violence	16	0	2	89	12	2	6	0	127
(Legal) arrest (implies criminalization)	4	(no data)	(no data)	18	(no data)	(no data)	(no data)	(no data)	22
Disappearance	(no data)	(no data)	(no data)	1	(no data)	1	(no data)	(no data)	2
Eviction	(no data)	(no data)	(no data)	16	(no data)	(no data)	(no data)	(no data)	16
Illegal arrest	5	(no data)	(no data)	32	(no data)	(no data)	(no data)	(no data)	37
Injury or assault	2	(no data)	(no data)	(no data)	8	(no data)	1	(no data)	11
Killing	5	(no data)	2	22	4	1	5	(no data)	39
Individual Psychological Violence	3	0	0	2	6	0	0	1	12
Threat of displacement	1	(no data)	(no data)	(no data)	6	(no data)	(no data)	1	8
Threat of killing	2	(no data)	(no data)	1	(no data)	(no data)	(no data)	(no data)	3
Others (Trauma)	(no data)	(no data)	(no data)	1	(no data)	(no data)	(no data)	(no data)	1
Individual Economic Violence (Destruction of property)	2	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)	2
Individual Political Violence	111	2	2	104	2	3	3	1	228
Criminalization	4	2	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)	48

Dispossession	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)	1	1
Red-tagging	56	(no data)	2	62	2	3	3	(no data)	128
Others (Coercion)	1	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)	1
TOTAL	82	2	4	195	20	5	9	2	319

* Chinese coast guards

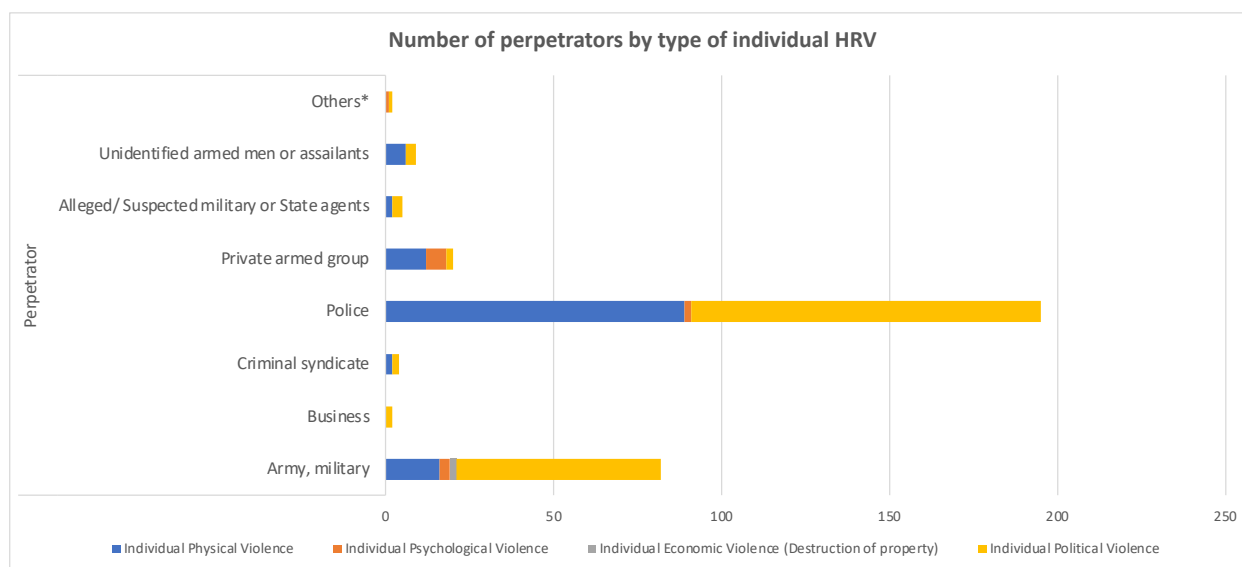
Note: Some individuals have experienced more than one type of HRV

Compared to 2020, the majority of perpetrators in 2021 are members of the police and not the military. This is attributed to the Bloody Sunday killings that were conducted by the police.

The red-tagging cases in 2021 numbered 121 or equivalent to 40 percent of all cases in the year. Previously, in 2020, there were 80 incidents of red-tagging equivalent to 51 percent. Thus, what should be considered is the actual number of incidents rather than the percentage of incidents vis-à-vis all the cases. The data shows a jump of 50 percent from the number of incidents in 2020. The over-all increase in the number of incidents could also reduce the percentage because the ratio has larger denominator.

The increase in incidents against fisherfolk could be attributed to harassment by Chinese coast guard in the contested areas in the West Philippine Sea.

Figure 13. Perpetrators by type of HRV



As stated, the huge jump of incidents against fisherfolk to 35 percent compared to 12.3 percent in 2020 can be attributed to the harassment perpetrated by Chinese Coast Guards. Incidents against smallholder farmers/producers, landless remain at around 28 percent. The percentage of recorded incidents against IPs also decreased to 26 percent compared to 42 percent in 2020 (see Figure 14).

