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Legal Protection of Indigenous Communities From Natural Resource Exploitation: A Comparative Study of Indonesia and The Philippines

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Abstract: The large-scale exploitation of natural resources in Southeast Asia has generated a wide range of legal, social, and ecological challenges, particularly for indigenous communities living in resource-rich areas. This article seeks to analyze and compare the forms of legal recognition and protection afforded to indigenous peoples in Indonesia and the Philippines, with a focus on their sovereignty over customary lands and their participation in decision-making processes related to natural resource governance. Employing a normative and comparative legal approach, the study examines statutory frameworks, judicial decisions, and selected case studies involving the Moi people in Papua (Indonesia) and the Lumad communities in Mindanao (Philippines). The findings indicate that, although both countries formally recognize the existence and rights of indigenous peoples, the extent of legal protection and its implementation differs significantly. The Philippines adopts a more explicit and progressive legal framework through the Indigenous Peoples' Rights Act (IPRA), which recognizes collective land ownership and upholds the principle of Free, Prior, and Informed Consent (FPIC). In contrast, Indonesia relies largely on administrative recognition and lacks a legally binding FPIC mechanism within its national legislation. Despite these differences, indigenous peoples in both countries continue to face substantial challenges, including criminalization, militarization, and marginalization from development processes. This article therefore recommends strengthening national legal frameworks particularly through the enactment of a comprehensive Indigenous Peoples Law in Indonesia, institutional reforms of oversight bodies in the Philippines, and the promotion of ecological and participatory justice in natural resource governance.

Keyword: Indigenous Peoples, Natural Resource Exploitation, Legal Protection, Customary Land Sovereignty, Indonesia, Philippines, Moi People, Lumad Communities

INTRODUCTION

Indigenous peoples are social groups that have lived for generations within specific geographical areas, possessing distinct social structures, cultural values, belief systems, and

autonomous legal institutions. Their existence constitutes an integral part of a nation's civilization and historical development. Indigenous communities not only preserve ancestral traditions but also maintain a deeply rooted relationship with the land and natural resources on which they depend. For them, land is not merely an economic asset or private property; rather, it represents a collective identity, a spiritual heritage, and the core of communal life. Therefore, any form of control, exploitation, or transfer of land and natural resources without their involvement and consent is often regarded as a violation of human rights and indigenous sovereignty.

Amid the forces of globalization and national economic development, the exploration and exploitation of natural resources have become central agendas for developing countries endowed with abundant natural wealth, including Indonesia and the Philippines. Mineral extraction, large-scale plantation expansion, infrastructure development, and energy projects have increasingly targeted areas that are historically and sociologically recognized as indigenous territories. In many instances, such activities are carried out under formal legal authorization granted by the state to national and multinational corporations, with little to no meaningful participation from the affected indigenous communities. As a result, these processes frequently lead to agrarian conflicts, environmental degradation, and violations of the collective rights of indigenous peoples who have long depended on their ancestral lands for survival.

The legal systems in Indonesia and the Philippines are characterized by legal pluralism, in which formal state law coexists with customary law and unwritten legal systems. However, in practice, the relationship between state law and customary law is often hierarchical, with state law dominating policy direction, territorial control, and access to natural resources. This occurs despite the fact that both countries constitutionally recognize the existence and rights of indigenous peoples. In Indonesia, such recognition is enshrined in Article 18B(2) of the 1945 Constitution, which affirms that the state acknowledges and respects indigenous communities and their traditional rights as long as they remain viable and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia. This provision is further reinforced by sectoral regulations and Constitutional Court Decision No. 35/PUU-X/2012, which established that customary forests are not part of state forests but belong to indigenous communities.

