INDIGENOUS PEOPLES PLANNING FRAMEWORK
PARTICIPATORY IRRIGATION DEVELOPMENT PROJECT (PIDP)
Philippines: Participatory Irrigation Development Project (PIDP)

INDIGENOUS PEOPLES PLANNING FRAMEWORK

1. **Background**

   The PIDP is a project of the Philippine Government with World Bank Assistance that aims to boost rice productivity by optimizing the irrigation potential of the different irrigation systems in selected regions. The Project calls for the immediate improvement, rehabilitation and modernization of the existing irrigation systems in collaboration with farmer's irrigators associations (IAs). The targeted Irrigation systems have been categorized into Core A and Core B schemes. There are 14 Core A schemes projects where major rehabilitation works are expected to happen and 44 Core B schemes where intervention will be minor, mostly in the improvement of its operations and maintenance. The proposed schemes to be rehabilitated are found in the lowland or flat topographies while most of the ancestral domain and IP communities are those found in the upland areas where the watersheds and headwaters of rivers feeding the irrigation systems proposed for rehabilitation which are located in the lowlands.

   It has been established that none of the Core A schemes overlap with any ancestral domain. Some irrigation systems have a few scattered IP economic migrants who are now mostly integrated into the lowland communities' way of life. Informal discussions with them indicated that generally many indigenous practices are no longer observed by them. Most have moved to crop production systems, while a few continue to maintain their upland forage areas.

   While the probability is very low, in instances where there maybe an overlap between the minor civil works location in Core B schemes and ancestral domains, there is a need to ensure that affected indigenous peoples communities are meaningfully involved in project decision-making. This Framework therefore will be used to assess and guide the process of how such affected IP communities can be involved in project decision making. This Framework is in line with the priority given to Indigenous Peoples by the Government of the Philippines (Republic Act 8371-Indigenous Peoples Rights Acts Law), the United Nations Concept of Native Title, and the World Bank's Operational Policy 4.10 (Indigenous Peoples Policy).

2. **Objectives**

   The Indigenous Peoples Planning Framework (IPPF) seeks to ensure that where a community of indigenous peoples are found affected by project intervention/s, they are informed meaningfully, consulted and mobilized to participate in the project decision making. By doing so, the following specific objectives are expected to be met:

   a. Positive effects are received with more certainty by IP communities by way of culturally appropriate and gender and inter-generationally inclusive methods of engagements;
b. Potentially adverse effects on their communities are avoided whenever feasible; and
c. Unavoidable adverse effects are minimized, mitigated or compensated.

3. Definition of Indigenous Peoples

"Indigenous Peoples" will be used to refer to cultural communities, tribal groups living together in particular geographical areas with the presence in varying degrees of the following characteristics:

- Self identification as member of a distinct indigenous cultural group and recognition of this identity by others;
- Collective attachment to geographically distinct habitats or ancestral territories in the project area
- Customary cultural, economic, social or political institution that are separate from those of the dominant society
- An indigenous language, often different from the official language of the country or region."

4. Social Assessment and Screening for IPs

A Social Assessment Report (SAR) was prepared in November 2006. It gave information on the socio economic conditions of the communities in the 14 Core A irrigation schemes and 5 sample Core B schemes. Among other information, it stated that some indigenous peoples may get affected by the PIDP project interventions. Recognizing that the SAR was made prior to the proposed civil works were firmed up, a social assessment validation was conducted jointly by the NIA-PMO and the World Bank task team in June 2008 by way of a walk through of the specific sites where civil works were expected to take place, interviews with key informants among the local NIA officers and randomly sampled potentially affected persons. Particularly for the indigenous peoples, the results of the validation were documented in the Addendum to the Social Assessment Report. The following are the main results of the said validation:

a. No Core A schemes are within the Ancestral Domains (ADs). Those reported affected ancestral domains in the 2006 SAR turned out to be covered by mainstream land documentations. Specifically, this refers to that of the Apayao-Abulog Irrigation System (AAIS) where the area affected by the rehabilitation of the intake area was earlier reported as an ancestral domain. Two land properties within the intake area in the said system to be rehabilitated, thought to be part of an AD, have been found to be individual properties of private landowners. Land documents of both properties are covered by mainstream documentation (Transfer Certificates of Title). The intake (in Flora) has previously been acquired by NIA and is now covered with a Deed of Sale and the other (in Pudtol) is owned by an Isneg who is a willing seller and his property is also covered by a mainstream documentation - a tax declaration certificate.

b. IP communities and ADs are located in watersheds and head waters where no civil works are proposed.
c. IPs in the service areas of Batutu, Upper Chico River Irrigation System (UCRIS) and Pinacanauan River Irrigation System (PRIS) are all economic migrants. The civil works are welcomed by most of them since they are mostly IA members and they do not see any negative effects to their IP cultural way of life which are mostly no longer practiced.