Figure 14. Violence against communities per sector

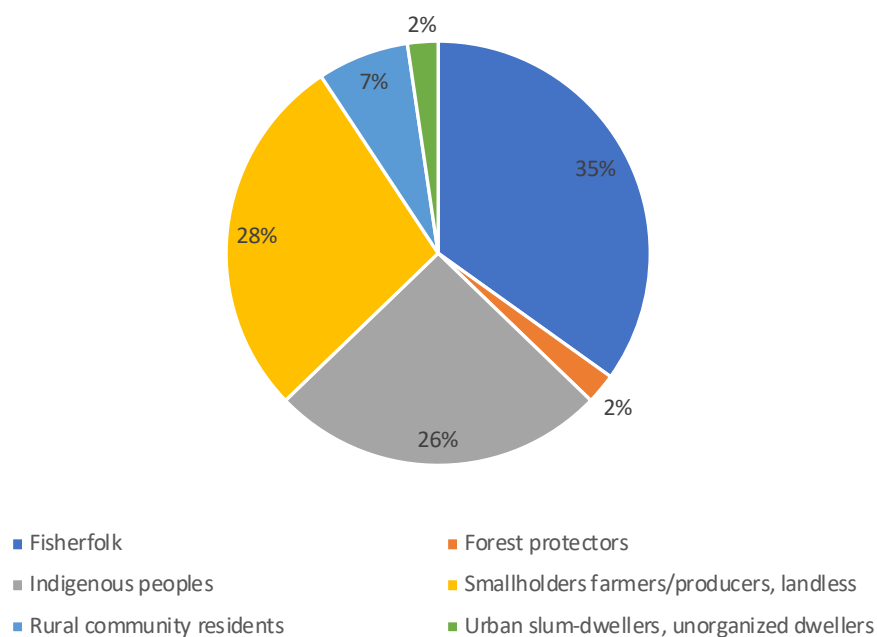


Table 14. Number of HRVs affecting communities according to type of violence

Type of HRV affecting communities	Number of incidents affecting communities	Number of households affected
Violence against communities	26	64,848
Disenfranchisement	8	6,000
Displacement	2	22
Forcible entry	1	(no data)
Lack of FPIC (for IPs)	1	(no data)
Others*	4	61
Threat of displacement	10	58,765
Ecological violence	17	0
Contamination of resources, pollution	8	(no data)
Depletion of productivity	3	(no data)
Destruction of forest and biodiversity	6	(no data)
Total	43	64,848