In contrast, the Philippines has taken a more progressive approach through Republic Act No. 8371 of 1997, known as the Indigenous Peoples' Rights Act (IPRA). This law represents one of the most comprehensive legal frameworks in Southeast Asia, providing broad recognition of indigenous rights, including rights to ancestral domains, cultural sovereignty, and socio-political systems. It also guarantees the right of indigenous peoples to grant or withhold consent to development projects through the principle of Free, Prior, and Informed Consent (FPIC). The establishment of the National Commission on Indigenous Peoples (NCIP) further institutionalizes the protection of these rights by overseeing the implementation of IPRA and mediating conflicts between indigenous communities and state or corporate actors.

Nevertheless, such normative recognition has not always been effectively translated into legal practice and policy implementation. In Indonesia, recognition of indigenous peoples and their territories remains contingent upon administrative acknowledgment by local governments through regional regulations. This process is often hindered by political and economic interests that prioritize investment and regional revenue over the protection of indigenous rights. Additionally, weak inter-agency coordination, overlapping regulations, and limited institutional capacity in understanding customary law contribute to the continued marginalization of indigenous communities. In the Philippines, despite the progressive nature of IPRA, its implementation faces challenges, particularly due to the influence of large-scale mining interests operating within ancestral domains.

A concrete illustration of these tensions can be observed in the case of the Moi people in Sorong Regency, West Papua, Indonesia. For generations, the Moi community has inhabited and managed customary forest areas in the region. However, since the early 2000s, their ancestral lands have increasingly been converted into oil palm plantation concessions granted by the government to large corporations without meaningful consultation or consent. The community's resistance to plantation expansion has been met with severe environmental degradation. Although various non-governmental organizations and civil society coalitions have supported the Moi people's struggle and advocated for legal recognition through regional regulations, progress has been slow and insufficient in providing adequate protection for their customary land rights.

A similar situation exists in the Philippines, particularly in southern Mindanao, the ancestral homeland of the Lumad a collective term for approximately eighteen non-Muslim indigenous ethnic groups in the region. Rich in mineral resources, Lumad territories have long been targeted by mining companies, including foreign investors. Although IPRA grants indigenous peoples the right to approve or reject such projects through FPIC, its implementation is often manipulated. Many mining projects have been approved through non-transparent procedures or even through falsified consent documents. When Lumad communities oppose these projects, they are frequently accused of supporting insurgent groups, highlighting the weakness of legal protection despite the existence of a progressive legal framework.

These two case studies demonstrate that, although Indonesia and the Philippines formally recognize the existence and rights of indigenous peoples, a significant gap persists between legal recognition and on-the-ground realities. The state has not fully fulfilled its obligation to guarantee indigenous sovereignty over land and natural resources. In many cases, the state itself acts as a facilitator of resource exploitation through licensing regimes and economic policies that place indigenous communities in vulnerable positions. In Indonesia, indigenous sovereignty remains limited due to the absence of a comprehensive national law on indigenous peoples, with recognition still dependent on regional regulations. In the Philippines, despite the existence of IPRA, weak law enforcement and strong corporate influence continue to undermine indigenous rights.

Therefore, a comparative study between Indonesia and the Philippines is essential in examining the legal protection of indigenous peoples from natural resource exploitation. This approach not only aims to understand the differences between the two legal systems but also to identify their respective strengths and weaknesses in safeguarding collective indigenous rights. By examining empirical realities, this article explores how law can function as an instrument of empowerment for indigenous communities, rather than merely as a tool for legitimizing dispossession. Only through an approach grounded in respect for collective rights, recognition of legal pluralism, and active participation of indigenous peoples in decision-making processes can legal protection be realized in a just and sustainable manner.

Based on the foregoing discussion, it is evident that the issue of legal protection for indigenous peoples from natural resource exploitation is not merely a sectoral concern within agrarian or mining law, but rather a multidimensional issue encompassing human rights, ecological justice, and the sustainability of inclusive legal systems that recognize legal pluralism. Recognition of indigenous peoples as legal subjects with sovereignty over their territories has not been fully realized in either Indonesia or the Philippines, despite the existence of constitutional guarantees and sectoral legislation.

