



**Nationally Determined
Contributions in Asia:
Are Governments recognizing
the rights, roles and contributions
of Indigenous Peoples?**

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Abbreviations

AIPP	Asia Indigenous Peoples Pact
AMAN	Aliansi Masyarakat Adat Nusantara (Indigenous Peoples' Alliance of the Archipelago)
BCSRM	Business Council for Sustainability and Responsibility Malaysia
BRWA	Badan Registrasi Wilayah Adat
CCA	Community-Conserved Area
CRC	Community Representative Committee
CRP	Climate Resilience Development Plan
CSO	Civil Society Organization
EU	European Union
FORMATAT	Forum Masyarakat Adat Dataran Tinggi Borneo (Borneo Highlands Traditional Community Forum)
FPIC	Free, Prior and Informed Consent
FSC	Forest Stewardship Council
GDP	Gross Domestic Product
GHG	Greenhouse Gas
ICCs/IPs	Indigenous Cultural Communities / Indigenous Peoples
IPRA	Indigenous Peoples' Rights Act
IPs	Indigenous Peoples
JAKOA	Department of Orang Asli Development, Malaysia
JOAS	Jaringan Orang Asal SeMalaysia (Indigenous Peoples Network of Malaysia)
KAMY	Klima Action Malaysia (Climate Action Malaysia)
LCCAP	local climate change action plan
LCIPP	Local Communities and Indigenous Peoples Platform
LULUCF	Land Use, Land-Use Change and Forestry
MCCG	Malaysian Climate Change Group
MTCS	Malaysian Timber Certification Scheme
NAP	National Adaptation Plan
NCCAP	National Climate Change Action Plan
NCR	Native Customary Rights

NDC	Nationally Determined Contribution
NFSCC	National Framework Strategy on Climate Change
NGO	Non-Governmental Organization
NRS	National REDD+ Strategy
NTFP-EP	Non-Timber Forest Products – Exchange Programme
PNRPS	Philippine National REDD-plus Strategy
PRISA	Prinsip, Kriteria, Indikator Safeguards Indonesia
REDD+	Reducing Emissions from Deforestation and Forest Degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks
RPJMN	National Mid-Term Development Plan
RSPO	Roundtable on Sustainable Palm Oil
SBY	Susilo Bambang Yudhono
SGP	Small Grants Programme of the Global Environment Facility
SIS	Safeguards Information Systems
SOI	Summary of Information
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFCCC	United Nations Framework Convention on Climate Change
WWF	World Wide Fund for Nature



Orang Asli Temuan women processing palm leaves harvested from depleted forest near the Sungai Selangor Dam, Malaysia.

Photo Credit: FPP

Malaysia

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Purpose of this report

This report presents the results of an analysis of how the rights and knowledge of Indigenous Peoples are addressed by the policies, laws and plans related to climate change in Malaysia. The report presents specific recommendations and is a baseline document for the Asia Indigenous Peoples Pact (AIPP) and its member organizations working on climate change and the rights of Indigenous Peoples.

Summary of findings

- The indigenous population in Malaysia, collectively known as the ‘Orang Asal’, face several challenges, the key challenge being lack of recognition of their customary land. Individual states have jurisdiction over land and forest ownership. While states like Sabah and Sarawak give some recognition to the Orang Asal’s customary land rights, states in Peninsular Malaysia offer little guidance on reserving land for the Orang Asal, short of filing a court case. Due to many restrictions over customary land and differences in the definition of land ownership between customary law and state law, indigenous communities continue to fight for their land.
- Food insecurity resulting from climate change has affected the physical and mental health of the Orang Asal. Climate change causes drought and forest degradation which result in a decline in food and medicinal resources. Forest habitats for fish and game animals are also degraded, further limiting subsistence for the Orang Asal. Food insecurity can eventually lead to malnutrition and drought can exacerbate waterborne diseases. In typical Orang Asal households, women often bear the primary responsibility for maintaining their home and, thus, can be disproportionately affected by drought and floods.
- The Orang Asal and their customary land rights have been recognized by certain national climate policies in Malaysia. The National REDD+ Strategy and Malaysia’s Safeguard Information Systems mention the importance of empowering indigenous and local communities in biodiversity conservation. However, these national policies have yet to be endorsed by the respective state governments. The empowerment of indigenous communities will ultimately depend on the states’ recognition of their land rights. Several Orang Asal organizations have raised concerns about inadequacies in the climate strategies in relation to indigenous land rights. The state governments, particularly Sabah and Sarawak, have been increasingly recognizing native customary rights, but recognition of native land rights has been limited. In addition, Malaysia’s Nationally Determined Contribution (NDC) fails to recognize native land rights and the value of traditional knowledge. All of these issues are hampering the social sustainability of REDD+ efforts.

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- Malaysia's NDC fails to facilitate the involvement of the Orang Asal in climate policies. The Orang Asal have, therefore, had limited direct involvement in the formulation of national and international climate change policies. They have largely relied on NGOs that are independently involved in climate change activism.
 - Under the Global Environment Facility's Small Grants Programme, grants have been given to local Orang Asal communities for climate-change mitigation. These grants provided renewable energy sources which in some cases have helped communities to start businesses which have generated additional income.
 - The Orang Asal's traditional agricultural activities are in line with Malaysia's commitment to minimizing its emissions intensity under the Paris Agreement. This is well illustrated by communities that contribute to the Forum Masyarakat Adat Dataran Tinggi Borneo (FORMADAT). This group is advocating for traditional agricultural methods that maintain and cultivate the fertility and regeneration of soil.

Recommendations

The Malaysian government should acknowledge the Orang Asal's particular vulnerability to climate change and their key role in climate-change mitigation by:

- respecting and promoting traditional climate-friendly agricultural practices
- ensuring that REDD+ programs fully recognize traditional territories (customary lands)
- providing a Local Communities and Indigenous Peoples Platform (LCIPP) via a consultative committee, or an annual forum for Indigenous Peoples and other stakeholders to discuss national environmental and climate policies
- the LCIPP should acknowledge and give special provisions that account for the power and economic disparity between the Orang Asal and the wider population.

Overview

The Indigenous Peoples of Malaysia, collectively known as the ‘Orang Asal’, are a marginalized community that is striving to fight for their land rights. They represent approximately 13.8 per cent of Malaysia’s total population. The Orang Asal are divided into three groups according to Malaysia’s three geographical regions—Peninsular Malaysia, Sabah and Sarawak.¹ In Peninsular Malaysia, the Orang Asal, known as Orang Asli, include the Negrito (Semang), Senoi and Aboriginal-Malay people. In Sarawak, the Orang Asal include the Iban, Bidayuh, Kenyah, Kayan, Kedayan, Lunbawang, Punan, Bisayah, Kelabit, Berawan, Kejaman, Ukit, Sekapan, Melanau and Penan people. In Sabah, there are 39 different Orang Asal groups, including the predominantly Christian Kadazan-Dusun-Murut groups of the interior and the predominantly Muslim groups of the coasts.

Climate change is increasingly recognized as an issue in Malaysia and policies are being developed to counteract its effects and to reduce greenhouse gas emissions, following the Paris Agreement. In Malaysia, climate change has led to increased flooding, heatwaves and drought, which have affected the production of food and tree crops. Average temperatures are forecast to increase by up to 2.6 °C by the year 2050. Annual precipitation is predicted to fluctuate by 30 per cent, meaning more prolonged droughts and more intense floods. Since the 1990s, droughts have periodically resulted in fires that have destroyed large areas of forest and peatlands throughout Malaysia. These fires have also resulted in the phenomenon known as the ‘haze’ which causes significant increases in respiratory illness. Major floods occurred in 2010, 2012 and 2014, with the 2014 northeast monsoon floods being one of the worst in recorded history. Climate change also threatens to lead to rising sea levels, resulting in coastal erosion throughout much of Malaysia.

Malaysia has several strategies to build a degree of resiliency to the effects of climate change and to achieve the goal of reducing the intensity of its greenhouse gas emissions. These strategies include the promotion of sustainable agriculture, reduced-impact logging, and the adoption of renewable energy.

Compared with urban communities, the rural Orang Asal suffer disproportionately from the effects of climate change as the increase in drought and flooding have reduced the yields of subsistence crops. Despite their extensive knowledge and experience in natural resource management (including forest management) and climate change adaptation methods, they play only a marginal role in the government’s climate-change mitigation programs. Given their disadvantaged and vulnerable position, there is a need to ensure that national policies adequately address the issues being faced by this marginalized community.

¹ IWGIA. “The Indigenous World 2021: Malaysia.” IWGIA - International Work Group for Indigenous Affairs, 21 Apr. 2021.

01

General status of Indigenous Peoples in Malaysia

Malaysia voted to adopt the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. As a signatory, Malaysia has a moral obligation to respect the rights of Indigenous Peoples to self-determination and their right to free, prior and informed consent. However, Malaysia has yet to ratify the Indigenous and Tribal Peoples Convention, 1989 (International Labour Organization Convention No. 169)² and other core international human rights treaties. The country's indigenous population face several challenges, the key challenge being the lack of recognition of the customary land of the Orang Asal.

Malaysia is a federation of 13 states. The power over land and forests lies with the individual state governments. For decades, there has been a conflict between the Orang Asal and the state governments over the recognition of the Orang Asal's customary land. State governments tend to view the occupation of land and access to forest resources as privileges rather than rights.

Written laws related to land were introduced to Malaysia by the British during colonial times. In Sabah and Sarawak, these laws, such as the Sabah Land Ordinance 1930 and the Sarawak Land Code 1958, give a degree of recognition of customary land rights, though, for Sarawak, recognition is restricted to land that has been continuously cultivated.³ In Peninsular Malaysia, the National Land Code 1965 makes no mention of customary land rights. The Aboriginal Peoples Act 1954⁴ (which applies only to Peninsular Malaysia) is the main law related to Orang Asli land rights; however, as it is a federal law, the state governments have been reluctant to reserve land for the Orang Asli under this Act. Despite the shortcomings of the statutory laws, some Orang Asal customary land tenure has been recognized by the courts, under the provisions of common law.

2 Survival, Cultural. 2018. "Observations on the state of indigenous human rights in Malaysia."

3 Lim, T.W. (2011). A Critical Review of Forest Regulatory Frameworks and their Implementation in Malaysia: The Impact of Recent Reforms on Forest-Dependent People, with Special Reference to Revisions of the Sarawak Land Code 1958. pp. 51-57. In: Scheyvens, H. (ed). Critical Review of Selected Forest-Related Regulatory Initiatives: Applying a Rights Perspective. Institute for Global Environmental Strategies (IGES), Japan.

4 Minority Rights Group. 2021 "Orang Asli." 5 February, minorityrights.org/minorities/orang-asli.

In Sarawak, the Malaysian Constitution and the Sarawak Land Code both provide protections for native customary rights (NCRs). Before leasing land, government agencies must adhere to legislation that necessitates their conducting a survey to determine if NCRs over the land in question exist. However, indigenous communities continue to fight for their land rights following a 2016 federal court decision that native customary land claim practices of “territorial domain” and “communal forest reserve” could not be legally protected.⁵ Along with the protections for NCRs stated in the Malaysian Constitution, the Sabah Land Ordinance 1930 protects the customary land rights of Indigenous People in Sabah; however, these rights have been limited and restricted. The status of customary land is often disputed due to differences in the definition of land ownership between the adat (custom) and state law perspectives.⁶

5 Survival, Cultural. 2018. “Observations on the state of indigenous human rights in Malaysia.”

6 Nuar, E & Lunkapis, G. (2019). Customary Land and the Indigenous People of Sabah: A Case Study of Sinumagang-Tinuman Toki. IOP Conference Series: Earth and Environmental Science.

02

Indigenous Peoples and climate change in Malaysia

The rural Orang Asal have been disproportionately affected by the impacts of climate change due to their reliance on their environment for daily subsistence. Climate change has reduced the availability of fresh water, reduced the yields of subsistence plants (including crop plants, medicinal plants, and other non-timber forest produce) due to increasingly severe droughts and floods. These disturbances, in turn, affect the physical and mental health of the Orang Asal. These problems add to the well-documented underlying cultural and economic challenges to the traditional Orang Asal way of life.

One of the biggest effects that climate change has had on the Orang Asal has been to restrict the available food resources. Droughts related to climate change are predicted to cause a 20 per cent decline in yields from crops such as rice. The Orang Asal are particularly vulnerable to reductions in crop yield due to an existing lack of food security. For example, in Peninsular Malaysia 82 per cent of Orang Asli households were food insecure in 2018.⁷

In addition to reducing yields of rice and other crops, climate change exacerbates deforestation and forest degradation, leading to a decline in forest-based food sources. For example, in Sabah, the indigenous Lundayeh communities face shortages of food and medicinal resources from the forest. Traditionally, the Lundayeh have sourced 113 types of vegetables, 28 mushrooms and 22 flavorings from the forest.⁸ However, due to the decline in forest resource availability, they are opting to harvest and cultivate cash crops instead of traditional food and medicinal resources to ensure their economic survival. As well as losing food security, they stand to gradually lose their traditional knowledge and cultural heritage.

7 Law, Leh Shii et al. "The Identification of the Factors Related to Household Food Insecurity among Indigenous People (Orang Asli) in Peninsular Malaysia under Traditional Food Systems." *Nutrients*, 2018.

8 Hoare, Alison. "Food resources and changing patterns of resource use among the Lundayeh of the Ulu Padas, Sabah." *Borneo Research Bulletin*, vol. 34, 2003, p. 94+.

Food security is not only related to crop plants—wild animals (such as freshwater fish, monkeys and wild boar) also comprise a significant proportion of the diet of many Orang Asal communities. Climate-change-induced droughts and forest fires exacerbate the existing destruction and degradation of the forest homes of fish and game animals, contributing to the food insecurity of rural Orang Asal communities.

Climate-induced food insecurity can lead to malnutrition and can also affect the health of Orang Asal communities in other ways, such as by reducing the supply of clean water. The Orang Asal live in the most remote locations in Malaysia and thus have the lowest levels of treated-water supply. The lack of a piped supply of treated water makes them vulnerable to climate-induced water shortages and water pollution. The increasingly intense drought–flood cycle, combined with forest loss due to fire, increases soil erosion which leads to muddy water.⁹ For rural communities reliant on gravity-fed water supply systems, soil erosion in the water catchment can lead to clogged pipes, further reducing the supply of potable water. Water disruptions due to blockages and stagnant water at clogged intake points can also lead to an increase in waterborne diseases such as dysentery; standing water can also cause mosquito-transmitted diseases such as malaria and dengue fever. Ongoing resource shortages can also lead to negative psychosocial effects and can particularly affect the mental health of already -marginalized communities.

Gender disparities in the impacts of climate change can be seen in Orang Asal families where husbands increasingly focus on earning an income for the family by working outside the home. In such instances, which are particularly common among rural communities, the men, usually, often spend a significant amount of time working far from home. In such instances, the wives have the primary responsibility of maintaining the home. Orang Asal women, thus, may have to take the lead in dealing with any impacts of climate change related to the home, such as rationing food following poor crop yields, dealing with water supply disruptions, dealing with the effects of flooding on the home, safeguarding children during floods, and cleaning and repairing damage to the physical structure of the home following severe storms and floods.

Clearly, climate change has far-reaching effects on the Orang Asal of Malaysia. In the following section, we highlight the extent to which existing policies mitigate these effects and discuss steps that could be taken to improve the policies.