* Denial of benefit; Threat on invalidating amortization payments and CLOA

Figure 15. Community HRVs

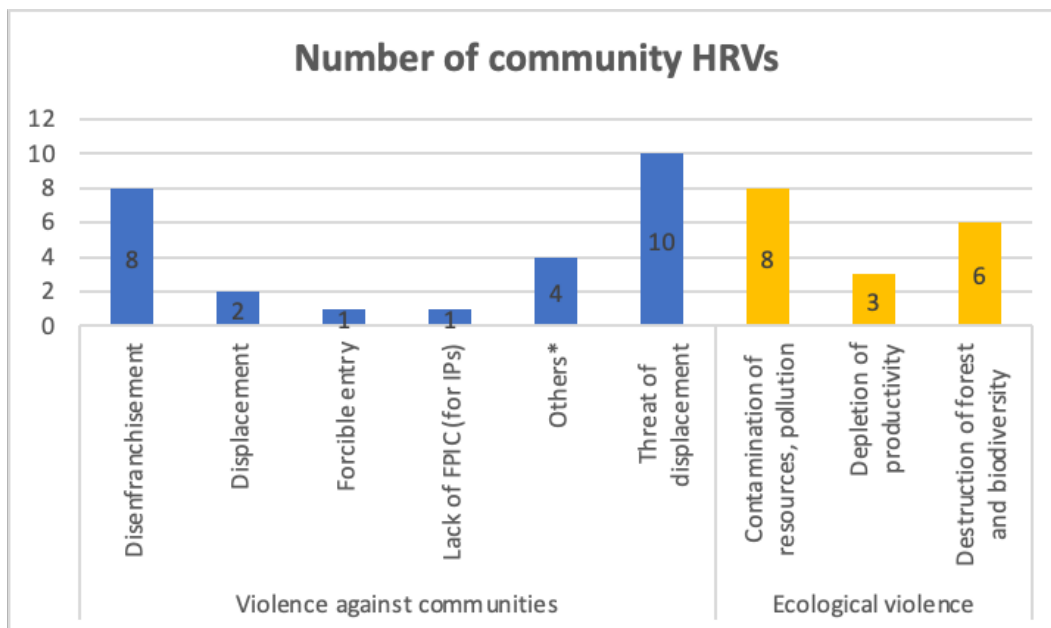


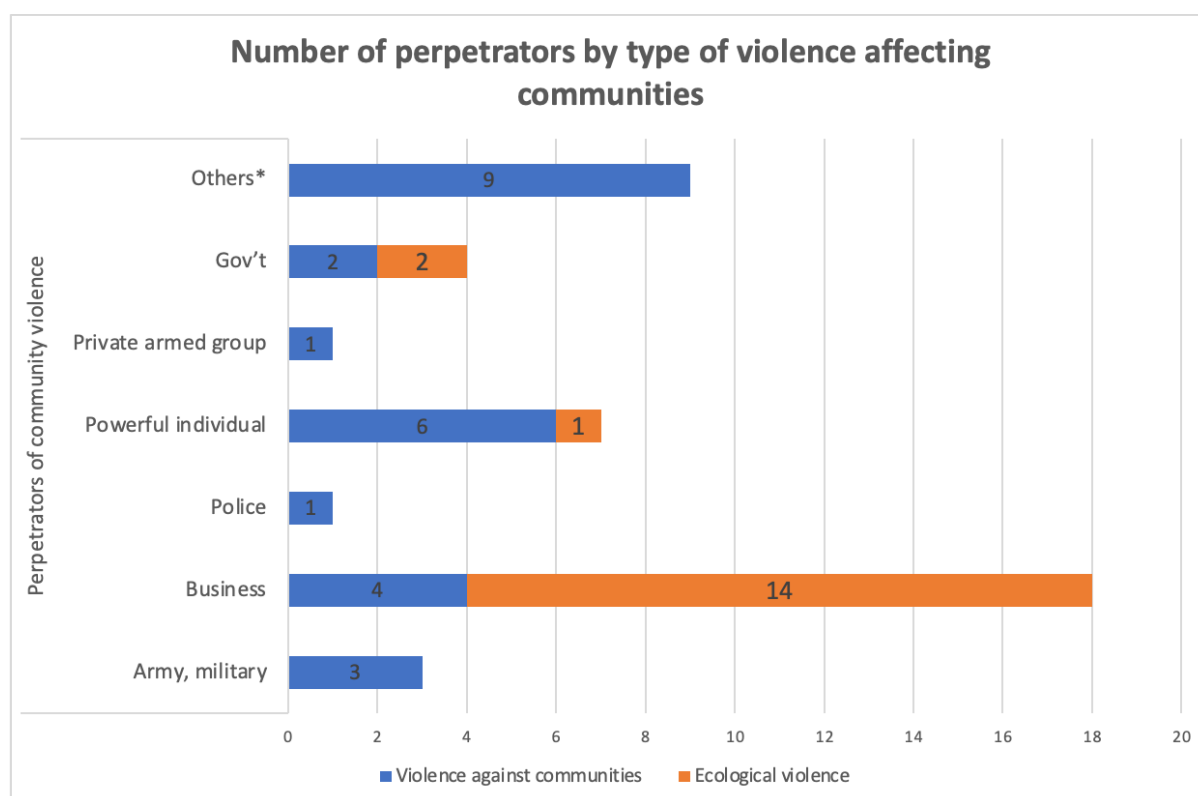
Table 15. Frequency of violence against communities by perpetrator

Type of violence against communities	Perpetrators of violence against communities							Total
	Army, military	Business	Police	Powerful individual	Private armed group	Gov't	Others*	
Violence against communities	3	4	1	6	1	2	9	26
Disenfranchisement	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)	8	8
Displacement	1	(no data)	1	(no data)	(no data)	(no data)	(no data)	2
Forcible entry	(no data)	(no data)	(no data)	1	(no data)	(no data)	(no data)	1
Lack of FPIC (for IPs)	1	(no data)	(no data)	(no data)	(no data)	(no data)	(no data)	1
Threat of displacement	1	3	(no data)	3	1	2	(no data)	10
Others**	(no data)	1	(no data)	2	(no data)	(no data)	1	4
Ecological violence	0	14	0	1	0	2	0	17
Contamination of resources, pollution	(no data)	8	(no data)	(no data)	(no data)	(no data)	(no data)	8
Depletion of productivity	(no data)	1	(no data)	(no data)	(no data)	2	(no data)	3
Destruction of forest and biodiversity	(no data)	5	(no data)	1	(no data)	(no data)	(no data)	6
Total	3	18	1	7	1	4	9	43

* Chinese coast guards

** Denial of benefit; Threat on invalidating amortization payments and CLOA

Figure 16. Number of perpetrators by type of violence affecting communities



Based on the graph above (Figure 16), the main perpetrator of violence affecting communities is the business sector. A majority of these violence are ecological in nature (see Table 15). The next group of perpetrators are the Chinese Coast Guard which harass fisherfolk in the disputed areas in the Kalayaan Group of Islands and Scarborough Shoal or Bajo de Masinloc.

Powerful individuals continue to wield influence and are able to sway state agents to do their will. Powerful individuals may also have private armed groups at their disposal to harass rights holders; not to mention resources to file cases or prolong actions filed by rights holders.

Table 16. Responses to Conflicts by Communities

Responses of Communities to Conflicts	Number
Conflict management - administrative mechanism	31
Conflict management - Court, NHRI/C, legal remedy	33
Conflict management - customary mechanism	2
Conflict management - negotiation	58
Do not know	25
No response	1
Peaceful demonstration and other non-violent acts	125
Retaliation	2
Withdrawal/Escape	3
Grand Total	280