However, such legal recognition does not automatically ensure effective protection in practice. In Indonesia, recognition of indigenous peoples and customary land rights remains dependent on administrative processes at the regional level and lacks strong guarantees within national legislation. In contrast, while the Philippines has enacted the relatively progressive

Indigenous Peoples' Rights Act (IPRA), its implementation faces significant challenges, including overlaps with sectoral laws such as the Mining Act of 1995 and limited institutional capacity of implementing bodies like the National Commission on Indigenous Peoples (NCIP) to ensure corporate compliance with the FPIC principle.

The cases of the Moi people in West Papua and the Lumad communities in Mindanao further illustrate that, in reality, indigenous peoples often occupy a highly vulnerable position when confronted with state and corporate interests. Their customary lands are frequently converted into concession areas or mining sites without genuine consent. In this context, a fundamental question arises: to what extent do states genuinely fulfill their responsibility to provide legal protection for indigenous peoples, particularly in the face of natural resource exploitation that often undermines their collective livelihoods?

Accordingly, the main research problems addressed in this article are as follows:

1. How are legal recognition and protection of indigenous peoples structured within the legal systems of Indonesia and the Philippines, particularly in relation to the management and exploitation of natural resources?
2. To what extent do indigenous peoples in Indonesia and the Philippines exercise legal sovereignty over their customary territories and natural resources, and how are they involved in decision-making processes?

METHOD

This study employs a normative juridical method with comparative and case study approaches to examine the legal protection of indigenous peoples from natural resource exploitation in Indonesia and the Philippines. The normative juridical approach is used to analyze existing legal norms, including national legislation, international legal instruments, and relevant legal doctrines. The comparative approach is applied to assess and contrast the legal systems and the forms of protection afforded by each country to indigenous peoples, particularly in the context of natural resource exploration. Meanwhile, the case study approach is utilized to evaluate the practical implementation of legal protection through an in-depth analysis of two indigenous communities, namely the Moi people in West Papua (Indonesia) and the Lumad communities in Mindanao (Philippines), both of whom have been affected by resource exploitation carried out by corporations and the state.

The data used in this research consist of primary and secondary sources. Primary data include statutory regulations, court decisions, and official legal documents in force in Indonesia and the Philippines, such as the 1945 Constitution of Indonesia, Law No. 41 of 1999 on Forestry, Law No. 4 of 2009 on Mineral and Coal Mining, and Constitutional Court Decision No. 35/PUU-X/2012 for the Indonesian context; and the 1987 Philippine Constitution, the Indigenous Peoples' Rights Act (IPRA) of 1997, and the Mining Act of 1995 for the Philippine context. Secondary data consist of scholarly literature, including books, legal journal articles, research reports, and publications from government institutions and civil society organizations, both national and international, that are relevant to the issues of indigenous peoples and natural resource exploitation.

Data collection is conducted through library research by systematically reviewing legal documents and academic literature. In addition, data are gathered from investigative and advocacy reports produced by non-governmental organizations such as the Indigenous Peoples Alliance of the Archipelago (AMAN), Mining Advocacy Network (JATAM), Indonesian Forum for the Environment (WALHI), Save Our Schools Network, and Human Rights Watch, which provide empirical insights into conflicts arising from natural resource exploitation in indigenous territories.

The collected data are analyzed qualitatively by classifying and interpreting them based on the legal issues identified, followed by a comparative analysis of legal substance,

institutional structures, and the implementation of legal protection in both countries. The analysis also evaluates the effectiveness of the application of the Free, Prior, and Informed Consent (FPIC) principle and the recognition of indigenous customary land rights in practice. Data validity is ensured through source triangulation by comparing findings across different types of sources normative, doctrinal, and empirical and by verifying the authenticity and reliability of the legal documents used. Through this methodological approach, the study aims to produce reliable and academically accountable findings, as well as to offer practical legal recommendations to strengthen the protection of indigenous peoples from the adverse impacts of natural resource exploitation in both Indonesia and the Philippines.