- Only the Pinacanauan River Irrigation System IPs was found to be a compact community and they are not affected by civil works. They are also economic migrants to the area, living together in the property bought for them by an American Pastor in the early seventies.
- Involuntary resettlement may be avoided by proper construction supervision of works in UCRIS road rehabilitation and possibly, a change in design. The tribal heads of the Butbut, Tulgao and Sumadels in the area have confirmed that consultations have been done with them and of their willingness to transfer, if necessary.
- The UCRIS tribal conflict reported in the SAR is not irrigation system-related but that of age-old conflicts with each other back when they were still in their respective ancestral domains in the mountains of Kalinga. They have an operational system of conflict resolution called Bodong that in many ways is similar to the Barangay justice system of the mainstream community.

As earlier mentioned, there is a very low probability that there could be possibilities of IP communities that can be positively or negatively affected by the Core B schemes. Hence, this Framework will serve as a guide during project implementation, on how to work with affected IPs in all stages of the Project. Where deemed relevant, specific IP Action Plans shall be formulated to help ensure the meaningful participation of the affected IP community.

5. Legal and Institutional Guidelines

The Philippines is recognized for its progressive policy and legal support for Indigenous Peoples rights. It has supported various international agreements and conventions to protect the rights and culture of IPs, among them: Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; and the United Nations Draft Universal Declaration on the Rights of Indigenous Peoples.

The 1987 Constitution, laid the foundation for the recognition of the rights of the IPs to their ancestral domains and their power of dominion over their lands and resources. Among its pertinent provisions are:

a. Section 17, Art. XIV: “customary laws governing property rights or relations shall be applied in determining the ownership and extent of ancestral domains; and

b. Section 22, Art. II, Section 5, Art. XII: “…the rights of indigenous peoples to natural resources pertaining to their lands shall be specially safeguarded…” These rights include the right of the IPs to participate in the use, management and conservation of natural resources.
c. The right to stay in their territory and not be removed there from except when relocation is necessary as an exceptional measure, as in the case of an ecological disaster or armed conflict. IPs have a right to return to their territories once the ground for relocation ceases.

Congress passed Republic Act No. 8371, the Indigenous Peoples Rights Act of 1997. The law states certain requirements in activities and programs affecting Indigenous Peoples. Some relevant provisions include:

a. Chapter III, Section 7b: “…IPs have the right to an informed and intelligent participation in the formation and implementation of any project, government or private that will impact on their ancestral domain…”

b. Chapter IV, Section 16: “…IPs have the right to participate in decision-making, in all matters which may affect their rights, lives and destinies, through procedures determined by them as well as to maintain and develop their own indigenous political structures…”

Under this law, IPs are vested with the right to self-governance and empowerment. This is operationalized through the mechanism of Free and Prior Informed Consent (FPIC). The NCIP is mandated to ensure that IP rights and concerns are protected and advanced in projects that are proposed affecting their ancestral domains.

Pursuant to Section 80 of the IPRA law, some relevant implementing rules and regulations are used for guidance:

a. Right to Stay in Territories and Not to be Displaced There from (Rule 3, Part II Sec.4 (a,b, c). The rights of ICCs/IPs to stay in their territories shall remain inviolate. No ICCs/IPs shall be relocated without their free and prior informed consent or through any means other than eminent domain.

b. All persons or entities allowed under the Act to participate in land development, utilization, exploitation, and extraction of natural resources, and government offices or agencies allowed to undertake or implement infrastructure projects within ancestral lands/domains, shall submit to the NCIP, through the concerned Regional Office, a culture-sensitive Environmental Conservation and Protection Program (ECPP) stating in detail the environmental impact of such activities or projects proposed, control and rehabilitation measures and financial resource allocations therefore, implementation schedules, compliance guarantees and evaluation and monitoring schemes (Rule 3,Part II Sec 6 (b).

c. Rule 4, Part 3, Sec 7 (a, b, c), Development and Cultural Activities Subject to Free and Prior Informed Consent (FPIC). Policies, programs, projects, plans and activities in
ancestral domains subject to free and prior informed consent shall include but not be limited to the following