Figure 17. Community responses to conflicts

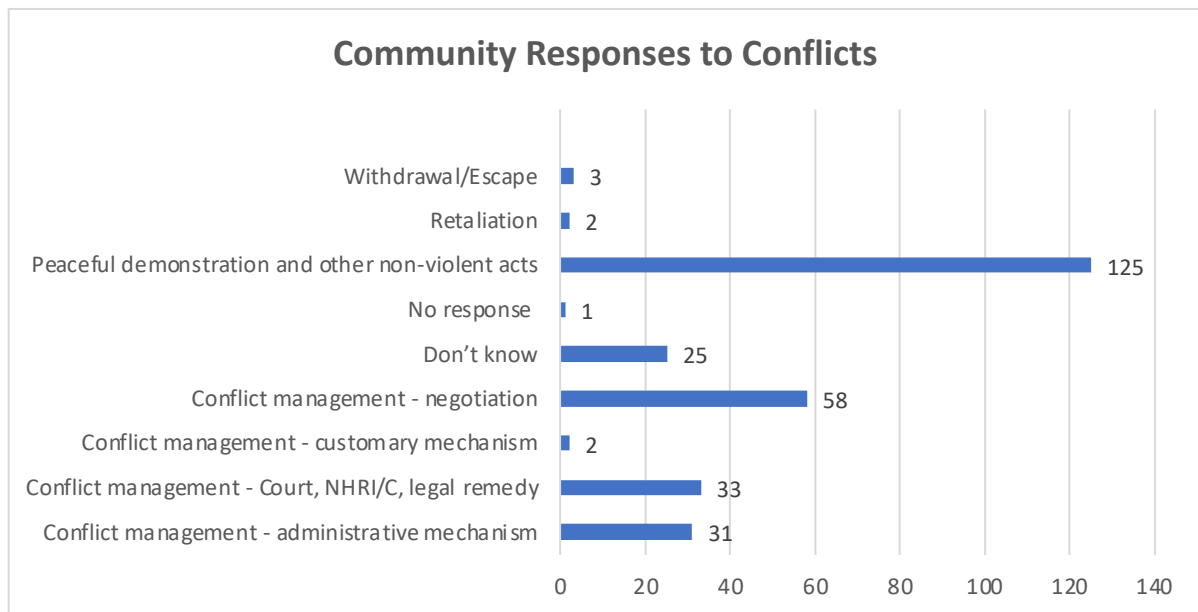
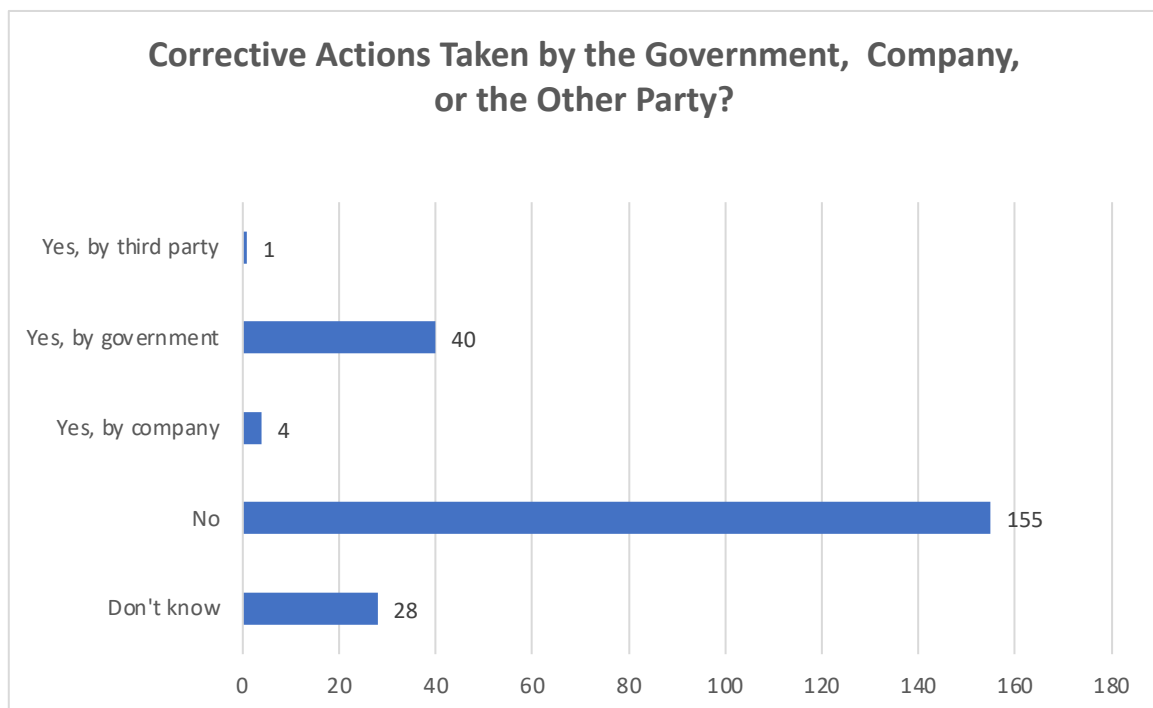


Figure 18. Corrective Actions Taken by the Government, Company or the Other Party



The data shows that no action taken in 68 percent of cases (see Figure 18). It should be explored further why corrective action by government only constitutes about 18 percent of cases. The data also does not show whether affected communities and individuals are satisfied with the corrective action taken by government.

The study in 2020 included legal processes under peaceful claim-making acts. This includes peaceful demonstrations (46.4 percent), negotiation (22.4 percent), through seeking legal remedies (17.2 percent), administrative (13.2 percent) and customary conflict mechanisms (0.8 percent).

What the numbers show is that victims hardly retaliate. Significantly about 23 percent resort to remedies under our legal system. We cannot say if there is trust in the legal system or these are perfunctory actions taken hand in hand with their peaceful resistance.

Overview of Legal Remedies in Land and Resource Conflicts

It may be worthwhile to look into the myriad of administrative and judicial bodies where rights holders would need to file cases to enforce or protect their rights. Administrative agencies wield quasi-judicial powers as opposed to courts of law that possess judicial powers.

A quasi-judicial agency or body is an organ of government other than a court and other than a legislature, which affects the rights of private parties through either adjudication or rule-making. The very definition of an administrative agency includes its being vested with quasi-judicial powers. The ever-increasing variety of powers and functions given to administrative agencies recognizes the need for the active intervention of administrative agencies in matters calling for technical knowledge and speed in countless controversies which cannot possibly be handled by regular courts. A "quasi-judicial function" is a term which applies to the action, discretion, etc. of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis for their official action and to exercise discretion of a judicial nature.

The Monetary Board and Gail Fule v. Philippine Veterans Bank, G.R. No. 189571, 21 January 2015.

There are distinctions between a judicial remedy and an administrative remedy. To a litigant claimant though, the distinction may be irrelevant since filing a case with either an agency or court is a necessary act to protect or preserve her/his rights over a parcel of land or a resource. Besides, in most instances, the jurisdiction of the agency or court has been defined as exclusive and original. Thus, the litigant claimant has no real choice, but to file her/his claim with the agency or court that has jurisdiction over her/his rights.