RESULTS AND DISCUSSION

What Are The Forms Of Legal Recognition And Protection Of Indigenous Peoples Within The Legal Systems Of Indonesia And The Philippines, Particularly In Relation To Natural Resource Management And Exploitation?

The recognition of indigenous peoples within the Indonesian legal system is explicitly regulated under Article 18B (2) of the 1945 Constitution, which states that *“the State recognizes and respects indigenous communities along with their traditional rights, as long as they remain in existence and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia.”* This provision affirms constitutional recognition; however, such recognition is conditional rather than absolute. Indigenous communities must satisfy certain requirements namely, continued existence, compatibility with societal development, and alignment with the principles of the state. This formulation has led to complex interpretative challenges, as recognition in practice requires lengthy and non-uniform administrative procedures across different regions.

In the context of natural resource management, indigenous peoples often face difficulties due to limited legal recognition of their customary land rights. For instance, Law No. 41 of 1999 on Forestry initially defined customary forests as part of state forests, thereby denying indigenous communities full control over forests they have traditionally managed. However, Constitutional Court Decision No. 35/PUU-X/2012 marked a significant turning point by affirming that customary forests are not part of state forests but belong to indigenous peoples. This decision strengthened the legal standing of indigenous communities in natural resource governance.

Nevertheless, its implementation continues to face substantial challenges. One major obstacle is the absence of a comprehensive national law on indigenous peoples that clearly regulates mechanisms for recognition and protection. Although a Draft Law on Indigenous Peoples has long been proposed, it has yet to be enacted. In the absence of such a framework, legal protection at the local level depends heavily on regional regulations and administrative recognition by local governments, which vary significantly and are often influenced by local political and economic interests.

In addition to the Forestry Law, Law No. 4 of 2009 on Mineral and Coal Mining does not explicitly recognize indigenous peoples' rights over mining territories. Although Article 135 requires mining permit holders to consider the interests of surrounding communities, this provision lacks sufficient legal force to ensure meaningful participation of indigenous peoples in decision making processes. Consequently, Indonesia's legal framework remains sectoral and fragmented in regulating indigenous involvement in natural resource governance.

In contrast, the Philippines has established a more progressive legal foundation through Republic Act No. 8371 of 1997, known as the Indigenous Peoples' Rights Act (IPRA). This law provides comprehensive recognition of indigenous rights, including rights to ancestral domains, cultural integrity, self-determination, and the right to Free, Prior, and Informed Consent (FPIC) prior to the implementation of development or resource extraction projects.

Article 5 of IPRA explicitly recognizes indigenous ownership and control over lands and natural resources within their territories. This right is further reinforced through the issuance of Certificates of Ancestral Domain Title (CADT) as legal proof of territorial claims. Additionally, the establishment of the National Commission on Indigenous Peoples (NCIP) institutionalizes the protection of indigenous rights by overseeing implementation, documentation, and dispute resolution.

One of the most significant aspects of IPRA is the FPIC principle, which obliges both state and corporate actors to obtain the free, prior, and informed consent of indigenous communities before undertaking any form of resource exploitation. This principle aligns with international standards such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention No. 169, although the Philippines has not ratified the latter.

Despite its progressive nature, the implementation of IPRA continues to face serious challenges. Conflicts of interest between institutions such as the NCIP and agencies like the Department of Environment and Natural Resources (DENR), as well as political pressure from mining corporations, often undermine the application of FPIC. The case of the Lumad communities in Mindanao illustrates how mining projects can proceed despite community opposition, reflecting gaps between legal norms and enforcement.

Comparatively, the Philippines possesses a more substantively robust and integrated legal framework for protecting indigenous rights over land and natural resources. IPRA provides clear mechanisms, such as CADT certification and mandatory FPIC, which must be fulfilled prior to external intervention. Indonesia, on the other hand, lacks a comprehensive national law on indigenous peoples, resulting in weaker and fragmented protection mechanisms dispersed across sectoral regulations.