9 Law, Leh, et al. “The Identification of the Factors Related to Household Food Insecurity among Indigenous People (Orang Asli) in Peninsular Malaysia under Traditional Food Systems.” *Nutrients*, vol. 10, no. 10, 2018, pp. 1–14. Crossref, doi:10.3390/nu10101455.

03

Climate policies

3.1 Recognition of rights in climate policies

Nationally Determined Contributions

Malaysia is a signatory to the United Nations Framework Convention on Climate Change (UNFCCC). As its commitment to decisions 1/CP.19 and 1/CP.20 of the UNFCCC, the Malaysian government set its Nationally Determined Contribution (NDC) as “reducing GHG emissions intensity of GDP by 45% by 2030 relative to the emissions intensity of GDP in 2005”. This NDC was developed based on the projected outcomes from the 11th Malaysia Plan and 20 national policies. The National Adaptation Plan has also been presented within the NDC, although, as of 2021, the details of the plan have yet to be disclosed. The 11th Malaysia Plan¹⁰ and some of the national policies mention the role of the Orang Asal in conserving and managing natural resources. For example, the 11th Malaysia Plan (Strategy C2) highlights an approach to enhance Orang Asal involvement in biodiversity conservation through the management of protected areas. However, the NDC fails to mention the critical relationship between Orang Asal land rights and climate change mitigation, both in terms of building resilience to climate change and of reducing greenhouse gas emissions.

An updated NDC was published on 30 July 2021.¹¹ It states that it “was developed through participatory process through interministerial, agencies, NGOs, private sector, academia working groups and consultations”. The engagement did include local communities and Indigenous Peoples, but the NDC does not mention the importance of Orang Asal’s participation in combating climate change and managing natural resources.

As of 2021, the Malaysian government continues to formulate the 12th Malaysia Plan. According to The Minister in the Prime Minister’s Department for Economic Affairs, the plan aims to produce an effective strategy to address poverty issues in the country, especially among the Orang Asal community¹². While this does not directly address the recognition of the Orang Asal’s customary land rights, it acknowledges the food insecurity within Orang Asal communities in Malaysia.

10 Government of Malaysia. 2011. “Malaysia 11th plan and reference to green growth.pdf”, oneplanet network, 2011-2015

11 Malaysia’s Update Of Its First Nationally Determined Contribution, 2021

Malaysia NDC Updated Submission to UNFCCC July 2021 final.pdf

12 Bernama. “Tok Pa: Govt Formulating Strategy to Tackle Poverty among Orang Asli” NST Online. New Straits Times, 03 July 2021.

The lack of recognition of the Orang Asal, including the further marginalized subgroups within the population (women, children, people with disabilities), and their customary land rights, is a particular issue with the NDC related to forests. Malaysia has identified the protection of forest cover as a focus area in its NDC, i.e. sustainable forest management, including restoration and rehabilitation of the forests (afforestation/reforestation). However, the national definition of sustainable forest management¹³ does not adequately recognize Orang Asal tenure rights. For this reason, the main Orang Asal NGOs have yet to give their backing to the Malaysian Timber Certification Scheme (MTCS). At the same time, activities carried out in the name of forest restoration and rehabilitation have occasionally involved the replacement of natural forest with industrial tree plantations, to the detriment of Orang Asal communities. Thus, the implementation of this NDC risks further marginalizing the Orang Asal and exposing them to the impacts of climate change.

Orang Asal communities offer valuable insights into building climate resilience, due to their traditional knowledge of land and resources. In particular, community-conserved forests are often the best managed in terms of carbon capture and storage. For instance, in Brazil, community forests have been shown to store 36 per cent more carbon per hectare than forests not under community control. Therefore, the Malaysian government should also recognize Orang Asal tenure rights as a necessary prerequisite for equitable land management and climate change mitigation.

National REDD+ Strategy

Malaysia's NDC is supplemented by the National REDD+ Strategy (NRS)¹⁴ which describes how the nation plans to work towards reducing emissions from deforestation and forest degradation, including by enabling the role of conservation, sustainably managing forests and enhancing forest carbon stocks. The strategy aims to secure forests and their ecosystem services, and ensure all benefits are shared fairly and equitably among all stakeholders, including the Orang Asal. However, the strategy addresses the Orang Asal as a singular homogenous group ("indigenous peoples") and has yet to specify the roles and contributions of indigenous women, children, and people with disabilities.

¹³ "Sustainable Forestry in Malaysia." Malaysian Timber Council, mtc.com.my/resources-SustainableForestryinMalaysia.php.

¹⁴ Ministry of Natural Resources and Environment, Malaysia, 2011. "Malaysia National REDD+ Strategy".

With regards to the implementation of the UNFCCC Cancun Agreement's safeguards for REDD+, a set of Safeguards and Safeguard Information Systems (SIS)¹⁵ have been developed to ensure that REDD+ initiatives adequately address sensitive issues such as Orang Asal rights. Under the UNFCCC, countries wishing to receive payments for REDD+ must ensure that a SIS works to safeguard the rights of Indigenous Peoples via a process known as Free, Prior and Informed Consent (FPIC) and must submit a summary of information (SOI) to the UNFCCC illustrating how each safeguard is addressed and respected. In Malaysia's SOI, Safeguard C states: "Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the UNDRIP". Under Safeguard C, Malaysia intends to acknowledge and respect the customary land rights and traditional knowledge of Indigenous Peoples and local communities. Through the national FPIC guidelines developed for states conducting REDD+ activities¹⁶, parties involved shall consult with Indigenous Peoples and local communities and involve them in any decision-making processes.

In the SIS, the key component is the MTCS which independently assesses forest management practices. As noted above, the efficacy of the MTCS in securing the rights of Orang Asal has been called into question due to its lack of full recognition of customary land rights by the MTCS standard. This standard, known as the Malaysian Criteria and Indicators for Forest Management Certification, has principles and criteria that mirror those of the widely accepted Forest Stewardship Council (FSC). However, the means of assessing compliance used by the MTCS refers to the existing statutes, which, as mentioned, give limited recognition to Orang Asal customary land rights. As a result, most of the existing statutes do not contain adequate FPIC safeguards for activities such as logging, mining and land clearance. The MTCS's inability to respect native rights beyond existing land laws is highlighted in the case of the Penan in Sarawak. Since initial reports in 2005,¹⁷ the Penan community has been continually plagued by logging concessions despite lodging numerous complaints to the MTCS.¹⁸

15 Ministry of Natural Resources and Environment, Malaysia. 2016. "Malaysia REDD+ SIS".

16 Ministry of Natural Resources and Environment, Malaysia. 2016. "Malaysia REDD+ SIS", Appendix 1.

17 International, Survival. 2005. "Penan Tribe Protest at Logging."

18 Malaysiakini. 2021. "Rural Sarawak Communities Lodge Complaint against Logging Firm."

3.2 Issues and concerns for Indigenous Peoples in national climate policies

Several Orang Asal organizations have raised concerns about inadequacies in Malaysia's climate policies and strategies in terms of three points:

- FPIC
- opportunities for participation (particularly for women and youth)
- recognition of land rights and traditional knowledge.

These concerns have been raised by NGOs, including JOAS (Jaringan Orang Asal SeMalaysia – the Indigenous Peoples Network of Malaysia) and SUARAM (Suara Rakyat Malaysia – Voice for the Malaysian People).¹⁹ The issues related to FPIC and land rights have been discussed in previous sections of this report; the NGOs have specifically called for the authorities to implement FPIC for all climate-change mitigation activities involving forests and land use, such as REDD+, biofuel plantations and large dams.

In terms of opportunities for participation, Malaysian NGOs have focused on the need to ensure that Indigenous Peoples have opportunities to participate in forest-related mitigation projects. In particular, the NGOs have urged the authorities to ensure that Indigenous Peoples, including indigenous women and youth, can participate in the creation, implementation and monitoring of forest-related mitigation projects. The focus on women is important, since women can be more affected by climate change than men.

Despite gender disparities putting greater burdens for household maintenance on women, authorities often assume that men are the head of the households, and consultations and mitigation programs (such as compensation payments following floods) usually focus on men. Opportunities exist within the NRS to strengthen the rights of indigenous women, and to create equal benefit-sharing opportunities. It remains to be seen whether the NRS implementation will address this issue.

¹⁹ Anon. 2015. "Call for Recognition of Land Rights of Indigenous People". Daily Express (Sabah, Malaysia).

A risk of the NRS is that it could lead to increased centralization of forest management. The NRS is coordinated by the federal government and the SIS (and the MTCS) represents a significant increase in the oversight of forest management by national-level institutions. Under the existing federal structure, the management and operation of forestry is largely carried out by the state governments and operational control lies with various district forest offices.²⁰ To adequately respect the rights of the Orang Asal, further decentralization is needed down to the level of individual communities, as stated in Safeguard D of the SOI: “the full and effective participation of relevant stakeholders, in particular Indigenous Peoples and local communities” in REDD+ actions.

Fully addressing and respecting this safeguard may lead to decentralization, allowing the decisions to be made by the Orang Asal who would be the most affected by climate change, and thus minimizing the risk of problems such as logging in the water catchment areas of these communities. It remains to be seen whether the Malaysian government will enable decentralization according to the measures proposed by Safeguard D, or further centralize forest management.

Finally, NGOs have called on the authorities to ensure that climate mitigation policies recognize Indigenous Peoples’ traditional knowledge and traditional occupations, including the roles and contributions of indigenous women. One area where traditional knowledge is particularly important in terms of climate-change mitigation is in ensuring food security. In this regard, Malaysian NGOs have called on the authorities to recognize the sustainability of traditional agroforestry systems, including long-rotation swidden farming, forest gardens, and the para-cultivation of forest plants such as tubers. Existing laws related to forests do not recognize or permit the Orang Asal from carrying out these practices. Despite attempts from the state governments of Sabah and Sarawak to increasingly recognize native customary rights, these attempts often focus on aspects unrelated to land rights (such as adat codes in Sarawak). There remains an opportunity to expand this to include customary usage of land, such as traditional farming practices.²¹ However, state establishments are reluctant to give up control over land and forest.

²⁰ IUCN, Indigenous Peoples and REDD-plus, 2010.

²¹ Vanar, Muguntan. 2020. “Sabah’s Politics Heat up as Shafie Hands out Native Land Titles.” *The Star*

3.3 Participation of Indigenous Peoples in climate change policies

The Orang Asal have had limited direct involvement in the formulation of national and international climate change policies. Malaysia is presently not involved with the Local Communities and Indigenous Peoples Platform. Having said that, Malaysia does have several NGOs actively involved in climate change policy, several of which work with Orang Asal communities. These NGOs work independently, without assistance from government agencies, and rely on grants and private funding to finance their community projects and activities. Over the years, the Malaysian government has drafted plans to include the active participation of relevant NGOs in climate policies and indigenous rights; however, these plans have yet to come to fruition²².

The first NGOs in Malaysia to be involved in climate change policy were those of the Malaysian Climate Change Group (MCCG). In 1992, recognizing the threat posed by climate change, three Malaysian NGOs came together to form the MCCG. In 1993, The MCCG succeeded in lobbying the Malaysian government to sign the UNFCCC. It is also involved with several regional initiatives such as the Climate Action Network Southeast Asia, as well as Climate Action Network International. It now has six members: the Malaysian Nature Society; the Centre for Environment, Technology and Development Malaysia; the Environmental Protection Society Malaysia; Global Environment Centre; WWF-Malaysia; and the Malaysian Youth Delegation. Most of these NGOs have run projects with Orang Asal communities.

Some climate-focused NGOs have reported that they face resistance from government agencies when they advocate for indigenous rights. Klima Action Malaysia (KAMY) is a non-profit organization that focuses on intersectionality and climate governance. They have been advocating for indigenous rights, with a focus on engaging indigenous women in national climate policies. Ili Nadiyah Dzulfakar, Chair of KAMY, stated that she had been working to empower Orang Asli women in the fight against climate change but had faced resistance from the Department of Orang Asli Development (JAKOA) during a seminar about a COVID-19 permit dispute. Despite possessing a valid permit, KAMY was questioned by JAKOA on the legitimacy of the permit. After several discussions between both parties, the issue was resolved.

²² Cheng, B. W. and C. (2020). Making the Invisible visible: Faces of poverty in Malaysia. Malaysiakini.

04

The impact of current climate interventions on Indigenous Peoples

Current climate interventions in Malaysia have generally had positive impacts on the Orang Asal. Here, we review the impact on Orang Asal of projects under the Global Environment Facility's Small Grants Programme (SGP) and the Sabah-EU REDD+ Project²³, both of which have had significant positive impacts on the Orang Asal.

In Malaysia, the SGP is implemented by the United Nations Development Programme and one of its main objectives is climate-change mitigation for the Orang Asal. The SGP gives grants of up to USD 50,000 to local communities and NGOs. Since 1999, the SGP Malaysia Country Programme has supported more than 233 projects for a total grant amount of USD 8,456,484 from the Global Environment Facility. These projects included 11 micro-hydro, solar energy and biogas projects, helping over 3000 Orang Asal who were without access to the electrical grid in remote locations. These projects reduced the need for people to buy petrol to run generators, with a cost saving of USD 100–200 per month per household. The electricity also allowed the communities to generate alternative income. Women were able to make money sewing and baking, and men were able to start businesses in carpentry and rice milling. The success of these projects also lies within a project design that incorporates cross-cutting areas, such as protecting the watershed areas (an important element of conservation of biodiversity) and, more importantly, enforcing ownership through actively engaging the local community.

In one example, SGP Malaysia worked to minimize industrial agricultural expansion within a community forest reserve and watershed in the state of Sabah. Through the SGP project, an Orang Asal community group (known as GOMPITO) was invited by the Sabah State government to participate in the Kinabalu National Park 'Ecological Linkages' (Ecolinc) project. This project involved creating a series of community-conserved areas (CCAs) that functioned as corridors between two national parks. The Ecolinc project was also supported by the European Union through a EUR 4-million REDD+ strategy project titled 'Demonstration initiative on community-based forest management and REDD+ in Sabah'. The project involved the community in designing the CCAs and carrying out enrichment planting.

²³ Anon. 2018. "Sabah EU-REDD+ Project - Home."

The Ecolinc project also involved documenting and sharing traditional knowledge of the indigenous communities. When developing the forest management plan, this knowledge was utilized and integrated with modern techniques and community-based activities, such as the protection and rehabilitation of water catchments and agroforestry in degraded lands. The project also developed sustainable agriculture by utilizing aspects of the Orang Asal's traditional agroforestry practices, such as swidden farming, intercropping, and rotational farming (with extended rotation cycles) alongside modern organic farming methods and enhanced forest-related community tourism.

Despite attempts from various non-governmental and intergovernmental organizations to include the Orang Asal in climate change policies and legislations, underlying issues such as the denial of their land rights continue to hinder their efforts. State governments have not formally recognized the customary land rights of the Orang Asal as affirmed by the UNDRIP, and this does not align with the social and environmental safeguards established by the REDD+ Cancun Agreement.²⁴ Consequently, this has hindered the overall success of the REDD+ efforts and its promotion of sustainable forest management in the region.

²⁴ "Indigenous Land Rights Vital to Climate Change Solutions." The Borneo Project, 25 Mar. 2015, borneoproject.org/indigenous-land-rights-vital-to-climate-change-solutions/.