Over the years, the Philippine legal system has evolved to grant quasi-judicial powers to administrative agencies. This means that administrative agencies, while not being part of the judiciary, may decide or resolve controversies involving their expertise. This is the main advantage of delegating quasi-judicial powers to administrative agencies since experts in a particular field assess the technical aspects of a case. A secondary advantage in administrative proceedings is that a less majestic procedure is observed compared to courts. Rules are generally less stringent and formal and in most cases, a full blown trial is unnecessary, as the parties merely submit position papers and documentary evidence.

Verily, factual findings of administrative officials and agencies that have acquired expertise in the performance of their official duties and the exercise of their primary jurisdiction are generally accorded not only respect but, at times, even finality if such findings are supported by substantial evidence. The Courts generally accord great respect, if not finality, to factual

findings of administrative agencies, because of their special knowledge and expertise over matters falling under their jurisdiction.

Land Bank of the Philippines v. Spouses Costo, G.R. No. 174647, 05 December 2012.

Nevertheless, certain land and resource conflicts are still filed with the courts, as in the case of land disputes between IPs/ICCs and non-IPs/ICCs. Appeals from decisions of quasi-judicial agencies are also filed with the Court of Appeals.

Land Conflict Actions filed in Court:

Accion interdictal – may either be forcible entry or unlawful detainer. An action for forcible entry is filed when one is deprived of physical possession of real property by means of force, intimidation, strategy, threats, or stealth. A case for unlawful detainer refers to a situation when one illegally withholds possession after the expiration or termination of his right to hold possession under any contract. In forcible entry, the possession of the defendant is illegal from the beginning while in unlawful detainer, possession of the defendant is originally legal but became illegal due to the expiration or termination of the right to possess.

Accion publiciana - is the plenary action to recover the right of possession which should be brought in the proper regional trial court when dispossession has lasted for more than one year. It is an ordinary civil proceeding to determine the better right of possession of realty independently of title (Heirs of Alfonso Yusingco v. Amelita Busilak, et al., G.R. No. 210504, 24 January 2018).

Accion reivindicatoria - is an action whereby plaintiff alleges ownership over a parcel of land and seeks recovery of its full possession. It is a suit to recover possession of a parcel of land as an element of ownership (Amoroso v. Alegre Jr., G.R. No. 142766, 15 June 2007).

In land and resource conflicts, the following agencies are examples of administrative agencies that wield quasi-judicial powers to resolve controversies:

Department of Agrarian Reform Adjudication Board (DARAB)

DARAB's genesis can be traced to President Corazon Aquino's Executive Order No. 229 dated 22 July 1987 that provided the mechanism to implement the agrarian reform program. Section 17 of the Order conferred quasi-judicial powers upon the Department of Agrarian Reform (DAR) and furthermore, the exclusive and original jurisdiction to resolve and decide agrarian reform cases. Executive Order No. 129-A dated 26 July 1987 was then issued that specifically created the Agrarian Reform Adjudicatory Board. On 10 June 1988, R.A. 6657 or the Comprehensive Agrarian Reform Law of 1988 was enacted and the quasi-judicial powers of the DAR were further defined.

Significantly, under Section 50 of R.A. 6657, it is provided that responsible farmer leaders may represent themselves or other farmers in the proceedings. The same section also states that the DAR's Decision is immediately executory even though the losing party has filed an appeal with the Court of Appeals.

Recently, the DARAB issued its 2021 rules of procedure that amends the 2009 version. A key addition to the rules is that the DARAB now accommodates online hearings.

Department of Agriculture Adjudication Committee

R.A. 8550 or the Fisheries Code of 1998 was amended by R.A. 10654. One significant amendment of the Fisheries Code is Section 130 that established the Adjudication Committee. The Adjudication Committee was granted the authority to hear administrative and adjudicative proceedings and impose the fines and penalties under the Fisheries Code.

The Adjudication Committee also has jurisdiction to determine if a case falls under the definition of a Strategic Lawsuit Against Public Participation (SLAPP). Section 139 of R.A. 10654 defines a SLAPP suit as a legal action filed to harass, vex, exert undue pressure, or stifle any legal recourse that any person, institution, or the government has taken or may take in the enforcement of the Fisheries Code.

Mines Adjudication Board (MAB)

One of the agencies under the DENR is the Mines Adjudication Board. The MAB was created through R.A. 7942 or the Philippine Mining Act of 1995. It only has appellate jurisdiction over decisions made by a panel of arbitrators. A panel of arbitrators has the original and exclusive jurisdiction over the disputes submitted to it under R.A. 7942. Relevant in this regard is the jurisdiction of the panel of arbitrators which include disputes involving rights to mining areas and disputes involving surface owners, occupants, and claimholders/concessionaires.

While Section 7942 provides that the Supreme Court has the jurisdiction to resolve questions of law on the MAB's decision, the Supreme Court itself has declared such provision unconstitutional. Thus, to question the MAB's decision, the Supreme Court held that an appeal may be made to the Court of Appeals by the losing party (*Carpio v. Sulu Resources Development Corporation, G.R. No. 148267, 08 August 2002*).

National Commission on Indigenous Peoples (NCIP)

The NCIP is a quasi-judicial agency with regard to indigenous peoples, but with a limited jurisdiction. In short, not all controversies involving IPs/ICCs or ancestral domains may be resolved by the NCIP.

