



PHILIPPINES

The Indigenous Peoples Rights Act:
Legal and Institutional Frameworks,
Implementation and Challenges

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ACRONYMS AND ABBREVIATIONS

ADO	Ancestral Domains Office
ADSDPP	Ancestral Domain Sustainable Development and Protection Plan
AO	Administrative Order
ARCDP2	Second Agrarian Reform Communities Development Project
ARMM	Autonomous Region in Muslim Mindanao
BNCT	Bureau of Non-Christian Tribes
CADC	Certificate of Ancestral Domain Claim
CADT	Certificate of Ancestral Domain Title
CALC	Certificate of Ancestral Land Claim
CALT	Certificate of Ancestral Land Title
CARL	Comprehensive Agrarian Reform Law
CLOA	Certificate of Land Ownership Award
CNI	Commission on National Integration
CPH	Census of Population and Housing
CPPAP	Conservation of Priority Protected Areas Project
CRBDP	Chico River Basin Development Project
DAR	Department of Agrarian Reform
DIA	Direct Impact Area
DENR	Department of Environment and Natural Resources
DILG	Department of the Interior and Local Government
DOJ	Department of Justice
ECA	Environmentally Critical Area
ECC	Environmental Compliance Certificate
ECP	Environmentally Critical Project
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EMB	Environmental Management Bureau
EO	Executive Order
ESSC	Environmental Science for Social Change, Inc.
FBI	Field-Based Investigation
FPIC	Free and Prior Informed Consent
FTAA	Financial or Technical Assistance Agreement
ICCs	Indigenous Cultural Communities
IEC	Information, Education and Communication
ILO	International Labour Organization
IPs	Indigenous Peoples
IPP	Indigenous Peoples Plan
IPRA	Indigenous Peoples Rights Act
IRR	Implementing Rules and Regulations

KPLN	Kalipunan Para sa Lupaing Ninuno
LGC	Local Government Code
LGU	Local Government Unit
LNKMI	Lupang Ninuno Kabilogan Mangyan, Incorporated
LRA	Land Registration Authority
MNP	Mindoro Nickel Project
MOA	Memorandum of Agreement
MOOE	Maintenance and Other Operating Expenses
MTDP	Medium-Term Development Plan
NAMRIA	National Mapping and Resource Information Authority
NCIP	National Commission on Indigenous Peoples
NGO	Non-Government Organization
NIPAS	National Integrated Protected Areas System
OMA	Office of Muslim Affairs
OMACC	Office of Muslim Affairs and Cultural Communities
ONCC	Office of Northern Cultural Communities
OP	Office of the President
OSCC	Office of Southern Cultural Communities
PAMB	Protected Area Management Board
PANAMIN	Presidential Assistance for National Minorities
PANLIPI	Tanggapang Panligal ng Katutubong Pilipino
PD	Presidential Decree
PEDCA	Private Enterprise Development Corporation of Asia
PEISS	Philippine Environmental Impact Statement System
PNOC EDC	Philippine National Oil Company Energy Development Corporation
PS	Personnel Services
RA	Republic Act
SMI	Sagittarius Mines, Incorporated
SPDA	Southern Philippines Development Authority
TMD	Technical Management Division
UNDP	United Nations Development Programme
WMC	Western Mining Corporation

FOREWORD

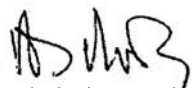
The World Bank has long recognized that Indigenous Peoples have unique identities that differ from mainstream societies in their strong reliance on and relationship with their lands, traditional knowledge bases, complex social organizations, and their distinct economic-political systems. As social groups with identities separable from the dominant mainstream, Indigenous Peoples face enormous development challenges: they are among the poorest members of society; they are among the most vulnerable and marginal groups, with limited economic, social, and legal assets.

Over a decade ago, the Philippines passed Republic Act 8371 which officially recognized the need to make special provisions for its indigenous populations. This historic 1997 act – also known as the Philippine Indigenous Peoples Rights Act or IPRA – acknowledges the distinct socio-cultural life and ways of its indigenous populations. Based on the knowledge of indigenous peoples’ cultural specificities and vulnerabilities, IPRA seeks to directly improve development outcomes by addressing issues relating to ethnic discrimination, political representation, as well as rights in the areas of ancestral domains, self-determination, and the practice of customary laws. This law further requires that indigenous groups be consulted on development interventions which affect their lives.

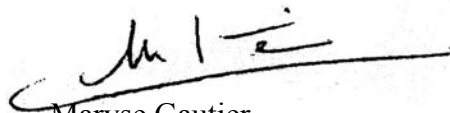
Following a decade of the passage of Republic Act 8371, the Philippine Government, together with the World Bank, engaged in a diagnostic review to assess the successes and challenges stemming from IPRA implementation. Success in IPRA implementation is integral to achieving development results and its implementation is aligned with the Bank’s interest in ensuring that projects affecting indigenous peoples are sound and sustainable.

Since the Bank’s safeguard policies are among the main tools to improve project decision-making and to include specific measures to prevent or mitigate harm to indigenous communities, our hope is that this review provides strategic guidance to both the Bank and the Philippine Government to strengthen social safeguards application as a means to improve development impact for this group. A thorough review of IPRA implementation with forward looking guidance on its implementing rules and regulations is an important step towards achieving better results.

Finally, this review represents a key first step towards achieving the long term goal of harmonizing the Philippines’ existing systems for safeguard application with standards espoused by the *Paris Declaration on Aid Effectiveness*.