05

Indigenous Peoples' contributions to addressing climate change

In addition to the Ecolinc project described in the previous section, another good example of the Orang Asal's contributions to the implementation of the Paris Agreement is found in the heart of Borneo.²⁵ This example showcases the work of the organization known as Forum Masyarakat Adat Dataran Tinggi Borneo (FORMADAT).²⁶ FORMADAT arose from a 2004 workshop in Ba' Kelalan, Sarawak, where Orang Asal participants from Sabah, Sarawak and Indonesia met to discuss detrimental impacts of modern agricultural practices (the use of chemical fertilizers and pesticides). Since then, FORMADAT have been advocating for low-impact logging, sustainable rice farming, and tourism that upholds cultural traditions.

More recently, in 2020, FORMADAT has been collaborating with WWF-Malaysia²⁷ to improve community wellbeing and the environment in Sarawak's northern region. The project is called 'Sustainable forest management and income generation from natural resources for indigenous communities in the heart of Borneo' (Project BENGGO). In this project, FORMADAT is joined with another Orang Asal NGO, the People's Association for Development and Education of Penan Sarawak (PADE). The project illustrates how Orang Asal NGOs can work together with environmental NGOs on climate-mitigation projects. The WWF-initiated Heart of Borneo initiative also gave a platform for FORMADAT to engage with government authorities on matters related to the environment.

25 Anon., 2013 "Penan Leaders: 'We Will Do Everything Necessary to Protect Our Forests' – The Borneo Project." www.borneoproject.org, 2013.

26 WWF. "FORMADAT Calls for Support in Sustainable Development in Highlands." July 2018.

27 WWF "Towards Community Well-Being and A Sustainable Environment." WWF Malaysia, WWF, 2020.

For the Orang Asal, climate-change adaptation is rooted in the traditional knowledge passed down for generations based on their understanding and relationship with the land they inhabit. Historically, Orang Asal communities have adapted their agricultural practices by observing and anticipating the variability of climate patterns and local environmental changes. Indigenous agroforestry practices—such as home gardening, forest garden, shifting cultivation, and gathering and trading forest products, including non-timber forest products—were developed as tools of adaptation in ever-changing climatic conditions.²⁸ Agroforestry has been practised for centuries among Orang Asal and is considered an integrated productive-protective ecosystem of land use.

Apart from strengthening and building a more climate resilient agroecosystem, traditional agroforestry practices conserve and increase agrobiodiversity. For example, the Sa’ban and Penan communities of Sarawak²⁹ use swidden farming to cultivate upland rice. This agricultural system maintains and cultivates the fertility and regeneration of soil for years, which promotes crop growth and produces a surplus yield. Intercropping is another example of a practice utilized by these communities—this technique involves planting two or more crops in close proximity, which decreases the risks of climate-forced crop failure because crop diversity increases climate adaptability of agricultural systems.

FORMATAT and the Orang Asal’s traditional knowledge of climate-driven agricultural adaptation methods demonstrates how rural Orang Asal communities can be empowered to engage with decision-makers and also contribute to the implementation of the Paris Agreement.

28 Keat, Ng Ju, et al. “Indigenous Agroforestry Practices by Orang Asli in Peninsular Malaysia: Management, Sustainability and Contribution to Household Economy.” NOPR, NISCAIR-CSIR, India, 1 July 2018.

29 Hosen, Nadzirah, Hitoshi Nakamura, and Amran Hamzah. “Adaptation to climate change: Does traditional ecological knowledge hold the key?.” *Sustainability* 12.2, 2020.

Conclusion

Climate change has negatively affected the Orang Asal of Malaysia in many aspects, from increasingly destructive floods damaging their homes to increasingly harsh droughts undermining their food security. As a country striving to achieve its NDC, Malaysia has started to implement programs to fight climate change. With the cooperation of government agencies and NGOs, these programs include sustainable agriculture, clean renewable energy, resilient environment protection, and reduced-impact logging practices. Although these programs may mitigate some of the impacts of climate change, there are gaps to be filled. These gaps are particularly apparent in terms of the Orang Asal and their consent, involvement and recognition.

The Orang Asal have lived off the land in the region for thousands of years and their traditional knowledge is unparalleled. This knowledge of the land affords them great insights (both explicit and implicit) into their environment and its ecology. The drafters of climate change policy would benefit from the insights offered by their agricultural and ecological methods. Incorporating these insights would allow for more effective and sustainable development plans. With the increased use of sustainable agriculture practices and greater forest conservation, less greenhouse gases will be emitted—a goal that aligns directly with the Paris Agreement. The Orang Asal of Malaysia can thus play a critical role in the overall mitigation of the effects of climate change if the authorities recognize their rights and facilitate their participation in climate policy decisions and actions.

Author profile

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Indigenous knowledge transfer occurs in cultural celebrations in Bontoc, Mt. Province bridging inter-generational gaps within indigenous families.

Photo Credit: Mac James

Philippines

Jo Ann Guillao

Partners for Indigenous Knowledge Philippines (PIKP)
For Asia Indigenous Peoples Pact (AIPP), Thailand

Purpose of this report

In this report we examine some of the key commitments of the Philippines government in contributing to the global goal of restricting global temperature rise to 1.5 degrees C and present some of the perspectives of Indigenous Peoples on the country's climate-related policies, plans and programs, as they relate to Indigenous Peoples.

With the limited time available and restrictions on mobility to gather data from the ground, the study is not exhaustive but brings forwards some points for consideration in developing a more integrated approach and framework for meeting both climate goals and development ambitions. Secondary review of previous studies, policy, climate change plans and programs have informed the study, combined with virtual key informant and group interviews to generate primary data and complement the analysis.

Summary of findings

Indigenous peoples already feel the impacts of climate change including the effect of climate-related policies, programs and plans. The Philippines has developed climate policy frameworks such as the National Framework Strategy on Climate Change 2010–2022 (NFSCC), the National Climate Change Action Plan 2011–2028 (NCCAP), the Climate Change Act and its nationally determined contribution (NDC); however, these policy frameworks do not show disaggregated data of climate change impacts and strategies to deal with the specific needs of indigenous women, youth and people with disabilities. The country's NDC aims to reduce greenhouse gas emissions, by 2030, by 75 per cent of its total cumulative projected emissions over the next 10 years. The priorities of the government are now changing, however, as it fails to include the issue of forests, which is of great concern to Indigenous Peoples.

The issues with the climate change policies and implementation are as follows:

- The NDC does not identify the source of the 75 per cent emissions reduction target and no disaggregated data is provided to support this plan.
- The priorities and direction of the climate change program are being affected by changes in the Climate Change Commission leadership.
- Climate policies lack coordination at the local level.
- The land rights of Indigenous Peoples are still not recognized despite legal provisions to do so.
- Sectoral approaches or processes fail to implement the whole-of-nation approach among stakeholders or fail to secure meaningful collaboration and partnership, and equitable participation, of indigenous communities.

On a positive note, Indigenous Peoples' traditional knowledge, their participation, and the promotion of human and Indigenous Peoples' rights are all cited in the NFSCC and the NDC. Government and non-government agencies have increased capacities to implement climate-change-related programs (e.g. REDD+). REDD+, the Peoples' Survival Fund and the Green Climate Fund are windows for Indigenous Peoples to access funds for their own mitigation and adaptation projects. The continuing practice of Indigenous Peoples' knowledge systems and practices – especially in natural resources management, sustainable farming, and other livelihood practices – are contributing to protecting their ecosystems and stabilizing climate change. And while there are barriers and limitations to their participation, Indigenous Peoples continue to engage in climate actions and processes at various levels.

Recommendations

To attain synergies and consider trade-offs associated in finding solutions to climate change, policymakers, practitioners and implementers should look into the following recommendations:

- Develop climate change policies and programs that specifically address the concerns and issues of indigenous women, youth and people with disabilities.
- Make sure that the NFSCC, NCCAP, NDC and related climate policies and programs clearly recognize the rights of Indigenous Peoples to their lands and resources.
- Take a more holistic approach in the implementation and management of climate change programs to ensure that the rights of Indigenous Peoples are respected, promoted and secured.
- Support and sustain indigenous knowledge and practices in forest and resource management, including livelihood systems.
- Enable indigenous communities to access financing mechanisms for implementing climate actions and plans.
- Regularly consult Indigenous Peoples on climate change policies and programs, and make sure they can participate in consultations.

01

General status of Indigenous Peoples in the Philippines

Indigenous Peoples in the Philippines are legally recognized through the Philippine Constitution (1987) and the Indigenous Peoples' Rights Act 1997 (IPRA), and comprise 12–15 per cent (12.5–17.8 million) of the country's population. Sixty-one per cent are in Mindanao, 33 per cent in the Cordillera administrative region, and the rest are scattered across different provinces of the country.¹ Twenty years after the adoption of the IPRA, officially recognized ancestral domains issued with a Certificate of Ancestral Domain Title now total 5.7 million hectares or about one sixth of the country's land area.² Most indigenous communities are located in forests, mountains, lowlands and coastal areas. Some engage in farming, fishing, raising livestock, and hunting and gathering; others produce and trade local products and handicrafts. A common characteristic of Indigenous Peoples is their close attachment to ancestral land, territory and resources. The “land is life” worldview is deeply embedded in their existence.

1 <https://www.tebtebba.org/index.php/resources-menu/policy-briefs-and-information-service/53-the-philippines-factsheet/file>

2 <https://focusweb.org/the-subversion-of-the-philippines-indigenous-peoples-rights-act/>

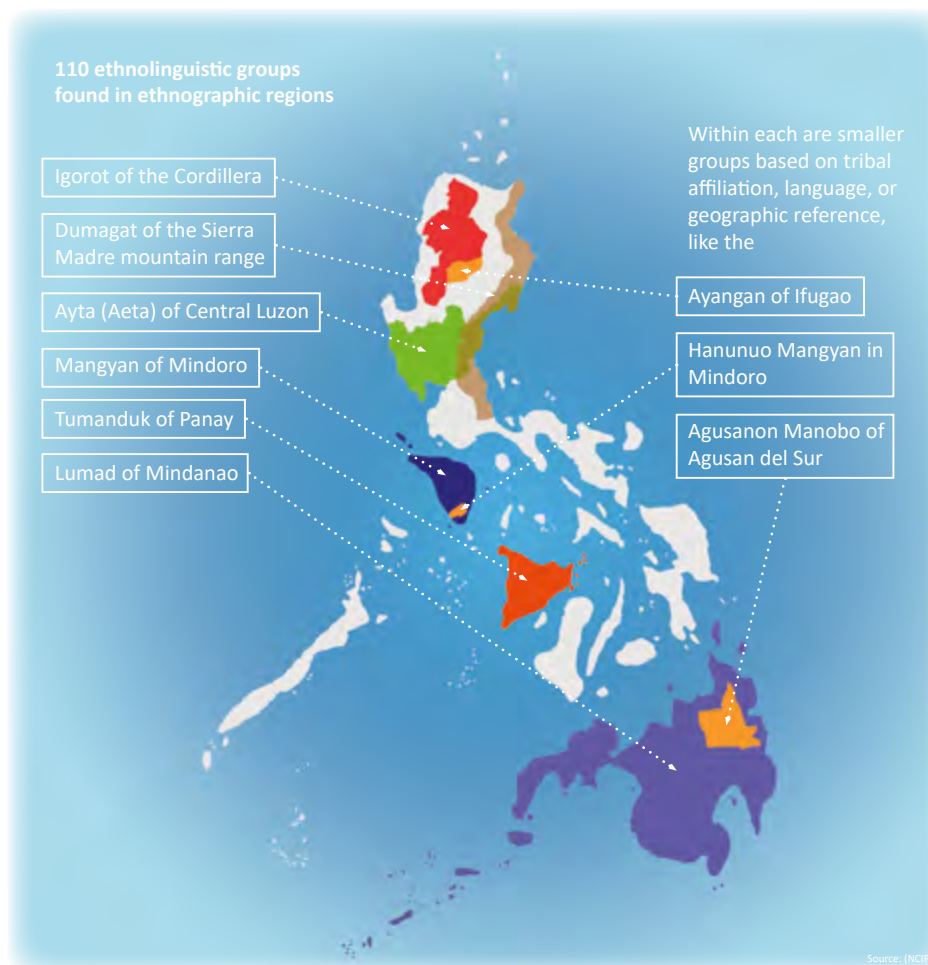


Figure 1. The Philippines has 110 ethnolinguistic groups found in ethnographic regions.

Source: Tebtebba <https://www.tebtebba.org/index.php/resources-menu/policy-briefs-and-information-service/53-the-philippines-factsheet/file>

Section 5 of the 1987 Philippine Constitution states that “The State, subject to the provision of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being. It shall recognize, respect and protect their rights to preserve and develop their cultures, traditions and institutions and to consider these rights in the formulation of national plans and policies.”

In accordance with this constitutional provision, Republic Act No. 8371—also known as the Indigenous Peoples’ Rights Act of 1997—was passed, which recognizes and protects the rights of Indigenous Peoples in the Philippines. The law clearly expresses that the State shall recognize and promote all the rights of indigenous cultural communities / Indigenous Peoples (ICCs/IPs)³.

This includes their rights to ancestral domain, self-governance and empowerment, social justice, human rights, and cultural integrity: “taking into consideration their customs, traditions, values, beliefs, interests and institutions, and to adopt and implement measures to protect their rights to their ancestral domains.” State protections for Indigenous Peoples also extend to their right to employment opportunities, basic services, education and other rights and privileges available to every member of the society. The State shall also ensure the protection of ICCs/IPs from any form of force or coercion. To further promote and protect the interest and wellbeing of Indigenous Peoples, including their beliefs, customs, traditions and institutions, the National Commission on Indigenous Peoples was created in 1997.

In addition to this national legal setting, the country is signatory to numerous international conventions, declarations and treaties to protect human rights, and/or manage biological resources and the environment, including the United Nations Declaration on the Rights of Indigenous Peoples, the Paris Agreement and international human rights treaties.⁴ Recently, the government also committed to achieving the 17 Sustainable Development Goals, as articulated in its AmBisyon Natin 2040.⁵

3 The terms ‘Indigenous Peoples’ and ‘indigenous cultural communities’ are used interchangeably in the Philippines and are defined in the IPRA law.

4 The Philippines is signatories to the following treaties: International Covenant on Economic, Social, and Cultural Rights, International Covenant on Civil and Political Rights, International Convention on the Elimination of all Forms of Racial Discrimination, Convention on the Prevention and Punishment of the Crime of Genocide, Convention on the Elimination of all Forms of Discrimination against Women

5 https://sustainabledevelopment.un.org/content/documents/23366Voluntary_National_Review_2019_Philippines.pdf

02

Indigenous Peoples and climate change in the Philippines

Indigenous Peoples in the Philippines live in diverse and various ecosystems around the country. They live in numerous upland, lowland and coastal areas with rich ecosystems that have sustained them for generations. Yet, the lives of Indigenous Peoples are not spared of the risks and potential damage of climate change to their territories and day-to-day activities. While Indigenous Peoples have contributed the least to climate change, they are highly vulnerable to its impacts.⁶ Impacts already reported in the Philippines, which are putting the lives of Indigenous Peoples and women in danger, include annual GDP losses; changes in rainfall patterns and distribution; droughts; threats to biodiversity and food security; and rising sea levels.⁷

In *'Reclaiming forests and coasts: indigenous peoples cope with climate change'*, a 2008 study by Tebtebba, Indigenous Peoples living in the forests and on the coasts were found to be highly vulnerable to climatic change.⁸ The study revealed that traditional knowledge systems of Indigenous Peoples became their source of defence in adapting to climate change. The situations of the Tagbanuas in Coron Island and Palawan (coastal area), and the Ikalahans in Imugan, Nueva Vizcaya (upland forest), show that climate change impacts are increasing the risks of biodiversity loss and the risks to socioeconomic activities in the communities.