Section 69 of the Indigenous Peoples' Rights Act (IPRA) or R.A.8371 confer quasi-judicial powers upon the NCIP. This is limited by Section 66, which requires that remedies under customary laws have been exhausted prior to submitting the dispute to the NCIP. This means, according to the Supreme Court (*Unduran, et al. v. Aberasturi, et al., G.R. No. 181284, 18 April 2017*), that only disputes pertaining to IP/ICC's rights or violations of IPs/ICCs rights of persons belonging to the same IP/ICC may be resolved by the NCIP with the regular courts having jurisdiction over other cases. Meanwhile, the NCIP excludes the courts and has primary jurisdiction over adverse claims and border disputes arising from the delineation of ancestral domains/lands, and cancellation of fraudulently issued CADTs.

Provincial/City Mining Regulatory Board

R.A. 7076 or the People's Small Scale Mining Act of 1991 defined Small Scale Mining as those "mining activities which rely heavily on manual labor using simple implement and methods and do not use explosives or heavy mining equipment." The same law conferred upon the Provincial/City Mining Regulatory Board quasi-judicial powers to "settle disputes, conflicts or

litigations over conflicting claims within a people's small-scale mining area, an area that is declared a small-mining area.”

The Provincial/City Mining Regulatory Board is under the direct control and supervision of the Secretary of the DENR. Thus, the DENR Secretary has the authority to review and set aside the findings of the board.

Joint Administrative Order No. 1 Series of 2012

The DAR, DENR, LRA, and NCIP issue JAO 01-12 to address conflicting jurisdictions and overlapping claims as regards lands falling under their respective mandates.

Chapter V of the JAO provides for mechanisms to prevent and resolve contentious areas/issues at the national and field levels. One measure enforced by the JAO is that the NCIP, DENR, and DAR comply with the Manual of Land Surveys in the Philippines in order that their survey plans would be uniform and consistent.

In resolving overlapping surveys of lands with regard to Ancestral Domains or Lands, the JAO provides that the LRA, DENR, and DAR shall endorse the survey plans to the NCIP for exclusion or segregation. After the exclusion or segregation of the overlapping areas, the NCIP will send the amended survey plan to the LRA, DENR, and the DAR. The LRA, DENR, and DAR shall then act on the amended survey plan and within 15 days should issue a certification of non-overlap.

The exclusion or segregation of land from Ancestral Domains or Lands by the NCIP refers to titled lands. The concerned IP/ICC may nevertheless question the validity of such title with the DARAB for land covered by CLOAs or the regular courts for all other titles. It should be noted that IPRA itself recognizes that lands covered by Torrens titles issued prior to the enactment of the IPRA have vested rights upon their registered owners. In the same vein, such lands may be awarded through the agrarian reform program provided by law.

This process has been observed to cause delay in the issuance and registrations of CADTs and CALTs (Salcedo, 2021).

Recommendations

For government:

- a. Government must comply with the Constitution and its Human Rights commitments

This calls for a massive shift in policy that protects the vulnerable. Government cannot ignore the Constitution, laws, and treaties it ratified that advance the protection of human rights. With its overemphasis on public order and national security at the cost of human rights (UNHRC, 2020), government needs to find the proper balance.

That being said, there is even concern whether it is a question of balancing the interests of public order and national security against the protection of human rights. With the unfettered and indiscriminate red-tagging and criminalization that has been done by State agents, it is not an issue of balance, but of abuse.

Government must commit to comply with its obligations under international human rights instruments. Government must also commit to give teeth to the Constitution and existing laws by not undermining institutions, like the Commission on Human Rights (CHR), that are specifically tasked by the Constitution to promote and advance human rights. This includes

Congress, which should allot to the CHR the budget it needs and deserves, when at one time, the lower house threatened to give it a PhP1,000 budget (Cayabyab, 2017).

b. Stop red-tagging and criminalization

Red-tagging and criminalization are downright illegal. Both, by definition, are acts of falsehood in which the government does not get involved. Civilian authority remains supreme and government cannot be misled by false and inaccurate military intelligence and abusive State agents. Government must therefore investigate red-tagging and criminalization committed by its agents and prosecute them for such criminal acts. It must also provide redress and relief for those who have been victimized.

Government must commit to the whole of nation approach embodied in Executive Order No. 70. The campaign against insurgency through this EO can only be successful through meaningful participation of communities together with respect for human rights and the rule of law (UNHRC, 2020).

c. Complete land and resource reform programs

The foremost land reform program in the Philippines is the redistribution of land pursuant to the Comprehensive Agrarian Reform Law and its iterations and extensions. While the present administration prides itself for supposedly having distributed 4.9 million hectares to farmers, government's records show this administration's distribution of land under the agrarian reform program has been the lowest since 2005 (Dela Pena, 2022). The Philippine Statistics Authority's data, however, shows that this administration has never awarded more than 28,719 hectares of land under its agrarian reform program in its term so far (Dela Pena, 2022). This conflation of data underscores the lack of priority given to agrarian reform, as many ARBs continue to have no possession of their land.

Thus, government needs to complete the awarding of the remaining lands covered by agrarian reform.

d. Institute more efficient and effective mechanisms to resolve overlapping claims on land

One prime example of government's shortcomings in resolving overlapping claims is its Joint Administrative Order No. 1, series of 2012. The issuance was supposed to aid in resolving overlapping claims in ancestral domains, but resulted in hindrances to the issuance and registration of CADTs and CALTs (Salcedo, 2021). In cases of overlap, the NCIP is mandated to seek a Certificate of Non-Overlap from the DAR, DENR and Land Registration Authority (LRA). This condition, however, is not mandated for the DAR, DENR and LRA (Salcedo 2021). Many land tenure instruments, and resource use and management agreements were allowed to proceed without hindrance by the other agencies for overlapping claims other than those in ancestral domains; thus placing an unusual burden for IP claimants.