However, in the Philippines, the effectiveness of legal protection remains highly dependent on local political dynamics. Numerous cases indicate that corporations are able to manipulate FPIC procedures. In Indonesia, although Constitutional Court Decision No. 35/PUU-X/2012 provides an important legal foundation, its implementation largely depends on the political will of local governments, which often prioritize investment interests. Thus, the challenges of protecting indigenous peoples in both countries extend beyond formal legal frameworks to include institutional effectiveness, bureaucratic independence, and the degree of community participation in decision-making processes.

The Moi people are one of the indigenous communities inhabiting the Sorong region of West Papua, Indonesia. They maintain a strong connection to their customary lands, which are inherited across generations and regarded as an essential component of their cultural identity. However, large-scale natural resource exploitation particularly oil palm plantation expansion and nickel mining has generated significant conflict between the Moi community, the state, and private corporations.

A prominent example involves plantation concessions granted to PT Inti Kebun Lestari (IKL) and PT Sorong Agro Sawitindo (SAS), which were authorized by the government to operate on land claimed as Moi customary territory. Despite the historical status of the land, permits were issued without adequate consultation or consent from the indigenous community. Reports indicate that the Moi people were never consulted in accordance with the FPIC principle, and compensation, if provided, was minimal. Community resistance has often been met with intimidation by security forces.

Legally, the Moi face structural limitations due to the lack of formal recognition of their customary territories through regional regulations. Although customary recognition exists at the village level, the absence of formal legal status weakens their claims under positive law. This demonstrates that, despite the significance of Constitutional Court Decision No. 35/PUU-X/2012, without administrative follow-up and institutional strengthening, indigenous

communities remain vulnerable. The Lumad communities in Mindanao present a parallel case. As a collective term for various non-Muslim indigenous groups, the Lumad maintain social, economic, and spiritual systems closely tied to their ancestral lands. Since the early 2000s, their territories have been targeted for mining projects involving both domestic and foreign corporations.

A notable example is the Tampakan mining project by Sagittarius Mines, Inc. (SMI), which overlaps with the ancestral domain of the B'laan people. Although IPRA mandates FPIC, consultation processes have often been conducted unilaterally, disregarding collective community consent. Reports indicate that conflicts surrounding these projects extend beyond resource disputes to include state repression, such as the closure of Lumad schools under allegations of radicalization.

Although Lumad communities have greater legal opportunities to secure land rights through CADT, the process is often lengthy and politicized. In the absence of formal certification, corporations can exploit legal loopholes to classify these lands as state property and obtain concessions. This reflects a paradox within the Philippine legal system: despite a progressive legal framework, implementation is undermined by human rights violations, bureaucratic corruption, and weak enforcement.

Both case studies demonstrate that indigenous peoples in Indonesia and the Philippines face similar pressures from state- and corporate-driven resource exploitation. The experiences of the Moi and Lumad communities highlight how development processes frequently disregard principles of social justice, participation, and human rights.

From a normative perspective, both countries recognize indigenous peoples within their legal frameworks. However, such recognition has not been sufficient to guarantee full sovereignty over land and resources. In Indonesia, the primary weakness lies in the absence of comprehensive regulation and weak institutional structures. In the Philippines, the gap lies between strong normative provisions and inconsistent implementation, often shaped by political and economic interests. Institutionally, Indonesia lacks a centralized authority dedicated to indigenous affairs, resulting in fragmented governance across multiple ministries. In contrast, the Philippines has established the NCIP as a specialized body, although its effectiveness is often questioned due to limited independence and susceptibility to political influence.

At the international level, both countries have engaged with global instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). However, only the Philippines has substantively incorporated these principles into national law through IPRA. Indonesia has yet to ratify ILO Convention No. 169, which remains a key international instrument for indigenous rights protection. This lack of commitment reflects broader challenges in advancing ecological justice and indigenous sovereignty.