The impacts of climate change on Indigenous Peoples are often compounded by other issues, such as difficulties in securing their land rights and defending their lands against external threats and interests. Changes in the environment due to climate change make it harder to read the weather and other environmental signs, and to base important livelihood decisions on the analysis.⁹ Due to the increasing unpredictability of the weather, agricultural cycles and other livelihood activities have been compromised.

6 <https://www.cbd.int/gbo/gbo5/publication/lbo-2-en.pdf>

7 <https://niccdies.climate.gov.ph/climate-change-impacts>

8 <https://www.tebtebba.org/index.php/resources-menu/publications-menu/books/73-knowledge-innovation-resilience-indigenous-peoples-climate-change-adaptation-and-mitigation-measures/file>

9 <https://www.tebtebba.org/index.php/resources-menu/publications-menu/books/73-knowledge-innovation-resilience-indigenous-peoples-climate-change-adaptation-and-mitigation-measures/file>

The regularity of appearances of vital signs or indicators in their natural environment, which traditionally guide Indigenous Peoples to schedule their harvesting or fishing, has been disturbed. For example, the Tagbanuas regularly anticipate the appearance of the Moon on a particular day/month to know whether the sea will be calm the next day, in which case they proceed with their fishing.

Weather changes are being noticed by Ikalahan elders, particularly the rising temperature which has led to farmers no longer being able to work under the sun at noontime. Now, they feel that the heat of the sun is “scorching to the skin”. These changes may appear easy to handle and negligible, but both Ikalahan and Tagbanuas communities share the view that when basic but essential elements in their ecosystems are disrupted, they are less able to understand and predict environmental changes, which affects aspects of their life and wellbeing such as securing their food and managing their livelihood systems and economic activities.

The Agta-Dumagat-Remontado Indigenous Peoples in General Nakar, Quezon, are also facing direct consequences of climate change.¹⁰ General Nakar is among the few municipalities in Southern Tagalog with thick forest remaining. Aside from weather changes, the Agta-Dumagat-Remontado, whose livelihoods include fishing, are experiencing risks to their health and their lives due to increased exposure to extreme seawater temperatures and pressures that give rise to illnesses such as chest pain, stroke and lung collapse.¹¹ For the women of this community, issues in social relations have become more evident, such as the exacerbation of the ‘double burden’ and disempowerment of women. As climate change forces women to spend more time finding alternative income sources in addition to their regular domestic work, they have less time to engage in decision-making and capacity building.¹² Related issues, such as the under-recognition of women’s contribution to food production and to disaster recovery, are also seen as challenges related to climate change impacts, and to the smooth transfer of knowledge among elders and youth.¹³ Currently, the Agta-Dumagat-Remontado are confronting the impacts of the pandemic and the construction of a dam on their ancestral lands; the construction is ongoing despite the worsening pandemic and the absence of Free, Prior and Informed consent (FPIC) of indigenous communities or an environmental clearance.¹⁴

10 <https://www.dlsu.edu.ph/wp-content/uploads/pdf/conferences/research-congress-proceedings/2014/SEE/SEE-III-024-FT.pdf>

11 Ibid.

12 Ibid.

13 Ibid.

14 <https://www.rappler.com/moveph/indigenous-people-leaders-urge-government-prioritize-coronavirus-pandemic-response>

According to the World Health Organization, more than 1 billion people worldwide live with some form of disability.¹⁵ In the Philippines, the recorded persons with disability (PWDs) in the 2010 Census of Population and Housing is 1.44 million, or 1.57 per cent of the population. While there is a national estimate of the population of PWDs in the country, there is no disaggregated data on Indigenous Peoples with disability and how they are impacted by climate change. That said, it is clear that climate change disproportionately affects PWDs. As mentioned in the UN Development Programme project proposal,¹⁶ the Asia-Pacific region is highly susceptible to extreme climate events and disasters in which PWDs face disproportionately high levels of risk. Still, there is a need to substantiate information of PWDs' situation and to understand important aspects of their vulnerability and adaptation needs.

For young people, health and food security are likely to be affected by climate change because of the increased prevalence of diseases such as dengue and malaria caused by changing weather patterns. Young people are more vulnerable to food insecurity caused by drought, with longer-term impacts on their survival and development; they are more vulnerable to the impacts of more frequent and more extreme natural disasters such as super typhoons; and they miss out on school more because of the recurrent impact of disasters.¹⁷ The overlapping impact of COVID-19 and climate change aggravates the already vulnerable position of young people in the Philippines, as reported in 2017 by UNICEF in the report, *Climate landscape analysis for children in the Philippines*.

As recognized in the National Climate Change Action Plan (NCCAP), young people are engaging in the current discussions about climate change because they are experiencing its impacts. At the national level, the government is seeing the potential for youth in addressing climate change. Archana Soreng from the indigenous Kharia tribe of Odisha's Sundargarh district, a youth advisor on climate change to the UN Secretary-General, says that young people, marginalized people and indigenous communities should not be ignored or taken for granted in the climate change talks.¹⁸ Similarly, indigenous youth in Mindanao, together with other environmental groups, health workers, educational institutions, human rights groups, and other concerned sectors, have emphasized the need to engage the voice of indigenous youth through dialogues and other platforms to discuss and plan transformative change where culture and nature are integrated.¹⁹

15 <https://www.adaptation-undp.org/leaving-no-one-behind-including-billion-people-adapt-climate-change>

16 https://www.adaptation-fund.org/wp-content/uploads/2018/08/Cambodia_Nepal_Phillippines_Thailand-resubmission-Binder1.pdf

17 <https://www.unicef.org/philippines/press-releases/philippines-initiates-asean-wide-youth-event-climate-change-and-disaster#:~:text=According%20to%20UNICEF's%20Climate%20Landscape,impacts%20on%20survival%20and%20development%3B>

18 <https://www.downtoearth.org.in/news/environment/give-indigenous-people-their-rights-to-tackle-climate-change-archana-soreng-76677>

19 <https://www.ecojesuit.com/indigenous-youth-voices-contribute-to-global-climate-action/>

03

Climate policies

3.1 Nationally determined contribution of the Philippine government

The Philippines submitted its nationally determined contribution (NDC) to the United Nations Framework Convention on Climate Change (UNFCCC) on 15 April 2021, as a party to the Paris Agreement, which it ratified in March 2017. As its contribution to stem the rise in global temperature, the country seeks to reduce its greenhouse gas emissions, by 2030, by 75 per cent of its total cumulative emissions over the next 10 years based on a business-as-usual scenario—a reduction projected at 3,340.3 million tonnes of carbon dioxide equivalent.²⁰ Of this reduction, 2.71 per cent is unconditional and 72.29 per cent is conditional on the agriculture, wastes, transport, industry, and energy sectors.²¹ The NDC notes that the Philippines is a low greenhouse-gas emitter, averaging 1.98 tonnes of carbon dioxide equivalent per capita in 2020, about half the global average of 4 tonnes per capita. The NDC target is slightly higher than the 70 per cent mitigation goal based on a business-as-usual scenario from 2000 to 2030, committed to in the Intended Nationally Determined Contribution submitted in October 2015.

Adaptation measures will be carried out in the sectors of agriculture; forestry; coastal and marine ecosystems and biodiversity; health; and human security. The country will also pursue forest protection, restoration and reforestation as well as seek to access results-based finance in forest conservation. The NDC points out that the Philippines is a low-middle-income developing country with a big population (108.7 million), high incidence of poverty (16.7 per cent), and high vulnerability to climate and disaster risks being in the tropical cyclone belt and the Pacific Ring of Fire.

²⁰ Nationally Determined Contribution Communicated to the UNFCCC on 15 April 2021, <https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Philippines%20First/Philippines%20-%20NDC.pdf>

²¹ Philippines' NDC defines unconditional as policies and measures that can be undertaken using national resources and conditional as those requiring support or means of implementation under the Paris Agreement.

The NDC is based on various national laws and policy frameworks, including:

- the Climate Change Act of 2009 (Republic Act No. 9729) as amended in 2012 by Republic Act No. 10174
- the National Framework Strategy on Climate Change 2010–2022
- the National Climate Change Action Plan 2011–2028
- the Philippine National REDD-plus Strategy.²²

3.2 Climate Change Act

The Climate Change Act²³ lays down the legal framework through which the government can address climate change problems and the impacts on communities and the environment. The Act established the Climate Change Commission, the organizational structure that leads the development and implementation of the country's climate change policies and plans. The commission is under the Office of the President and comprises three commissioners appointed by the President, who acts as Chair. The commission led the formulation of the National Framework Strategy on Climate Change in 2010 and the National Climate Change Action Plan the following year, in coordination with national government agencies and in consultation with private sector stakeholders, including civil society organizations (CSOs).

The commission also developed guidelines for local climate change action plans (LCCAPs), which local government units (LGUs) are tasked to make and implement in their areas. Under the Climate Change Act, the LGUs are considered frontline agencies in the implementation of the action plan. The Act also established the Peoples' Survival Fund which local governments and local and indigenous communities can access for their adaptation plans.

²² The NDC also considers the following: Philippine Development Plan 2017-2022, Philippine Energy Plan 2018-2040, Philippine National Security Policy 2017- 2022, National Climate Risk Management Framework of 2019, Sustainable Finance Policy Framework of 2020.

²³ Climate Change Act of 2009, <https://climate.gov.ph/knowledge/climate-laws-and-policies/laws>

3.3 National framework strategy and action plan on climate change

The National Framework Strategy on Climate Change (NFSCC) provides the roadmap for addressing climate change. It has two pillars: adaptation as the anchor strategy and mitigation as a function of adaptation. For the mitigation pillar, which has the long-term aim “to transition the country towards low greenhouse gas emissions for sustainable development”, actions are required in energy efficiency and conservation, renewable energy, environmentally sustainable transport, sustainable infrastructure, national REDD+ strategy, and waste management. For the adaptation pillar, disaster risk reduction is considered the “first line of defence” in the effort to combat the effects of climate change.²⁴ Among the key areas identified to achieve this are capacity building for LGUs and organizations for disaster preparedness and risk management; integrated ecosystem management; vulnerability and adaptation assessments; water governance management; climate-responsive agriculture; and climate-responsive health care.²⁵

The National Climate Change Action Plan (NCCAP) 2011–2028 elaborates on the NFSCC. It identifies short-, medium- and long-term actions in seven thematic areas for the period 2011–2028: food security; water security; ecological and environmental stability; human security; climate smart industries and services; sustainable energy; and knowledge and capacity development. These priorities are defined along thematic rather than sectoral outcomes, needing convergence planning among national and sectoral agencies for implementation of the action plan.

3.4 National REDD+ strategy

Reducing emissions from deforestation and forest degradation (REDD+) is one of the mitigation strategies identified in the framework strategy and, under the action plan, REDD+ is a main activity “to enhance resilience and stability of natural systems and communities”.

The country has a 10-year Philippine National REDD-plus Strategy (PNRPS), adopted in 2010. The PNRPS was crafted through multi-stakeholder, multilevel consultations and collaboration among government and private sector groups, especially civil society organizations. Also involved was the National Commission on Indigenous Peoples, the main body charged with implementing the Indigenous Peoples Rights Act. The PNRPS has seven complementary components, each with key strategies and activities to implement REDD+ projects and activities. These are: enabling policy; governance; resource use allocation and management; research and development; measurable, verifiable, and reportable conditions; capacity building and communications; and sustainable financing.

²⁴ National Framework Strategy on Climate Change 2010–2022, <https://climate.gov.ph/files/NFSCC.pdf>

²⁵ This is how it is termed in the NFSCC.

The Philippines is still in the readiness phase, the first of three phases of REDD+²⁶. As of 2017, updates on the PNRPS²⁷ cited as accomplishments the completion of several studies needed to implement REDD+, among them a study on the drivers of deforestation and forest degradation; a review and analysis of forest policy, carbon rights, frameworks and guidelines on benefit sharing and safeguards; and an assessment of free, prior and informed consent implementation. Other studies underway are on a national reference level, a national forest monitoring system, and the measuring, reporting and verifying of REDD+ activities.

Several REDD+ pilot projects have also been undertaken by organizations in Luzon, Visayas and Mindanao. Most of them include reforestation and agroforestry components; capacity building for stakeholders in forest project planning, management, monitoring and evaluation; and other technical and management skills needed to ensure the sustainability of the projects. Some programs and projects of the Department of Environment and Natural Resources are also considered under REDD+, such as the National Greening Program, Enhanced National Greening Program, National Forest Protection Program, Integrated Watershed Planning and Forest Land Use Planning, among others. It must be noted, however, that while the main purpose of REDD+ is to deliver social and environmental benefits that go beyond the reduction of greenhouse gas emissions, it may also entail risks to people and the environment if the Cancun safeguards are not enforced.²⁸ These safeguards are in place to mitigate the risk of land grabs and the displacement of Indigenous Peoples, while promoting social and other benefits. The REDD+ strategy of the Philippines has adopted the Cancun safeguards to ensure that REDD+ initiatives in the country address the rights of Indigenous Peoples and protect against the risk of their displacement from their forests.

26 REDD+ has three phases: Phase 1 - Readiness, Phase 2 - Implementation and Phase 3 - Results-based payments

27 Update of the Philippine National REDD-plus Strategy, <https://forestry.denr.gov.ph/redd-plus-philippines/updates/pnrps.pdf>

28 REDD+ safeguards are also known as Cancun safeguards and aim to ensure that REDD+ initiatives adequately address sensitive issues such as the rights of Indigenous Peoples and traditional communities, social participation, preservation of natural ecosystems, the permanence of achieved REDD+ results and the risk of displacement of the pressure from deforestation and forest degradation to other areas.

3.5 Climate policies and Indigenous Peoples' rights

The Philippines' National Framework Strategy on Climate Change provides a strong framework, on paper, for the rights of Indigenous Peoples. The strategy states:

“The National Framework Strategy on Climate Change recognizes the value of forming multi-stakeholder participation and partnerships in climate change initiatives, including partnerships with civil society, the private sector and local governments, and especially with indigenous peoples and other marginalized groups most vulnerable to climate change impacts.”²⁹

Further, the NDC goes on to state that it:

“... upholds the importance of ensuring ecosystems integrity and promoting the country's obligations on human rights and the rights of its indigenous peoples.”

“... upholds the importance of meaningful participation of women, children, youth, persons with diverse sexual orientation and gender identity, differently abled, indigenous peoples, elderly, local communities, civil society, faith-based organizations, and the private sector, and recognizes the indispensable value of inclusion and collaborative participation of local governments in implementing climate actions.”

In addition, the NDC acknowledges the value of traditional knowledge:

“The Philippines recognizes the importance of traditional knowledge, education and public awareness, and enhancement of climate actions through measures embodied in Article 12 of the Paris Agreement, and shall endeavor to institute a multi-level mechanism in this regard in the implementation of the NDC.”