Thus, government must find an efficient method to resolve conflicting or overlapping claims in ancestral domains.

e. Incorporate the UN Guiding Principles on Business and Human Rights (UNGPs) in government systems and adopt a National Action Plan (NAP) on UNGPs with emphasis on land rights

Government must adopt the UNGPs in its systems especially in instances where investments are subjects of its decision-making. Government must not prioritize economic gains over human rights and therefore must place the UNGPs at the heart of its policies. In line with this, the government must institute a NAP with a component for land rights.

The pervasive conflicts and issues surrounding land and resource conflicts, particularly those arising from business activities, should compel the national government to include land rights as a priority area in its NAP for UNGPs.

The NAP for UNGPs should not be allowed to stagnate. The action points in the NAP may be appropriate only for prevailing circumstances, but once the situation changes, these must be tweaked. The action points should be updated if they do not adequately address land and resource conflict and even totally abandoned if they are no longer viable solutions. For example, the COVID-19 pandemic posed not only a challenge to addressing land rights, but by itself has been established as a land and resource rights issue as human encroachment into former wildlife habitat was traced as a possible source of the virus.

The first crucial aspect of assessing the action plan is collecting data. The metrics have been identified, but having readily available and relevant and accurate data is another matter. For instance, it has been found that DAR has no comprehensive data on land under its jurisdiction (Quizon et al, 2018). DAR is unable to track illegally converted agrarian land (Quizon et al., 2018). Thus, government should be properly equipped in monitoring and reporting the outcome of its efforts under the NAP.

f. Enact laws protecting rights to land and resources

Many laws addressing land rights and resource conflict need to be passed. Unfortunately, many of the proposed bills never reached the desk of the president to become law. Therefore, the passage of the following proposed legislation needs to be pursued:

- An Act Mandating the Completion of the Land Acquisition and Distribution Component of the Comprehensive Agrarian Reform Program
- Agri-business Ventures Arrangements in Agrarian Reform Lands Act
- National Land Use and Management Act
- Human Rights Defenders Protection Act
- Anti-Red Tagging Act
- Department of Fisheries and Aquatic Resources Act
- The Bantay Dagat Welfare and Incentives Act
- Forest Resources Act
- Indigenous Communities Conserved Areas and Territories Act
- Philippine Mineral Resources Act

These are only a few of the proposed legislation that fill the gaps and address issues regarding land rights. Many of the land and resource conflict mentioned above may be addressed through laws. It is the whole of government, including Congress, that needs to take action to make protection of land rights comprehensive and effective.

For the Commission on Human Rights

- a. Continue monitoring and investigating land and resource conflicts, especially red-tagging incidents

The Commission on Human Rights, as the prime agency in government that specifically advances human rights should heighten its activities that monitor and investigate human rights violations. Pursuant to its mandate under Executive Order No. 163, series of 1987, it has the power on its own to conduct investigations of violations of civil and political rights. Thus, it should not need to wait for a complaint to initiate investigations.

While indeed land rights pertain to economic and social rights, the above study shows that land and resource conflicts provide the setting for violations of civil and political rights. Red-tagging, criminalization, and even murder of rights holders pertaining to land clearly place these cases within the ambit of violations of civil and political rights.

- b. Continue advocating and asserting to the national government the duty to protect human rights

CHR's advocacy should include the immediate formulation and adoption of a NAP for UNGPs that includes comprehensive provisions on land rights.

The NAP for UNGPs should not be allowed to stagnate. The action points in the NAP may be appropriate only for prevailing circumstances, but once the situation changes, these must be tweaked. The action points should be updated if they no longer adequately address land and resource conflicts and even totally abandoned if they are no longer viable solutions. For example, the COVID-19 pandemic posed not only a challenge to addressing land rights, but by itself has been established as a land and resource rights issue as human encroachment into former wildlife habitat was traced as a possible source of the virus.

In relation to this study, it is a crucial aspect of the NAP to continuously collect data. The metrics may have been identified, but having readily available and relevant and accurate data is another matter. For instance, it has been found that DAR has no comprehensive data on land under its jurisdiction (Quizon et al., 2018). DAR is unable to track illegally converted agrarian land (Quizon et al., 2018). Government should be properly equipped in monitoring and reporting the outcome of its efforts under the NAP and improving its data capturing ability is part and parcel of reducing land and resource conflict.

CHR should likewise encourage legislators to pass crucial bills that protect human rights and reduce land and resource conflict. These crucial bills are enumerated above and the CHR should make its position known on these important pieces of legislation. In 2021, the CHR released a position paper on the proposed Code of Conduct for the Eviction of Underprivileged and Homeless Citizens, Demolition of their Dwellings, and their Resettlement Amending for the Purpose R.A. No. 7279, Otherwise Known as the "Urban Development and Housing Act of 1992." It also made its position known on the Anti Hate Speech Act. In 2018, the CHR also released its stance on the Human Rights Defenders Bill. Given these, the CHR still needs to continue and even reiterate and amplify its position on urgent human rights issues that pervade land and resource conflicts.

FOR BUSINESS

- a. Comply with government regulations and ensure honest observance of FPIC

Businesses should comply with laws and government regulations. This should not even be a recommendation for this paper since laws and regulations are meant to be observed and followed.