- Exploration, development, exploitation and utilization of natural resources within ancestral domains/lands;
- Research in indigenous knowledge, systems and practices related to agriculture, forestry, watershed and resource management systems;
- Displacement and Relocation

6. Guiding Principles

a. The PIDP shall ensure that Indigenous Peoples must be consulted and actively engaged in all decision-making processes, especially when project intervention poses potential adverse impacts to them as a community. The Project must, with absolute certainty, assure that IPs do not suffer adverse effects during and after project implementation as well as receive culturally compatible social and economic benefits.

b. NIA implementing units must ensure at all times that development processes implemented by the Project foster full respect for the Indigenous Peoples’ dignity, human rights and cultural uniqueness.

c. Consensus of all IP members affected must be determined in accordance with their respective laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the project activity, in a language and process understandable to the community. The conduct of field-based investigation and the process of obtaining the Free and Prior Informed Consent (FPIC), if so required, shall take into consideration the primary and customary practices of consensus-building, and shall conform to A.O. #1 Series of 2006 (Revised FIC Guidelines).

d. PIDP must ensure that none of its project activities will damage non-replicable cultural property. In cases where project activities (i.e. roads, irrigation, etc.) will pass through sites considered as cultural properties of the IPs, PIDP must exert its best effort to relocate or redesign the projects, so that these sites can be preserved and remain intact in situ.

e. The Indigenous Peoples should be consulted to ensure that their rights will not be violated and that they be compensated for the use of any part of their domain in a manner that is acceptable to the tribe. The compensation for affected land and assets will follow the Resettlement Policy Framework prepared by the Project.

f. In the event that a project involves land acquisition or use of other resources which may adversely affect Indigenous Peoples, the implementing unit shall:

- submit the documentation of the consultations and the corresponding agreements with individually identified potentially displaced persons
not allow work to start on the project until compensation and/or other required rituals have been completed to the satisfaction of the indigenous tribes affected (and the same should likewise be documented).

7. **Use of Appropriate Communication Media, Strategies and Tactics for IP Mobilization**
   
a. Presentation meetings must be conducted in the local or native language. In addition, facilitators must use simple and uncomplicated process flows during these interactions with IPs. Local patterns of social organization, religious beliefs and resource use must be reckoned with in the process of preparing any development response affecting the IPs.

b. Implementing units must adhere to the requirements for documentation of meetings conducted with IP communities, especially those which pertain to the process of Free and Prior Informed Consent. It shall not proceed with the project's civil works unless the corresponding documentation of meetings with the IP communities are attached to the request for notice of no objection when IP communities and Ancestral domains are found affected by it.

8. **Participation in Development, Monitoring and Evaluation of Mitigation Measures**
   
a. Where projects pose potential adverse impacts on the environment and the socio-economic-cultural-political lives of these IP communities, IPs must be informed of such impacts and their rights to compensation.

b. Should IPs grant their approval for projects with adverse impacts, the implementing unit must ensure that affected IP communities are part of the development of action plans so that they may meaningfully participate in the implementation, monitoring and evaluation of mitigation measures agreed upon.

c. Should potential effect be positive or beneficial to the IPs, specific plans shall be made so that benefits are made culturally responsive.

d. Project implementers must adhere to the requirements for documentation of meetings conducted with IP communities, especially those related to the FPIC Free and Prior Informed Consent of IPs.

e. IP dedicated meetings shall be conducted for purposes of monitoring and evaluation of mitigation measures.

9. **Coordination, Supervision and Monitoring**
   
a. Supervision meetings/visits of project activities will be done periodically (frequency to be established during Project implementation) by the PMO through their area
representatives, who will involve the local IP representatives in these meetings/visits. Documentation of such visits/meetings must be furnished the nearest service center of the NCIP, or its Provincial or Regional Office.

b. All complaints shall be discussed and negotiations must be carried out in the specific communities where affected indigenous peoples live. The barangay and the tribal council concerned should facilitate this process and NIA must ensure that affected IPs are properly represented. Resolution of conflicts should be encouraged at the lowest possible, thru the facilitation of Municipal and Community Tribal Councils. Such meetings and interactions with affected IP households/communities must be documented and distributed to relevant stakeholders.

10. **Grievance**

    Should the IP community still find the decisions rendered at the regional level unacceptable, they can elevate the issue to the central level office of the National Commission on Indigenous Peoples. The NCIP shall be tasked to coordinate with the NIA PMO to ensure that the issue is resolved to the best interest of the affected IP community.