²⁹ <https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Philippines%20First/Philippines%20-%20NDC.pdf>

3.6 Issues and concerns

Despite this recognition of participation of Indigenous Peoples and the importance of traditional knowledge in the country's climate mitigation and adaptation programs, several issues have been raised by Indigenous Peoples and others in relation to some of these policies and their implementation.

Evolving content of the Nationally Determined Contribution

Indigenous Peoples and CSOs have expressed concern about the content and commitments of the 5-page NDC and about the process of consultation leading to its formulation. Tebtebba Foundation (Indigenous Peoples' International Centre for Policy Research and Education)³⁰ points out that the NDC statement on respect for human rights and Indigenous Peoples' rights is a general statement and does not specify how it can be implemented. Tebtebba and Aksyon Klima, the national CSO for climate change, also found the 75 per cent commitment questionable because the NDC neither identifies the sources for emissions reduction nor does it break down which sectors will account for the conditional and unconditional measures. Aksyon Klima noted that in the draft NDC the target was only 30 per cent.

Further, four CSOs working on forest and climate change issues questioned the NDC's exclusion of the forestry sector as a mitigation source in the emissions reduction target, which the earlier Intended Nationally Determined Contribution³¹ had included. In a joint letter dated 9 February 2021 addressed to Climate Change Commission Finance Secretary Carlos Dominguez, a number of organizations—including the Center for Conservation Innovations, the Environmental Legal Assistance Center, the Non-Timber Forest Products Exchange Programme (NTFP-EP) Philippines, Parabukas, and the Institute for the Development of Educational and Ecological Alternatives—appealed to the government to consider the forestry sector as a major source for potential mitigation in the NDC. They cited the forests' many contributions to the global fight against climate change, the realization of co-benefits, and the livelihoods of millions of Filipinos who rely on forests, many of them Indigenous Peoples:

“Forests are also essential to preserve the livelihoods, way of life, and spiritual and cultural practices of our indigenous peoples, many of whom do not only depend on forests, but also play a significant role in protecting them.”³²

³⁰ Interview with Climate Change Coordinator, Tebtebba

³¹ NDCs were earlier called Intended Nationally Determined Contributions.

³² Letter to Climate Change Commission Finance Secretary Carlos Dominguez: https://drive.google.com/file/d/13EepImlRQzuz1m4r_B55yLrx52wifYVG/view?fbclid=IwARoimORbHZMQCL1as2lFrsj23hKNphTfzs96QGVkawm6ljSlIaEnff6Bfks

There is also a risk that the government's shift to renewable energy and sustainable transport as key adaptation and mitigation sectors could draw important resources away from programs to stop deforestation and forest degradation. Paying less attention to the forestry sector would pose a risk to forest protection, thus affecting the domains and forests of Indigenous Peoples. NTFP-EP, which has been working with indigenous communities to implement a REDD+ project, notes that indigenous communities continue to face threats of encroachment, both by government projects and private entities, onto their ancestral domains, including their forests.

Consultation on the NDC formulation has also been very limited. In the three years since the Philippines signed up to the Paris Agreement, no CSOs were consulted on the NDC until 23 December 2020 when CSOs were invited by the Climate Change Commission to a virtual meeting to comment on the draft NDC, a copy of which they received only the previous evening.³³ Despite lack of any real notice, many CSOs participated. They expected follow-up consultations in February and March, but no further meetings were called. Tebtebba's submission to the commission in February to include in the NDC results-based payment for Indigenous Peoples was not taken up.

Shifting climate action focus with changing Climate Change Commission leadership

The NDC's mitigation and adaptation focus has shifted with a change in the government administration and in the leadership of the Climate Change Commission. The President is usually inactive as chair of the commission, a role which is instead assumed by one of three appointed commissioners. Every time the commission's leadership changes, the focus of climate action also changes. In the previous administration, for instance, the forestry sector played a big role as a major mitigation source. This has changed, with the new acting chair of the commission emphasizing renewable energy and sustainable transport as the new focus for the country's climate programs. The new direction will shift attention and resources, including investments, to these sectors. For Indigenous Peoples, this may mean less support for their forest protection and conservation programs and initiatives.

³³ Interview with Aksyon Klima by the writer/researcher

Land struggles besetting indigenous communities

A problem that persists, despite advances in policies and plans on climate change, is the lack of respect for the rights of Indigenous Peoples over their lands and territories. Land struggles remain paramount in indigenous communities and conflict often arises because of overlapping claims and interests over their ancestral lands. Outright disrespect of this basic right of Indigenous Peoples further results in their marginalization and discrimination. A recurring related problem is the intrusion of extractive industries and plantations in their territories. In a recent dialogue conducted by Tebtebba, Indigenous Peoples of Mindanao shared their sentiments and frustrations over the approval by the government for plantation and mining operations in their territories despite their opposition and protests. The approval for these “development activities” in the forest ecosystems of Indigenous Peoples without their consent negatively impacts them and contradicts government commitments and obligations under international law. Such activities also result in widespread deforestation and forest degradation and undermine efforts to curb climate change.

The conduct of formal FPIC processes through the National Commission on Indigenous Peoples is also very challenging. A 2013 assessment study on FPIC implementation found out that no more than half of the studied cases attained the status of full and faithful compliance with the FPIC guidelines and procedures.³⁴ Although a considerable number of cases (44.1 per cent) reported “no violations” in the field-based investigation stage, a substantial number of cases reported incidents of violations during the actual conduct of the FPIC (38.2 per cent), as well as during the signing of the memorandum of agreement and post-FPIC activities (29.4 per cent), which are the phases where the more substantial aspects of the FPIC are deliberated and ultimately settled. It was also reported in the study that people gave consent without sufficient information to arrive at a well-informed decision. In addition, a considerable number of FPIC applicants deliberately highlighted the material benefits that would be derived from the project while glossing over negative social and environmental impacts of the projects.

34 Calde, Nimreh L.; Ciencia, Alejandro N. Jr. and Rovillos, Raymundo D. 2013: An Assessment of the Implementation of the Free and Prior Informed Consent (FPIC) in the Philippines: Volume I: Main Report. December 2013. Manila, Philippines: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. Accessed from <https://forestry.denr.gov.ph/redd-plus-philippines/publications/Assessment%20of%20FPIC%20in%20the%20Philippines%20-%20Volume%20I.pdf>

Lack of integration of climate policies at the local level

There appears to be a disconnect between the knowledge and implementation of national climate policies and plans and related local government laws. While local officials are required to integrate climate change into their disaster risk reduction and development plans, some of them are not aware of the existence of the NCCAP or NFSCC. This may reflect a lack of coordination or effort by national government agencies in bringing pertinent climate policies down to the local level to better inform the integration of climate change adaptation and disaster risk reduction into local development plans, including the Comprehensive Development Plan and the Comprehensive Land Use Plan. A concern of some indigenous communities about the development of local plans, especially the Comprehensive Land Use Plan, is the non-integration or delay in incorporating their Ancestral Domain Sustainable Development and Protection Plan.³⁵ The ancestral domains of indigenous communities usually cover large tracts or mountain ranges that straddle parts of several municipalities or barangays. The incorporation of the Ancestral Domain Sustainable Development and Protection Plan, a requisite in domain title application, into local development plans is crucial to maintain and respect the integrity of the territorial boundaries of ancestral lands and domains.

Fragmented approaches and processes

Because the NCCAP and the NDC adopt a thematic/sectoral approach in climate action programs and activities, Indigenous Peoples' organizations and CSOs organize thematic groups when engaging in consultations with government. Aksyon Klima, the national CSO network on climate change of which Tebtebba is a member, has smaller themes, including on forest and energy, that follow developments and participate in consultations in those sectors. Such thematic or sectoral engagement may be inadequate for carrying all the climate issues and concerns of Indigenous Peoples to the national level. In national consultations, big CSOs such as Aksyon Klima also focus on other urgent issues that may not include specific Indigenous Peoples' concerns. Tebtebba for its part points out that it is just "a small voice" in the national formation.

Further, the government has not linked the NDC to other related international processes, such as the Sustainable Development Goals (SDGs) and the Convention on Biological Diversity to which the Philippines is a party and which have cross-cutting issues and actions. SDG 13, for instance, is about mitigating and adapting to climate change and SDG 15 is about territorial ecosystems sustainability. Linking climate actions to these processes would maximize efforts towards better results. As the NDC is "the skeleton of all climate actions in the country", it should clearly and accurately identify the priorities and needs of the country, as it is this document that future climate actions in the Philippines will be based on.³⁶

³⁵ Interview with NTFP-EP by the writer/researcher

³⁶ The Green Climate Fund, for instance, will use the NDC as the basis for national adaptation plans to be undertaken under the fund (Interview with Aksyon Klima Convenor and Tebtebba by the writer/researcher)

3.7 Opportunities for Indigenous Peoples

The Philippine government's climate policies and programs offer opportunities for Indigenous Peoples, especially for accessing funds to undertake mitigation and adaptation projects in their communities and for advancing their land rights.

REDD+ program

The REDD+ strategy is an avenue by which Indigenous Peoples can safeguard the integrity of their ancestral domains, particularly their forests. NTFP-EP notes that some indigenous communities see the REDD+ strategy as an additional tool to protect their forests from encroachment and land grabs. REDD+ promotes the conservation of forests and biodiversity; thus, areas and communities where REDD+ is implemented are protected from intrusion by those who may want to develop the area through, for example, housing or logging. Partner indigenous communities are also better motivated and empowered through the REDD+ program to assert their rights to their land.

REDD+ also provides an opportunity for indigenous communities to realize social and environmental benefits³⁷ from more sustainable management of their forests, which the program supports through technology transfer with the community. However, in its 10-year implementation, some key elements of the Philippine National REDD-plus Strategy, have yet to be put in place. The strategy has three phases: readiness, scaling up and engagement. The government has not yet established the envisioned governance structure nor formulated a national legal framework that would be the basis for developing a national REDD+ program and action plan.

People's Survival Fund

The People's Survival Fund, created under the Climate Change Act, with a yearly allocation of PHP 1 billion, is a window of opportunity for Indigenous Peoples to access financing for their adaptation and mitigation plans in their communities. The fund, which has a CSO representative in its board, is open to local governments and communities to apply for grants for climate proposals. However, no local community has submitted a proposal to date.³⁸ Lack of information on the fund, inadequate technical capacity to make proposals, and the stringent requirements for accreditation and proposal submission may be factors hindering indigenous and local communities to avail of the grants. There also appears to be a difference in perspective and appreciation of what adaptation means within the fund,³⁹ which could impact indigenous resource management knowledge and practices for adaptation and mitigation. For instance, indigenous and local communities' production of root crops, as some have suggested, is not seen as an innovative adaptation measure. Another challenge is the occasional change in the fund's leadership which affects the continuity of its programs and priorities.

³⁷ These social and environmental benefits are included as non-carbon benefits.

³⁸ Interview with Peoples' Survival Fund Board CSO representative by the writer/researcher

³⁹ Interview with Peoples' Survival Fund Board CSO representative by the writer/researcher

Green Climate Fund

The Philippines is developing a program for 2018–2022 to access the Green Climate Fund, which has an Indigenous Peoples’ policy that recognizes Indigenous Peoples as a unique and distinct stakeholder. The fund finances Indigenous Peoples by recognizing “the importance of full and effective engagement with indigenous peoples in the design, development and implementation of the strategies and activities.”⁴⁰ The Climate Change Commission acknowledges the importance of having an Indigenous Peoples’ program for the fund and assures that it will form part of the country program.⁴¹

Some positive gains have been made with the development of the fund’s Indigenous Peoples’ policy. This policy aims to lessen the negative impacts of business-as-usual models of development. It lays down a foundation for including the identities and aspirations of Indigenous Peoples in any climate mitigation and adaptation plans. It states that climate finance must not bring damage to local communities or ecosystems but rather strengthen contributions of Indigenous Peoples:

“To support and promote the welfare, positive contributions and leadership of indigenous peoples to climate change mitigation and adaptation, based on their traditional knowledge systems, livelihoods, sustainable resource management systems and practices, in a manner that is accessible, rights-based, gender-responsive, culturally appropriate and inclusive”⁴²

The Green Climate Fund also offers the opportunity for Indigenous Peoples to engage with government and access climate programs in their areas. While management of the fund is lodged with accredited institutions and entities such as government banks and UN bodies, it provides for Indigenous Peoples’ representation in its technical working group. This can ensure indigenous rights and interests are respected and considered in any adaptation and mitigation plans that may be financed under the fund.

40 <https://www.greenclimate.fund/projects/safeguards/ip>

41 <https://www.tebtebba.org/index.php/resources-menu/publications-menu/books/3-green-climate-fund-readiness-and-indigenous-peoples-part-2-the-cases-of-paraguay-cameroon-nepal-bangladesh-and-philippines/file>

42 Indigenous Peoples Policy, Green Climate Fund

3.8 Indigenous participation as good practice

A good practice is having Indigenous Peoples actively participate in the government's climate consultations through Aksyon Klima, Tebtebba, and other formations such as regional forums among Indigenous Peoples and local communities (e.g. regional celebrations of IP Day). Aksyon Klima, which seeks to provide a platform for the voiceless, follows up congressional bills on climate change and submits joint statements on climate issues, government climate policies and programs.⁴³ These networks and opportunities for participation are important because consultations are usually done in the national capital and Indigenous Peoples in rural communities are often unable to attend. Even in virtual meetings, they are marginalized by their geographic location, lack of technology and equipment, and mobility restrictions imposed by the COVID-19 pandemic. An additional challenge has been government 'red-tagging', including of indigenous activists and leaders. Red-tagging in the Philippines is the practice of labelling activists and government critics as supporters or recruiters for communist insurgents.

Tebtebba also engages with international climate processes at the international level. Indigenous activists from across the Philippines are showing intense concern and unifying their voices to share indigenous youth and communities' concerns.⁴⁴

Persistent collaboration with key actors or champions of climate change from different national agencies and local government units is also a good strategy to harness synergy and improve relations between Indigenous Peoples and the government. While there are challenges in organizing meetings and dialogues with government, these are still good ways to maximize the chance of arriving at unified decisions and getting support for indigenous initiatives.

⁴³ Interview with Aksyon Klima Convenor Rodne Galicha

⁴⁴ Indigenous youth from several villages in Upper Pulangi, Bukidnon, Philippines, gathered in Apu Palamguwan Cultural Education Center on September 19 and 20 for a youth summit on climate action. Accessed from <https://jcapsj.org/blog/2019/09/21/indigenous-filipino-youth-add-their-voice-to-the-global-climate-strike/>

04

Impact of current climate interventions on Indigenous Peoples

While there has not been enough systematic study of the impact of climate interventions by government and non-state actors, observations by CSOs and the experiences of Indigenous Peoples show notable gains. In the submissions by the Philippines on NDCs (the Intended NDC in 2015 and the NDC in 2021), the overarching frameworks, as noted earlier, emphasize the recognition of human rights and Indigenous Peoples' rights, and the NFSCC recognizes traditional knowledge and the participation of Indigenous Peoples. While positive, this could go further as there is limited specific mention of Indigenous Peoples' distinct and specific rights, including their rights to lands and resources.