What may be emphasized in this light is businesses' true and honest compliance with laws and regulations. For instance, in the conduct of the FPIC, it has been reported that some businesses have dealt with people who do not represent the community. Thus, while the business may have conducted the FPIC, it is not the FPIC that was envisioned under the IPRA law. Thus, businesses should not only comply with the law, but also abide by the intent and spirit of the law.

b. Practice Corporate Social Responsibility and incorporate UNGPs

While there are laws in place to regulate business activities, many of these are minimum standards. Businesses are free to impose upon themselves other duties and responsibilities that promote human rights. This can be seen in the UNGPs that promote Business and Human Rights ideals. For instance, business may implement human rights due diligence to see if their operations are aligned with the UNGPs.

The adoption of the UNGPs is of course, voluntary for the corporation. Nevertheless, it has been seen that consumers and shareholders have great influence in making business more compliant with human rights principles.

c. Enter into fair and arm's length agreements with farmers, IPs, fisherfolk, and other rights holders.

Further to the above recommendations, provisions in contracts are merely regulated by laws and principles of public policy and thus, businesses must adhere to the spirit of the protection of the rights holders. Businesses should not be content in entering business contracts without including provisions that protect the rights holders. Agreements with farmers should be fair to them and businesses should understand that between them and the farmers, the latter have more to lose with unstable market prices, for instance.

FOR CSOs

a. Organize and empower vulnerable communities and individuals

Many rights holders do not know their rights to begin with. Thus, CSOs need to provide the proper knowledge and assistance to vulnerable communities especially when government is slow in responding to their need, or worse, if government itself is the duty-bearer infringing on the individuals and communities' rights.

CSOs also are more trusted by communities where they have worked over long periods. They usually also personally know the members of the community.

CSOs also need to assist in mobilizing communities. For instance, because of massive uproar from the public, despite a resolution from the Sangguniang Panlalawigan, South Cotabato's governor vetoed the resolution lifting the ban on open pit mining.

b. Improve monitoring and reporting on conflict and HRVs

As already discussed above, gathering data is difficult at this time when the pandemic has not been declared to be over. Government is also unreliable for reasons ranging from reluctance to release data, red tape or simply because it does not collect the data needed.

CSOs have their ear to the ground, so to speak. They are also trusted when community members would rather not report incidents to State agents. CSOs also have the ability to accurately relay information that may be lost through transference.

In any event, the study revealed gaps that need to be addressed. Many data cells are empty because of the many issues encountered and the methodology used. The data gathering method should improve once people are free to move about after the pandemic.

c. Continue multi-stakeholder dialogues and share data for evidenced-based actions

The aim of gathering data is not merely to report cases and incidents of HRVs. The ultimate end of this study is to aid the protection of human rights and alleviate their causes in land and resource conflict. The data helps identify the problems that persist and to provide relevant solutions. Incomplete data inhibit the formulation of solutions and waste resources in ineffectual efforts. As discussed above, one cannot take at face value the numbers that are reported.

When CSOs are armed with incontrovertible data, they are also more effective in engaging in dialogues with stakeholders. Thus, apocryphal information should not be discussed, as this would weaken the foundation of any meaningful dialogue.

The state of Philippine affairs is in flux. A new administration, not without attached issues and controversies, is set to take over from one that has a far from encouraging human rights record. While the COVID-19 pandemic has become manageable, it has so far left the Philippines with Trillions of Dollars in debt. With this, the outlook as regards land and resource conflict is filled with doubt. Thus, it is hoped that the numbers reported above would improve.

□

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Disclaimer

The views expressed in this report do not necessarily reflect those of ILC, GLTN and UN-Habitat.

Acronyms

ADR	Alternative Dispute Resolution
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
ARB	Agrarian Reform Beneficiary
BSP	Bangko Sentral ng Pilipinas
CADT	Certificate of Ancestral Domain Title
CALABARZON	Cavite-Laguna-Batangas-Rizal-Quezon
CALT	Certificate of Ancestral Land Title
CAR	Cordillera Administrative Region
CARAGA	Caraga Administrative Region
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program with Extensions and Reforms
CHR	Commission on Human Rights
CLOA	Certificate of Land Ownership Award
CLT	Certificate of Land Transfer
CNO	Certificate of Non-Overlap
COA	Commission on Audit
CSO	civil society organization
DAR	Department of Agrarian Reform
DARAB	Department of Agrarian Reform Adjudication Board
DENR	Department of Environment and Natural Resources
FOI	Freedom of Information
FPIC	Free, Prior, and Informed Consent
FTAA	Financial or Technical Assistance Agreement
HRD	Human Rights Defender
HRV	Human Rights Violation
ICC/s	Indigenous Cultural Community/ies
IPs	Indigenous Peoples
IPRA	Indigenous Peoples' Rights Act
LGU	Local Government Unit
LRA	Land Registration Authority
LWA	Land Watch Asia
MIMAROPA	Mindoro-Marinduque-Romblon-Palawan
NAP	National Action Plan

NCIP	National Commission on Indigenous Peoples
NCR	National Capital Region
NEDA	National Economic and Development Authority
NIA	National Irrigation Authority
NIPAS	National Integrated Protected Areas System
NHRI/C	National Human Rights Institution/Commission
NPA	New People's Army
PARAD	Provincial Agrarian Reform Adjudicator
PSA	Philippine Statistical Authority
RARAD	Regional Agrarian Reform Adjudicator
SMI	Sagittarius Mines, Inc
SOCCSKSARGEN	South Cotabato-Sultan Kudarat-Sarangani-General Santos
UDHA	Urban Development and Housing Act
UNGPs	United Nations Guiding Principles on Business and Human Rights

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