Overall, this study demonstrates that effective protection of indigenous peoples requires not only strong legal frameworks but also robust institutional systems, genuine political will, and meaningful community participation. Without these elements, legal recognition risks remaining merely symbolic, while natural resources continue to be exploited at the expense of indigenous communities.

To What Extent Do Indigenous Peoples In Indonesia And The Philippines Possess Legal Sovereignty Over Their Ancestral Territories And The Natural Resources Therein, And How Do They Participate In Decision-Making Processes?

In the context of indigenous peoples, legal sovereignty over ancestral territories is not merely understood as juridical ownership. Rather, it encompasses the recognition of their rights to manage, preserve, and determine the future of lands and resources that form an integral part of their cultural identity. This sovereignty reflects a form of legal autonomy guaranteed at the

international level under the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, particularly Articles 26 and 32.

Such sovereignty includes:

- Collective ownership rights over land and water;
- The right to determine the use of natural resources;
- The right to reject development projects that threaten their living space;
- The right to live and develop under their own customary legal systems.

However, the realization of this sovereignty is highly dependent on the form of recognition and limitations imposed by state legal systems. In Indonesia, recognition of indigenous legal sovereignty remains inclusive, residual, and conditional. Article 18B paragraph (2) of the 1945 Constitution states that “the State recognizes and respects units of indigenous customary law communities and their traditional rights as long as they remain in existence and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia.” The phrases “as long as they remain in existence” and “in accordance with state principles” imply constitutional limitations, indicating that recognition is not automatic but subject to administrative validation by the state.

Although Constitutional Court Decision No. 35/PUU-X/2012 affirms that customary forests are not state forests, its implementation depends on formal recognition of indigenous communities by regional governments through local regulations. To date, only a small proportion of indigenous communities have obtained formal legal status. Many ancestral territories are still classified as state forest areas by the Ministry of Environment and Forestry.

This demonstrates that, normatively, indigenous peoples in Indonesia do not possess full sovereignty over their territories and natural resources. Customary land is not fully recognized under national law unless formalized through regional regulations or special designation. Mining and forestry permits may still be issued without indigenous consent, and there is no effective veto right over resource exploitation projects. Consequently, indigenous peoples remain in a subordinate position within a legal system that prioritizes state sovereignty over land and natural resources, as stipulated in Article 33 paragraph (3) of the 1945 Constitution. In contrast, the Philippines provides more explicit legal sovereignty to indigenous peoples through the *Indigenous Peoples’ Rights Act (IPRA) of 1997*. This law guarantees:

- Collective ownership of ancestral lands through the Certificate of Ancestral Domain Title (CADT);
- Recognition of customary law as a source of local law;
- The authority to accept or reject development projects through the principle of Free, Prior, and Informed Consent (FPIC);
- Internal sovereignty through customary governance systems.

Articles 56 and 58 of IPRA affirm that ancestral land rights are inalienable and cannot be transferred, sold, or converted into individual ownership. Nevertheless, in practice, the degree of legal sovereignty remains fragile. The issuance of CADT is often slow and bureaucratic, and FPIC is frequently misused by corporations through alliances with local elites or state authorities. Thus, while the Philippines provides stronger and more explicit legal recognition, its enforcement remains weak due to inadequate oversight, corruption within implementing institutions such as the National Commission on Indigenous Peoples (NCIP), and the criminalization of indigenous activists. One of the key international standards used to assess indigenous participation is the principle of FPIC. This principle ensures that any development or resource exploitation project affecting indigenous peoples must be:

- Free: Conducted without coercion or intimidation;
- Prior: Carried out before the commencement of the project;
- Informed: Based on full and transparent information;
- Consent: Obtaining genuine approval, not merely consultation.

In Indonesia, the principle of Free, Prior, and Informed Consent (FPIC) has not yet been explicitly regulated in national legislation. Several administrative instruments, such as the Minister of Environment and Forestry Regulation No. P.32/2015 on Private Forests and regulations issued by the Directorate General of Social Forestry, refer to the notion of “approval from indigenous communities.” However, such provisions remain non-binding in practice. Moreover, FPIC has not been established as a mandatory requirement in the licensing procedures for mining and forestry operations.