Progress is also seen in the increased capacities of agencies to implement related government plans and programs (e.g. the Department of Environment and Natural Resources through its implementation of REDD+ and indigenous community conserved areas; and legislative support such as the Climate Change Act of 2009, amended in 2012, which established the People's Survival Fund). Data shows that civil society groups that implemented REDD+ projects with external funding were recognized and supported by the Department of Environment and Natural Resources during the readiness phase, where the emphasis is on capacity building, consultation and communication. However, initial gains in REDD+ implementation may not be sustained given the shift of focus of the national government in its climate strategies. The country's greater emphasis on adaptation under the NCCAP 2011–2028, and the lack of focus on the forestry sector in the NDC, threatens the further implementation of REDD+ and other climate-related programs involving forest management and protection.⁴⁵

⁴⁵ <https://www.rappler.com/voices/imho/opinion-philippines-consistently-inconsistent-climate-plans>

An interview with the Non-timber Forest Products Exchange Programme (NTFP-EP) revealed that this programme has conducted capacity-building activities to prepare their partner communities for REDD+ projects.⁴⁶ The indigenous communities in the REDD+ areas were aware of the project and know the value their participation can add to the project. They are positive about the REDD+ program since it emphasizes non-carbon benefits—such as enhanced food security, protection of ecosystem services—as well as performance-based benefits.⁴⁷ However, with the restrictions associated with COVID-19 protocols, most community-based activities have been cancelled. NTFP-EP, together with its partner organization, was unable to organize multi-stakeholder meetings in person and instead conducted virtual meetings, which did not allow fruitful discussion with communities due to connectivity issues. Forest monitoring activities by partner communities have also been very limited if not absent during the pandemic because of travel restrictions. Hence, violations committed against indigenous communities, such as intrusions into their forests (e.g. construction of infrastructure without FPIC), are not well tracked. Also, the REDD+ implementation in the Philippines has not reached the level of generating carbon benefits or performance-based payment.

Achieving the ambitious goal of combatting climate change and its impacts requires more work to be able to demonstrate the whole-of-society approach, or to integrate sustainable pathways with the efficient engagement of various government agencies looking at the sectors contributing to greenhouse gas emissions. Table 1 shows those sectors of great concern to Indigenous Peoples. For Indigenous Peoples, these sectors should be seen as interrelated; any action initiated by one sector to address climate change will surely affect the other sectors. Good collaboration among these sectors will mitigate overlaps of responsibilities and inconsistencies in policies and programs that could adversely affect indigenous communities.

46 NTFP-EP in the Philippines is a collaborative network of NGOs and peoples' organizations working to strengthen, develop, and promote NTFP-based forest management strategies that are sustainable, culturally appropriate and gender responsive, for future generations. Interview by the study author.

47 <https://www.hindawi.com/journals/ijfr/2013/769575/>

Table 1. The sectors of great concern to Indigenous Peoples

Sector	Mitigation/adaptation area
Energy	Renewable energy Energy efficiency
Transport	Improve road transport efficiency Promote mass transit (rail system and LRT/MRT) Shift to electric vehicles Aviation/maritime – green airports and ports
Industry	Energy efficiency / fuel switching (energy-intensive industries) Energy efficiency and hydrofluorocarbon substitution in air-conditioning and refrigeration
Waste	Solid-waste management Wastewater treatment (domestic and industrial)
Forestry	Forest protection and management Forest restoration and rehabilitation
Agriculture	Improved management of fertilizers Alternate wetting and drying in rice production Crop diversification Use of biodigester

Source: NCCAP

05

Indigenous Peoples’ contributions to addressing climate change

5.1 Ground initiatives and cultural approaches

Indigenous Peoples’ contributions to addressing climate change in the Philippines are clearly seen in their efforts to protect their ecosystems and sustain their day-to-day livelihood activities. For Indigenous Peoples, protecting their wellbeing involves prohibiting unsustainable activities, such as oil or mineral exploration and extraction from their ancestral lands. How they manage and use their resources are tools for their survival. The practice of agriculture is also very much connected to the lives of Indigenous Peoples. The rice terraces in Ifugao, which have been declared a UNESCO World Heritage site, are one of the most renowned creations of Indigenous Peoples in the Philippines. These majestic terraces are living evidence of the endurance and perseverance of the ancestors in Ifugao in combating and conquering the harsh forces of nature and extreme environmental conditions to establish a stable source of food.⁴⁸

The rice terraces also reflect the indigenous knowledge that has been transmitted from generation to generation. Such wonders cannot be created without specific sociocultural values that govern relations among people as well as between people and nature. Traditional practices and values in community cooperation and mutual aid systems of Indigenous Peoples in the Philippines—the ub-ubbo, gamal, aluyon, innabuyog, tarabangan, saknongan, among others—reflect the needs of indigenous communities and these systems are indispensable during disasters.⁴⁹ Among the Lumads of Mindanao, the rich tradition of preserving and storing seeds also demonstrates collective and community responsibility.

⁴⁸ <https://iopscience.iop.org/article/10.1088/1755-1307/6/57/572031/pdf>

⁴⁹ <https://philtip.org/project/climate-change/>

Indigenous Peoples in the Philippines are now scaling up their action to show that they are no longer victims, but agents of transformative action and change. Their contributions and actions to mitigate climate change and their adaptation capacity cannot be easily undermined because of their sociocultural orientations and their relationship to nature. Many of their daily activities are linked with their environment and the impacts of climate change have pushed them to rely on their indigenous knowledge and systems and to assert their right to their lands.

The role of Indigenous Peoples in managing their own resources cannot be underestimated. Knowledge from both the young and the old is complementary and, together, helps conserve and protect the rich biodiversity thriving in indigenous communities. Greater involvement of Indigenous Peoples to manage resources—be it for ecotourism, conservation and protection, or sustainable development—is expected and highly recommended. At the local level, low rates of collaboration and partnership with Indigenous Peoples risk further marginalizing indigenous communities. To mainstream indigenous knowledge systems and practices, it is important to uphold a holistic view of learning and collective wellbeing.

Author profile

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Indigenous man from Buano Island,
West Seram Regency, Indonesia is carrying
Sago stem. Sago is the main food for the
people in Buano Island.
Photo Credit: Rekam Nusantara

Indonesia

Giorgio Budi Indrarto and Ullynara Zunga
For Asia Indigenous Peoples Pact (AIPP), Thailand

Summary

- Indonesia supported the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007. Complementary to that, Indonesia's original 1945 Constitution also recognizes Indigenous Peoples as part of the nation's identity.
- Indigenous Peoples' rights are also recognized in a number of laws and regulations. This report highlights several laws that are especially relevant to the main issues faced by Indigenous Peoples in Indonesia, including the Forestry Law (law number 41/1999) and the Environmental law (law number 32/2009). Changes in forestry and environment laws, especially in terms of the status of indigenous forest, have a direct impact on Indigenous Peoples.
- In 2012, the national Indigenous network Aliansi Masyarakat Adat Nusantara (AMAN) requested a judicial review of the forestry law, specifically questioning the inclusion of adat (customary) forest as part of State forest. The result of this judicial review created fundamental changes in the tenurial rights dynamics for Indigenous Peoples in Indonesia. However, there are still challenges at the implementation level.
- Indonesia has had a draft bill for Indigenous Peoples since 2009. However, the draft bill continues to be debated and the current draft has some weaknesses and loopholes. Despite this, the draft is expected to be passed soon.
- Climate change is already directly affecting Indigenous communities in Indonesia, highlighting the importance of them being involved in responding to climate change, both in terms of mitigation and adaptation.
- Indonesia made emissions reduction commitments in 2010 and updated them in 2016 in the Nationally Determined Contribution (NDC). The government seeks to reduce deforestation rates and mandate improvements in forest and land governance, including aspects of law enforcement. The process of climate change adaptation in Indonesia is guided by the National Adaptation Plan and the Climate Resilience Development Plan, under the NDC.
- Indonesia's NDC includes both a mitigation and adaptation framework. On mitigation, REDD+ policies and implementation and energy mix policies are key pillars. Adaptation plans focus on strengthening local capacity; improving knowledge management; having convergent policies on climate change adaptation and disaster risk reduction; and applying adaptive technologies.

-
- The NDC document recognizes the rights of Indigenous Peoples. Their traditional knowledge is considered important and strategic for the implementation of the NDC. Based on five principles of effectiveness, efficiency, fairness, transparency and accountability, the NDC identifies fairness as key to the implementation of REDD+, including equal protection of human rights in forest management.
 - The 2020–2024 National Mid-Term Development Plan contains a special chapter on environmental issues and climate change. The plan’s goals in the context of environment and climate change are to drive improvements in environmental health, and climate and disaster resilience, and promote low-carbon development—all goals that relate to the welfare of Indigenous Peoples, particularly climate and disaster resilience and adaptation. Indigenous Peoples continue to have concerns about the plan, including that its targets related to climate resilience focus heavily on economic factors, while it fails to take a holistic view that includes security and human development.

Background

Climate change is a matter very close to Indonesia's Indigenous Peoples, because they are the ones who will bear the most significant impacts of climate disasters and because they have much potential to contribute to reducing greenhouse-gas emissions. As the custodians of many traditional wisdoms and knowledge, they play an important role in the context of climate change. In this report, we present the general overview of the dynamics of Indigenous Peoples in Indonesia related to climate change and land use. Our methods included a review of the literature (including media) combined with direct interviews with Indigenous practitioners in Indonesia.

01

General status of Indigenous Peoples in Indonesia

Indonesia supported the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. The country is also signatory to key international human rights treaties that contain important protections for the rights of Indigenous Peoples.¹ At the national level, Indigenous Peoples have been acknowledged as part of the nation's identity since the original Constitution of 1945. The constitutional amendment of 1999 confirms the recognition of Indigenous Peoples' rights as follows:

Article	Provisions
18B para. (2)	The State shall recognize and respect entities of the adat law societies along with their traditional rights to the extent they still exist and are in accordance with the development of the society and the principle of the Unitary State of the Republic of Indonesia, which shall be regulated by laws.
28I para. (3)	The cultural identity and the right of traditional societies shall be respected in harmony with the development of the age and civilization.
32 para. (1) and para. (2)	para. (1) The state advances Indonesia's national culture amidst the world civilization by guaranteeing freedom of the society to maintain and to develop its cultural values. para. (2) The state respects and maintains regional languages as a national cultural treasure.

Indigenous Peoples' rights in Indonesia are also acknowledged in several other pieces of legislation, with about 19 national-level laws that include provisions on indigenous rights. This report will not elaborate on all, but rather highlight a few laws of particular relevance to the topic at hand, i.e. the forestry law (law number 41/1999) and the environmental law (law number 32/2009). The forestry law has had recent changes that impact Indigenous Peoples, especially in relation to the status of *hutan adat* (customary forest). In 2012, Aliansi Masyarakat Adat

¹ E.g. the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Elimination of All Forms of Discrimination against Women

Nusantara (Indigenous Peoples' Alliance of the Archipelago, AMAN), submitted a request for a judicial review by the constitutional court on the interpretation of the phrase "*hutan adat*" in the law, which was originally interpreted as part of *hutan negara* (state forest).² The court's verdict (number 35/PUU-X/2012 (MK 35/2012)) affirmed the position of AMAN that *hutan adat* are forests located in indigenous territories, and should therefore not be considered 'state forest', which resulted in a fundamental change in the status and tenurial rights of Indigenous Peoples in Indonesia's forests. However, interpretation and guidance on how to apply the MK 35/2012 ruling remains a challenge.³

About Badan Registrasi Wilayah Adat (BRWA)

BRWA is an independent institution that works closely with AMAN and the other NGO networks working on indigenous issues. In an interview with the national coordinator of BRWA, Kasmita Widodo, it was noted that BRWA wants to accelerate the mapping process, but cannot do it alone. The government needs to also play their role to accelerate the formalizing of the IPs mapping so that all actors can 'meet in the middle' and collaborate smoothly. For now, according to BRWA, the government is not moving fast enough.

One of the challenges of implementing MK 35/2012 is the need for Indigenous Peoples to have a local regulation (*peraturan daerah*) for the acknowledgement of their existence. The process of drafting and enacting such regulations takes time and effort. To date, there are 109 local regulations that acknowledge 5,175 million hectares of indigenous lands (*wilayah adat*). However, participative mapping shows that there are 11.185 million hectares already registered by BRWA (Badan Registrasi Wilayah Adat), which means there are still 6,010 million hectares of BRWA-registered *wilayah adat* that have not been officially recognized.⁴ According to AMAN and its networks, a further 8.3 million hectares of indigenous forests in Indonesia still do not have any kind of recognition. One of the challenges for progress is the process of verification which must be carried out by the Ministry of Environment and Forestry. The constitutional court decision specifies only that *hutan adat* should no longer be considered as *hutan negara* (state forest). But it does not direct the ministry to immediately recognize the consequences of the court decision and remove all *hutan adat* from state forest.

2 There have been two revisions to law no. 41 year 1999 regarding forestry. The first one became law no. 19 year 2004 after an open mining case in the constitutional court. The second revised the status of indigenous forest (*hutan adat*), also through a case in the constitutional court. For more details on AMAN's petition, see: <https://www.aman.or.id/petition-for-mk-no-35-ruling-and-indigenous-peoples-bill>

3 http://epistema.or.id/wp-content/uploads/2015/07/Myrna_Safitri-Makalah_Setahun_Putusan_MK_35.pdf

4 <https://www.brwa.or.id/>

Instead, the ministry established procedures that Indigenous Peoples need to follow to get recognition, and it is these procedures that are becoming one of the main challenges.

The Environmental Protection and Management Act No. 32/2009 also contains legal protections of Indigenous Peoples' rights. Article 63 of the Act sets out the responsibility of the national, provincial and district governments to establish and implement regulations to acknowledge Indigenous Peoples' rights in relation to environmental protection and management. However, according to an interview with AMAN, while this is meant to protect Indigenous Peoples' rights, it is in reality posing a threat—in particular to traditional rotational farming practices. Article 69 para. (2) excepts traditional practices from the general zero-burning policy set out in article 69 point (h). However, despite this protection in law, the interpretation and implementation of this article often results in Indigenous Peoples being blamed for fires caused by big companies.

In addition to these laws and regulations, there is a plan to draft a national law on Indigenous Peoples, which is in the 2021 national legislation program.⁵ The idea of having national legislation on Indigenous Peoples has been on the table since 2009 and a draft has been developed, although indigenous organizations such as AMAN have pointed out loopholes and weakness in the draft.⁶ The bill is expected to pass soon. Thus, while the legal status of Indigenous Peoples in Indonesia is gaining more attention, upcoming challenges need to be tackled in order to secure real protection in law and in reality.

5 <https://www.dpr.go.id/berita/detail/id/32239/t/Paripurna+DPR+Sepakati+33+RUU+Prolegnas+Prioritas+2021>

6 <https://nasional.tempo.co/read/1366124/jalan-panjang-ruu-masyarakat-adat-mandek-sejak-2009/full&view=ok>

02

Indigenous Peoples and climate change in Indonesia

Indigenous Peoples are socially, environmentally and economically impacted by climate change. They are among the most vulnerable groups, experiencing the worst impacts of natural disasters linked to climate change and increasingly erratic weather patterns (e.g. droughts and floods). In the period January to September 2020, the most prevalent natural disaster associated with climate change was landslides, followed by floods and hurricanes (Figure 1). Just recently, in April 2021, Cyclone Seroja hit East Nusa Tenggara and West Nusa Tenggara, killing 117 people.⁷

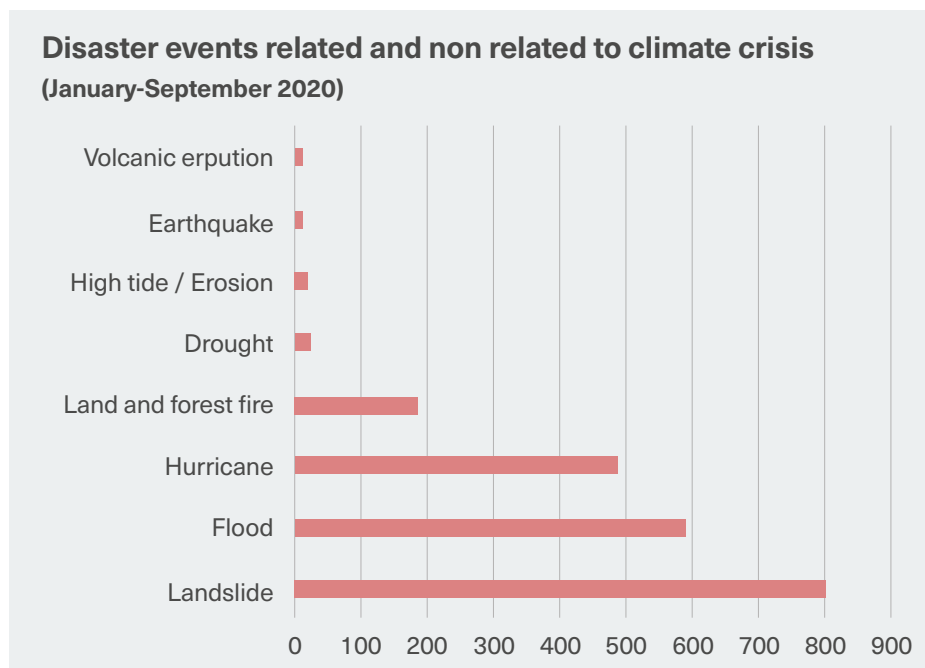


Figure 1. Number of disaster events in Indonesia, January–September 2020

Source: Badan Nasional Penanggulangan Bencana, September 2020 (via <https://databoks.katadata.co.id/>)

⁷ NTT and NTB are home to several Indigenous communities, and Cyclone Seroja is a clear example of the climate crisis. <https://tirto.id/siklon-seroja-bukan-terakhir-jika-krisis-iklim-tak-segera-ditangani-gdk5>

In 2019, extreme rainfall in Bengkulu province caused floods and landslides, killing 30 people.⁸ Then, in June 2020, floods and landslides struck Luwuk Utara district, killing 36 people. More than 3.000 people, including elderly people, babies and pregnant women, were severely affected by the disaster.⁹ Disasters caused by climate change (extreme rainfall, droughts, floods, landslides) are becoming more frequent and causing high numbers of casualties, including among Indigenous Peoples. According to AMAN, about 30 per cent of Indigenous Peoples in the Indonesian archipelago live in areas that are vulnerable to the impacts of environmental changes linked to climate change.¹⁰ Of these, Indigenous women, children, and those with disabilities are the most affected by disasters caused by climate change, as mentioned above. Traditional women's roles of collecting food, doing household chores and caring for family continue to be widely held by women, particularly in indigenous communities. When something happens to the place where they collect food, to their house or to their family, it is the women who suffer the most. Options for Indigenous women living in rural communities are limited and the impacts of changing conditions can be severe.

It is, therefore, essential that Indigenous Peoples are included in the efforts to tackle climate change, both in mitigation and in adaptation to the changes already being experienced. They stand to be among the best actors to determine the effectiveness of any effort undertaken, since they are on the frontline where disasters often strike the hardest. Recognizing their tenure rights to their lands (wilayah adat) is also key to climate mitigation. Without secure tenure rights, they will continue to have their land taken and destroyed by third parties in the name of palm oil development, dam construction, mining, and forest industrialization (for example, by the pulp and paper industry). With such tenure conflicts come high rates of deforestation, accelerating the impact of climate-related disasters. Only with secure tenure rights will Indigenous Peoples be fully able to protect their lands and contribute to national effort on reducing emission by protecting and enhancing the carbon stocks in their adat forest.¹¹ Yet, despite the change to hutan adat protections through constitutional court decisions (MK 35/2012), Indigenous Peoples are still struggling to obtain their legal tenure rights.

8 <https://bnpb.go.id/infografis/infografis-bencana-banjir-dan-longsor-bengkulu>

9 <https://www.antaraneews.com/berita/1619842/total-korban-jiwa-banjir-bandang-luwu-utara-36-orang-sebut-bnpb#:~:text=Total%20korban%20jiwa%20banjir%20bandang%20Luwu%20Utara%2036%20orang%2C%20sebut%20BNPB,-Minggu%2C%2019%20Juli&text=Banjir%20juga%20merendam%204.202%20unit,mengakibatkan%2014.483%20jiwa%20terpaksa%20mengungsi>

10 <http://www.aman.or.id/2013/11/rilis-pers-masyarakat-adat-mitra-strategis-hadapi-perubahan-iklim/>

11 Interview with Abdon Nababan in 2015, as quoted in Mongabay (<https://www.mongabay.co.id/2015/12/06/pelibatan-masyarakat-adat-bisa-jadi-jurus-ampuh-atasi-perubahan-iklim/>) and Safeguarding the carbon stored in indigenous and community lands is essential to meeting climate goals (Katie Reytar, Marlena Chertock and Peter Veit), 2018: <https://www.wri.org/insights/safeguarding-carbon-stored-indigenous-and-community-lands-essential-meeting-climate-goals>

03

Climate policies

In 2010 Indonesia declared its first commitment to reduce national emissions by 26 per cent by 2020 through its own efforts, and up to 41 per cent with foreign assistance. However, for this first commitment, no clear baseline year or period was established, a fact much discussed among climate enthusiasts. After the Paris Agreement, a new commitment was integrated into the nationally determined contribution (NDC) of a 29 per cent emissions reduction (own effort) by the year 2030, as measured against 2010 emission levels.¹² This commitment has become the foundation of Indonesia's policies to tackle climate change,¹³ including how to integrate the interests of Indigenous Peoples in coping with climate change. Here, we highlight a few selected policy documents that relate directly to climate change and REDD+.

In 2011, then president Susilo Bambang Yudhoyono's Administration introduced the first forest moratorium policy (Presidential Decree 10/2011) for all existing and new forest utilization licenses. This policy became part of the efforts to reduce the rate of deforestation and it mandates a review of existing licenses. Its main goal was to improve land and forest governance, including the law enforcement aspect. This policy was then continued by President Joko Widodo's Administration through the issuance of Presidential Decree 6/2013, and in 2019 his Administration made the forest moratorium permanent (through Presidential Decree 5/2019). The Jokowi Administration has also introduced a palm oil moratorium through the issuance of Presidential Decree 18/2019 regarding Palm Oil Plantations License Evaluation and Moratorium and Enhancing the Productivity.

Given that Indonesia is one of the countries with most of its emissions deriving from land use, land-use change and forestry, these policies are key to addressing the climate change challenge. Other important climate-related policies are the National Action Plan for Climate Adaptation, the Nationally Determined Contribution (NDC), the REDD+ National Strategy, and the National Mid-term Development Plan (RPJMN).

¹² Indonesia's first NDC: <http://ditjenppi.menlhk.go.id/peraturan-perundangan.html>, accessed 17 May 2021

¹³ There are several national documents related to climate change that can be freely accessed: <http://ditjenppi.menlhk.go.id/peraturan-perundangan.html>

3.1 Recognition of rights in climate policies

a. National Adaptation Plan

The process of climate change adaptation in Indonesia is guided by the National Adaptation Plan (NAP)¹⁴ and the Climate Resilience Development Plan (CRP). Although it is unclear how these plans relate to each other, it appears that the NAP will become the foundation for all operational adaptation activities elaborated in the CRP.

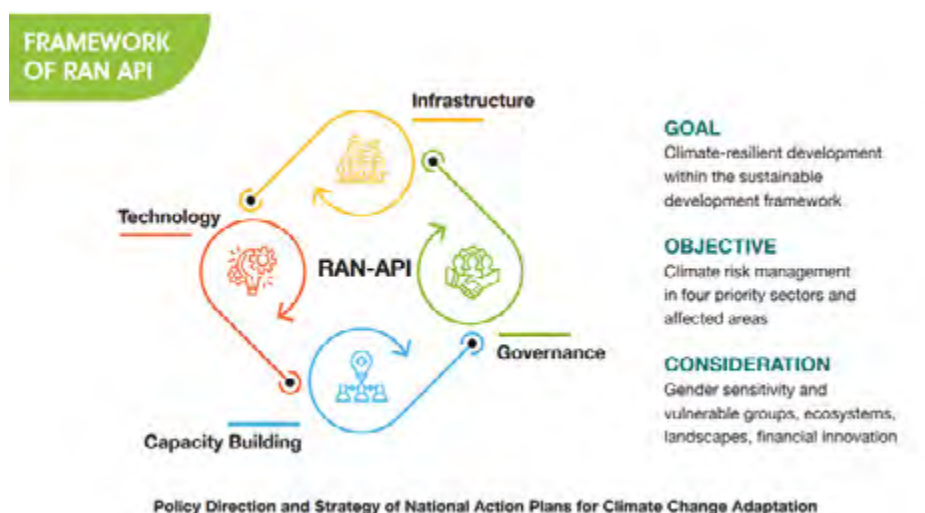


Figure 2.Indonesia's framework for adapting to climate change

Source: National Adaptation Plan 2019, page 13

Although the NAP strongly emphasizes inclusiveness, this is currently only on an abstract level and it remains unclear how inclusiveness will be operationalized in terms of Indigenous Peoples, when the NAP mentions them only once. This one reference is in the context of the national effort to build a national emissions inventory system: Indigenous Peoples are seen as a group that could contribute to achieving the overall national emissions target by registering their carbon stocks.

The CRP, on the other hand, seems to be better designed for implementation. It consists of five 'books' (chapters), which deal with different aspects of adaptation efforts. Book #1 focuses on locations and actions for climate resilience; book #2 deals with the organizational and governance aspects of climate resilience; book #3 addresses the role of non-governmental organizations (NGOs) in climate resilience; book #4 focuses on financing climate resilience; and book #5 looks at monitoring, evaluation and reporting. Issues pertaining to Indigenous Peoples, such as forest issues, are mentioned in book #3 as part of the activity of NGOs;

¹⁴ The document of the national adaptation policies can be accessed through the LCDI website (<https://lcdi-indonesia.id/publikasi-dokumen/>)

however, the specific adaptation needs and contributions of Indigenous Peoples are not explicitly covered.¹⁵ Book #2 mentions some ministerial priorities for addressing the needs of other vulnerable groups (such as women, youth, and persons with disabilities). In the fisheries sector, for instance, a priority is to develop a finance instrument to assist vulnerable groups living in the coastal area. From the Ministry of Women Empowerment and Child Protection, the priority is to educate people about the risk and impact of climate change.¹⁶ However, there is no explanation of how the development and the education campaign will be done. This shows that the concerns of women, children, and other vulnerable groups are not getting enough attention by the government, although gender mainstreaming is highly suggested. Furthermore, the government fails to address this as a national concern.

b. Nationally Determined Contribution

Indonesia's first NDC was submitted to the UNFCCC in 2016. It addresses the country's transition to a low-carbon and climate-resilient future, and describes the overall plan to meet Indonesia's emission-reduction commitments. It includes both a mitigation and an adaptation framework. For mitigation, REDD+ policies and implementation and an energy mix policy stand as the central pillars. Adaptation plans focus on strengthening local capacity; improving knowledge management; having convergent policy on climate change adaptation and disaster risk reductions; and applying adaptive technology.

In terms of recognition of Indigenous Peoples' rights, the NDC document states:

"Indonesia **respects, promotes and considers its obligation** on human rights, the right to health, **the right of adat communities (Indonesia: Masyarakat Hukum Adat and internationally known as indigenous people),**¹⁷ local communities, migrants, children, persons with different abilities, and people in vulnerable situations, and the right to development, as well as gender equality, empowerment of women and intergenerational equity. Engagement of non-party stakeholders, including local government, private sectors, civil societies will continuously be enhanced."¹⁸

Further, indigenous traditional wisdom is portrayed as strategically important for the implementation of the NDC. For example, the document highlights existing best practices of many Indigenous communities in Indonesia. It also mentions the specific role of social forestry as a mitigation effort already being implemented by Indigenous Peoples.¹⁹

15 Buku 3 Peran Lembaga Non Pemerintah dalam Ketahanan Iklim, Bappenas 2021 (Hal 47-49)

16 Buku 2 Kelembagaan dan Ketahanan Iklim, Bappenas 2021 (Hal 9 & 11)

17 The parentheses are included in the original text.

18 NDC document, page 6

19 See Section 3.2 for concerns raised by Indigenous Peoples in relation to social forestry.

c. REDD+ National Strategy

The REDD+ National Strategy (REDD+ strategy)²⁰ is currently being revised; however, the revised drafts are not publicly accessible. Therefore, this report refers to the REDD+ strategy developed by the Indonesian REDD+ Task Force in 2012. While the REDD+ strategy focuses on the REDD+ program, its wider vision is to create sustainable forest management and natural resources management for the greater benefit of Indonesian people.

Most importantly, through the government's social and environmental safeguards ... the strategy addresses not only the importance of IPs (and other vulnerable groups), but also the importance of land tenure reform.

The REDD+ strategy is based on five principles: effectiveness, efficiency, fairness, transparency and accountability; the principle of fairness (*adil*) is identified as key to REDD+ implementation. This means that REDD+ will be implemented based on the principles of equality for all and human rights protection in forest management, including for women and communities vulnerable to socioeconomic and environmental change. The strategy also emphasizes the importance of the involvement of Indigenous Peoples, women, youth and vulnerable groups to the implementation of the Freedom of Information Act, in terms of opening space for these groups to participate in the REDD+ implementation. Most importantly, through the government's social and environmental safeguards (Prinsip, Kriteria, Indikator Safeguards Indonesia, or PRISAI), the strategy addresses not only the importance of Indigenous Peoples (and other vulnerable groups) in implementation, but also the importance of land tenure reform, which is envisaged to include surveying the land and resolving land tenure disputes, and also ensuring the principles and processes of Free, Prior and Informed Consent (FPIC)²¹ for Indigenous Peoples whose lands and resources have already been taken without their free, prior and informed consent.