In contrast, in the Philippines, the FPIC principle is explicitly regulated under the *Indigenous Peoples’ Rights Act (IPRA)* (Section 59) and is supported by standardized implementation procedures through NCIP Administrative Order No. 3, Series of 2012. These procedures require:

- Consultation with councils of elders or traditional leaders;
- General assemblies of indigenous communities;
- Proper documentation of valid consent;
- The recognition of a veto right when a project is rejected by the community.

However, despite the stronger legal framework in the Philippines, significant challenges persist in practice. The FPIC process is often subject to manipulation and co-optation, where consent is obtained through pressure or inequitable compensation. For instance, in the Tampakan Mining Project in Mindanao, FPIC certification was issued despite substantial opposition from the indigenous B’laan community. Beyond FPIC, indigenous participation also takes various forms, including:

- Participation in local policymaking through village or community deliberation forums;
- Involvement in regional development planning affecting ancestral territories;
- Protests, advocacy, and litigation as reactive forms of participation against extractive or development projects.

Nevertheless, in both countries, such forms of participation are frequently symbolic and procedural in nature. Deliberative processes are often conducted merely to fulfill administrative requirements rather than to provide a genuine space for negotiation that strengthens the bargaining position of indigenous peoples.

CONCLUSION

The recognition and legal protection of indigenous peoples in the context of natural resource exploitation constitute a critical issue that requires a careful balance between national development interests and respect for the rights of local communities who have lived for generations within their ancestral territories. Both Indonesia and the Philippines have formally acknowledged the existence of indigenous peoples and their traditional rights within their respective legal systems. However, such recognition continues to face significant challenges in practical implementation, particularly in ensuring the legal sovereignty of indigenous communities over land and natural resources that are integral to their identity and survival.

In Indonesia, although the Constitution and several Constitutional Court decisions have paved the way for recognizing indigenous land rights, the implementation of these legal norms remains constrained by complex legalization processes, the absence of a fully integrated FPIC framework at the national level, and the predominance of state-centered control over natural resources. As a result, indigenous communities such as the Moi tribe in Papua are often marginalized in decision-making processes and face the risk of displacement due to large-scale mining and plantation investments.

By contrast, the Philippines, through the legal framework of the *Indigenous Peoples’ Rights Act (IPRA)*, has provided stronger recognition of indigenous collective land rights through mechanisms such as the Certificate of Ancestral Domain Title (CADT) and the application of the Free, Prior, and Informed Consent (FPIC) principle. Nevertheless,

institutional weaknesses, manipulation of consultation processes, and the prevalence of armed conflict in ancestral territories such as those experienced by Lumad communities in Mindanao demonstrate that legal recognition alone does not guarantee the protection of rights without consistent and participatory law enforcement.

Recommendations

Based on the foregoing analysis, the author recommends that the Indonesian government strengthen the legal foundation for the recognition of indigenous peoples by enacting the Indigenous Peoples Bill into a comprehensive law, as well as explicitly integrating the FPIC principle into all natural resource exploration licensing frameworks. Furthermore, sectoral laws such as the Mining Law and Forestry Law should be revised to provide a more equitable legal space for indigenous communities to defend and manage their ancestral territories. The Philippine government is likewise encouraged to reform oversight mechanisms for the implementation of IPRA, including strengthening the independence of the National Commission on Indigenous Peoples (NCIP) and ensuring protection for indigenous activists from state or corporate repression.

Both countries should also promote community-based legal education, expand access to collective litigation mechanisms, and develop co-management schemes between indigenous peoples and the state in governing natural resources. In this way, national economic development should no longer serve as a justification for the marginalization of indigenous communities, but rather as a pathway toward achieving ecological justice and respecting the diversity of legal identities in Southeast Asia.

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