Principle 5 of the PRISAI safeguards emphasizes attention to gender; however, it also finds that some external stakeholders, including the World Bank and its Forest Investment Program, also still need to address gender equality issues adequately. The UN-REDD Programme is specifically mentioned as not clarifying how its guidance contributes to addressing gender discrimination. The Inter-American Development Bank is mentioned as not addressing gender as a specific issue. These findings show that there is inconsistency across the sector, including external actors, which should be addressed. The REDD+ strategy has five pillars (Figure 3)²². The second pillar, 'Legal and regulatory frameworks', is especially

20 Indonesia's REDD+ National Strategy: http://ditjenppi.menlhk.go.id/reddplus/images/resources/redd/StrategiNasionalREDD_SatgasREDD_201209_in.pdf

21 See National REDD+ Strategy 2012, page 18, point 2.2.2.2 Land Tenure Reform: <https://static1.squarespace.com/static/566fofood8af100a22fb3bfd/t/58540e10e4fcb56428732a47/1481903646370/Indonesia+REDD%2B+Task+Force.+National+Strategy.pdf>

22 Figure 3. The five pillars of Indonesia's REDD+ National Strategy (source: REDD+ National Strategy, 2012)



pertinent to land tenure security—the biggest issue facing Indigenous Peoples. The strategy recognizes that “Land tenure reform is an important prerequisite to create the conditions required for successful implementation of REDD+” and explains that, as a step towards “certainty of land tenure”, a survey of all land occupied by Indigenous Peoples will be carried out.²³ Also within the second pillar, a moratorium and licence review is recommended as the key activity to minimize conflicts caused by the overlap of concessions licences and Indigenous Peoples’ customary lands. As noted above, since the REDD+ Strategy was drafted there have been several changes in terms of the oil palm moratorium, which is now considered permanent.

The fifth pillar, ‘Inclusion/involvement of stakeholders’, deals with stakeholder participation in REDD+ and clarifies strategies for inclusion of Indigenous Peoples and for fair distribution of benefits. This pillar addresses most of the concerns held by Indigenous Peoples about REDD+ schemes in that it sets out in detail how FPIC processes should be carried out in REDD+ programs and projects.

²³ REDD+ National Strategy, page 18

The main principles of an FPIC protocol

1. The application of this protocol involves consultation with the relevant indigenous peoples, local communities, and other members of the public affected by the implementation of REDD+ programs/projects/activities.
2. Consultation is carried out without force, intimidation, manipulation, or pressure in any form to seek the consent of indigenous peoples and local communities who are potentially affected by REDD+ programs/projects/ activities.
3. Effective and fully participative consultation involves indigenous and local communities in every step and process that affects them either directly or indirectly. The participation of indigenous peoples can be done through their traditional authorities, or through representative organizations selected on the basis of traditional systems adhered to by the given indigenous community.
4. Consultation aims to achieve broad consensus or the specific agreement of the indigenous and local communities potentially affected. There are various forms of agreement: tentative agreement, temporary agreement, partial agreement, agreement with specific stipulations, agreement with other options, and full agreement; all of which are decided upon by the concerned public through legal mechanisms, indigenous law practices, or local traditions and habits.
5. Consultation is based on complete, balanced, honest, unbiased, and easily understood information concerning the alternatives and choices existing for the public within the implementation of REDD+ activities, along with the consequences of each alternative choice. This information is meant to create leeway for broad consensus, with all parties having access to existing opportunities.
6. Consultation with the public must be done within an adequate frame of time before permits are legalized or activities commenced, and must be done respectfully with adherence to all stipulations and time considerations required within the consultation process.
7. The FPIC consultation process is the beginning of ongoing or regular communication between members of the community and the would-be implementers of REDD+ activities. There must be agreement on the manner of public consultations, its protocols and mechanisms, including those for complaints and conflict resolution relating to each stage of REDD+ activities.²⁴

²⁴ National REDD+ Strategy, page 34

It must be noted that although the recognition of Indigenous Peoples' concerns in the 2012 REDD+ strategy is quite extensive and progressive, this document is being revised. To date, the process of revision has not included AMAN as a representative body of Indigenous Peoples. Therefore, it is still unclear if and how the updated version will accommodate the concerns of Indigenous Peoples in Indonesia.

d. National Mid-term Development Plan

The National Mid-term Development Plan (RPJMN)²⁵ is a general development plan, dealing with the overall direction of national development for the period 2020–2024. It contains a specific chapter on environmental issues and climate change, with targets of enhancing environmental health, climate and disaster resilience, and low-carbon development—all areas related to the wellbeing of Indigenous Peoples, especially the aspects of climate and disaster resilience and adaptation.

However, one considerable flaw of the RPJMN from the perspective of Indigenous Peoples is that its target related to climate resilience focuses heavily on economic factors and fails to look holistically at human security and development.²⁶ For example, it fails to address key underlying factors that inhibit the welfare of Indigenous Peoples, such as the lack of land tenure security due to tenure conflict. While economic empowerment is important, a 2018 study by AMAN shows that it is only one of a multitude of factors that constitute the welfare of a community.²⁷ Therefore, a recommendation on adding factors related to land tenure, and Indigenous Peoples' welfare, needs to be considered in the next RPJMN. The RPJMN also provides for rehabilitation, compensation, and restitution for victims of land disputes, as well as victims of human rights violence. This can be a safeguard for Indigenous Peoples whose lands have already been taken, but it also risks Indigenous Peoples losing even more lands, which will affect their livelihoods and wellbeing.

²⁵ Mid-Term National Development Plan 2020–2024: <https://drive.bappenas.go.id/owncloud/index.php/s/4q7Cb7FBxavq3lK>

²⁶ E.g. “lowering the loss of percentage on domestic brute income in 2024 by 1.25%”

²⁷ AMAN, Appraising Economic Performance of Indigenous Peoples' Sustainable Landscape Management: Results consolidation, a study on natural resources economic value in sustainable landscape management in 6 Indigenous Peoples' territories, Bogor 2018

3.2 Issues and concerns for Indigenous Peoples in national climate policies

Although Indigenous Peoples' concerns are mentioned in the policies described above, Indigenous Peoples and other vulnerable groups are not completely sure if they are fully protected. Their issues are seen as national issues only at the surface level and analysis of the policies reveals considerable inconsistency. Despite the attention to Indigenous Peoples concerns in the NDC, AMAN has expressed concerns about the term 'social forestry' which is promoted in the NDC but is viewed as incompatible with *adat* forest, the concepts being quite different in terms of tenurial rights. According to AMAN, *adat* forest is the most appropriate recognition of Indigenous Peoples' tenure system because it acknowledges the full rights of Indigenous Peoples to utilize their lands and forests. Social forestry, however, is closer to 'rental' status—Indigenous Peoples are not positioned as the owners of the lands and forests because the land status remains as state land or state forest.

One of the biggest concerns of the Indigenous Peoples in Indonesia underlying the above-mentioned concerns is the absence of a national law to recognize and protect Indigenous Peoples. Although several sectoral laws provide certain protections and recognition of Indigenous Peoples' rights, these are still considered to provide only partial protection. Rights to protection from violence and from discrimination against women and other marginalized groups, for example, are not seen in those sectoral laws.²⁸ Also, there is no guarantee that Indigenous Peoples can embrace their ancestral religions.²⁹ With the Constitutional Court ruling (MK 35), Indigenous Peoples' rights seemed to be gaining traction. However, there remain challenges in the implementation of the ruling for *hutan adat* recognition.

Moreover, the recent enactment of the Omnibus Law (*Undang-Undang Cipta Lapangan Kerja*) creates more challenges for Indigenous Peoples because it opens up the opportunity for further large-scale investment, which threatens Indigenous Peoples' lands and forests and increases the potential for land conflicts between the communities and commercial businesses.

²⁸ In 'Tanya Jawab Soal Masyarakat Adat' document by Perempuan AMAN (page 14), it is explained that Indigenous women have specific characteristics that can be seen through their knowledge and practices on natural resources (read more on footnote 13 in the document). The eight points of violations against Indigenous women's rights are also explained in the documents. No specific regulations on women exist anywhere in the sectoral laws.

²⁹ Ibid. (page 17)

Besides the Omnibus Law, there has also been the revision of the mineral and coal law (*Undang-undang Mineral dan Batubara*) which centralizes the licensing system, minimizing the role of local government in granting mining licences³⁰. This has negatively impacted Indigenous Peoples, because the authority for the management of Indigenous Peoples fell under the local government.

The situation is getting worse with the pandemic, and it remains to be seen how attention to Indigenous Peoples' rights will fare in the face of commercial interests after COVID restrictions are lifted. Mina Setra from AMAN says, "it's the perfect moment to say brace for impact, because there will be lots of turbulence up ahead", especially with the climate crisis and the increase in natural disasters caused by climate change. For now, it appears that the approach of government is business as usual—not focusing sufficiently on disaster mitigation—which presents a big threat to Indigenous Peoples.

3.3 Participation of Indigenous Peoples in climate change policies

Participation by Indigenous Peoples should be viewed from two perspectives—participation in the drafting and planning processes and participation in the implementation. For planning processes, Indigenous representatives are often invited in public consultations processes. However, this does not mean that the policy implementations will be fully in force to protect their rights because often there are political issues that influence the implementation. Active participation of Indigenous Peoples in the drafting process does not mean that the implementation will also be participatory.

During his administration, then president Susilo Bambang Yudhoyono (or SBY, as he is often referred to) acknowledged the status and existence of Indigenous Peoples in Indonesia and committed to protect their rights. In the REDD+ National Strategy, Indigenous Peoples are involved in the system of managing and utilizing natural resources specifically related to their lands, and it states that their local wisdom should be taken into account. Their involvement in the REDD+ strategy is also aimed at identifying indigenous lands so that legal certainty over land tenure can be improved.

³⁰ <https://www.idntimes.com/news/indonesia/vanny-rahman/uu-minerba-masa-depan-kelam-masyarakat-adat/5>

Since the change of Administration from SBY to Joko Widodo ('Jokowi') in 2014, the involvement of Indigenous Peoples in Indonesia's climate policies has been minimal. During his election campaign (*Nawa Cita*), Jokowi made a political commitment to enact the Indigenous Bill, to establish the Indigenous Peoples task force, to review sectoral regulations, to develop national mechanisms for resolving conflict, to implement MK 35/2012 and to remediate criminalized Indigenous victims. However, according to AMAN Secretary-General Rukka Sombolinggi, the Jokowi administrative policy is contradicting these commitments.³¹ With very little attention given to the general issues faced by Indigenous Peoples in Indonesia, the role of Indigenous Peoples in the climate policies is also not strong.

Indonesia is taking part in the Local Communities and Indigenous Peoples Platform of the UNFCCC; however, implementation on the ground is yet to be seen, since the workplan of the platform is still under development. AMAN believes that the Indonesian government could become more proactive at the national level, especially in contextualizing the term "traditional wisdom" which is mentioned in the NDC in relation to a strategic approach to implementation.³² With the correct context, this term could leverage the position of Indigenous Peoples in Indonesia. On the other hand, it could also become a mere gimmick and a hollow term if not correctly contextualized. The government should, therefore, start to consult on what traditional wisdom means in the context of climate change in Indonesia, and, with the effective participation of Indigenous Peoples, document living examples of such wisdom.

³¹ <https://www.mongabay.co.id/2015/09/20/soal-indc-aman-ragukan-keseriusan-pemerintah-libatkan-masyarakat-adat/>

³² Ibid.

04

The impact of current climate interventions on Indigenous Peoples

As mentioned, policies on climate change adaptation and mitigation have been introduced by national and local governments. The NDC has become one of the main policies laying the foundations of the climate change framework, followed by more operational planning documents such as the NAP and the REDD+ National Strategy. When it comes to implementation, AMAN reports that it is still not seeing any direct correlation between policy interventions and the wellbeing of Indigenous Peoples in the context of increased threats posed by climate change. To some extent, this is because the documents do not describe any concrete actions at the grass-roots level. There are several local development planning processes (in the RPJMN) in which Indigenous Peoples are often involved. However, when it relates to climate adaptation, their participation is not always included in planning documents.

That said, in line with the third book of CRP and the role of NGOs in climate resilience, there is an extensive list of NGO activity concerning Indigenous Peoples and other vulnerable groups, such as the activities being implemented by Kemitraan³³ to adopt zero deforestation, minimize forest degradation, accelerate the recovery of peat ecosystems, and promote effective instruments and equipment for green development.

On the other hand, the rate of criminalization of Indigenous Peoples is rising. AMAN's records show that approximately 18,372 families have become victims through 40 cases that have occurred during the pandemic.³⁴ This shows that the policy interventions are still not addressing the fundamental underlying problem of land insecurity and associated land conflict faced by Indigenous Peoples. There are many cases of violence against Indigenous Peoples related to the land conflicts, while their lands are their source of food and water, among other things. Indigenous women are particularly affected, being the guardians of natural resources, and the most vulnerable, along with youth and persons with disabilities. Take the case of women in Kampong Durian, Langkat, North Sumatra, for example. As victims of land tenure conflict with PTPN II, they were helpless when being evicted from their land, and witnessing their land being taken away and destroyed during the pandemic.³⁵

33 Third book of CRP, pages 47–49

34 Interview with Mina Setra, AMAN

35 <https://www.mongabay.co.id/2020/10/04/ketika-wilayah-adat-rakyat-penunggu-tergusur-di->

05

Indigenous Peoples' contributions to addressing climate change

In Bali, the cultural landscape associated with the traditional rice-farming practices of Indigenous Peoples, known as *subak*, was inscribed on the UNESCO World Heritage List in 2012. Dating back to the 9th century, the *subak* system is a cooperative water management system of canals and weirs, which not only benefits the land but also reflects an ancient philosophy that binds the realms of the spirit, the human world and nature.³⁶ Using the elevated landscapes, water for irrigation is distributed equitably among farmers in the village areas, which also minimizes any conflict that might happen, especially in dry seasons. The system could be adopted by modern conservation and sustainable development efforts to improve and strengthen the capability to adapt to climate change.³⁷

A separate, but related example of practices and efforts by Indigenous Peoples that help to mitigate and adapt to climate change is a program run by AMAN to encourage adat youth who are studying in the city to return to their adat land (Gerakan pulang kampung). Through the program, AMAN has helped develop ways for adat youth to use their skills (after graduating from university) in their villages. The program is also assisting them to build business plans and create business opportunities at the village level. Young people often go to the city to study, and after they finish their study, they stay and take on formal jobs. This migration is contributing to urbanization and to the difficulty of regenerating adat communities. In this context, the AMAN program strengthens the continuity and transition of the traditional knowledge held by Indigenous Peoples.

tengah-pandemi/

36 <https://whc.unesco.org/en/list/1194/>

37 I Gusti Agung Ayu Rai Asmiwyati, Made Sudiana Mahendra, Nurhayati Hadi Susilo Arifin, Tomohiro Ichinose,

‘Recognizing Indigenous knowledge on agricultural landscape in Bali for micro climate and environment control’, *Procedia Environmental Sciences*, Vol. 28, 2015.

A third initiative, also developed at the local level, is participatory mapping that integrates disaster mitigation. An interview with BRWA highlighted the example of how Indigenous Peoples in Sungai Utik already integrate their participatory mapping process with consideration of disaster management within the map. This means that the maps consider the soil type and elevations of the land, which could minimize climate-related disasters, such as flooding.

Besides the technical initiatives mentioned above, Indigenous Peoples whose lands are being taken away are not being passive. They often protest in creative ways. Kendeng women, for example, cemented their feet as a protest against a cement factory that threatens their land's sustainability. Creative protests should be considered as a strategy in countering injustice perpetrated by companies that hide behind government policies.

Author profiles

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Giorgio Budi Indrarto is an environmental lawyer from Indonesia and working with the issue of climate change, forestry including Indigenous Peoples since 2005. He was actively involved in several policy making processes related to Indigenous Peoples such as developing the Indonesia REDD+ strategy and developing the social and environmental safeguards in Indonesia. Currently, he is the Deputy Director of Yayasan Madani Berkelanjutan, based in Jakarta Indonesia.

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