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EXECUTIVE SUMMARY

The Philippines is one of the countries that established a comprehensive system for the protection of the rights of its indigenous peoples/indigenous cultural communities (IPs/ICCs), as embodied in the Philippine Indigenous Peoples Rights Act (IPRA) of 1997. Among the rights being granted to IPs include territorial domain, self-determination and the right to practice their customary laws, cultural integrity and property, and consent over development interventions in their community. There are reportedly more than 100 ethnic groups in the Philippines that are considered to belong to the IPs. The agency responsible for the implementation of IPRA is the National Commission on Indigenous Peoples (NCIP) which has field offices in 12 regions and 46 provinces.

Programs and projects that overlap with the territorial domain of the IPs are required to obtain consent from the concerned IP community through the process of Certification Precondition/Free and Prior Informed Consent (CP/FPIC) that is administered by the NCIP's Ancestral Domains Office (ADO). The CP/FPIC is the IPRA's safeguard system for the protection of IPs in development interventions that fall within the IPs' domain. Based on NCIP Administrative Order No. 3, a proponent submits a Project Operational Plan, among other requirements, and begins a process of consultation and negotiation between the proponent and the concerned IP group. The FPIC process allows a period for the concerned IP groups to consult among themselves and make a decision without external influence. If the decision is favorable, a memorandum of agreement (MOA) is then signed between the concerned IP group and the project proponent. The NCIP, as a collegial body, then reviews and issues a certificate of compliance to the FPIC process and requirements. Otherwise, the IPs/ICCs issue a certificate of rejection to the proposal.

This review was conducted to identify strengths and weaknesses of the IPRA and to help the NCIP develop and implement a program to achieve a more efficient and effective safeguard system for the IPs. The review focused on the legal and institutional framework of the IPRA and the CP/FPIC in relation to projects and development interventions falling within the domain of the IPs.

Adequacy of Legal Framework – The review found that there is adequate legal framework to protect the rights of IPs in the Philippines. The Philippine Constitution and the IPRA serve as the primary legal framework of the safeguard system for the IPs. Moreover, there are several other Philippine laws and issuances that contribute to the protection of IP rights, such as the National Integrated Protected Areas System (NIPAS) Act, the Philippine Mining Act, the Organic Act of Muslim Mindanao, the Philippine Environmental Impact Statement (EIS) System, and the administrative orders of the NCIP and the Department of Environment and Natural Resources (DENR). However, there are conflicting provisions of these various legal instruments and their implementing rules and regulations, including substantive, jurisdictional and procedural issues that are affecting the implementation of the IPRA.

Adequacy of Institutional Framework and Organizational Effectiveness – The review found that there is an adequate institutional framework to implement the IPRA. The NCIP has the policy-making body at the central office composed of seven Commissioners coming from major ethnographic areas, one of which is appointed as the Chairperson. It has six offices at the central office, including the ADO. The NCIP also has 12 regional offices, 46 provincial offices and 108 service centers at the city and municipal levels.

The NCIP, however, has experienced several organizational challenges because of its inadequate human, logistics and financial resources to effectively carry out its functions. The CP/FPIC is just one of the many functions assigned to its ADO, which is saddled with the enormous tasks of delineating ancestral domain areas and issuing the certificate of ancestral domain titles and the certificate of ancestral land titles. The NCIP does not have trained anthropologists to undertake ethnographic research and analyze and respond to cross-cultural problems. Given its enormous mandate, there is a need to increase the NCIP's regular budget for additional plantilla positions. Most importantly, the NCIP requires resources to carry out its fundamental task towards the IPRA's effective and efficient implementation, such as the delineation of ancestral domain areas, identification and profiling of IPs, and documentation of their customary laws and decision-making processes.

Adequacy of the Safeguard Process – The CP/FPIC process incorporates most of the key elements of universally accepted concepts on the protection of IPs. These include: (i) screening for the presence of IPs through field-based investigation; (ii) broad definition of IPs which embraces the concepts of self-ascription or self-identification, differentiation from the mainstream Filipino society, attachment to land and natural resources, separate socio-cultural and political institutions, and distinct language; (iii) consultation with IPs which are voluntary, free from external manipulation, iterative and broad-based according to customary laws; (iv) broad community support among IPs; (v) environmental and socio-cultural impact assessment; (vi) culturally-appropriate benefits for the IPs/ICCs; (vii) recognition of customary land tenure; (viii) recognition of IP rights within protected areas; and (ix) recognition of IP rights to natural and cultural resources. The IPRA even goes beyond consultation by requiring proponents to secure consent from IPs for the proposed program, project and other business or profit-oriented investments that fall within their domains.

Adequacy of Implementing the IP Safeguard System through the CP/FPIC – The implementation remains the biggest challenge to the NCIP given that it caters to about 12 million IPs from more than 100 ethnic groups. As a relatively young agency with meager resources, inefficiencies were noted in implementing the CP/FPIC. The NCIP does not have a system of prioritizing projects for processing the CP/FPIC applications. It also does not make use of existing knowledge on the general location of tribal population. There also appears to be inequitable distribution of its limited resources among its various offices and mandates, with more going to personnel services and scholarships and less to implementing programs and projects, including activities related to CP/FPIC and delineation of ancestral domain. Among others, the screening system for the presence of IPs is quite inefficient, resulting in a great number of projects being subjected to field-based investigation even

though they are far away from or outside of IP areas. More than 90 percent of certificates issued by the NCIP from 2004-2006 are for projects outside IP areas. The review also found that the CP/FPIC process is taking too long, even in areas outside of ancestral domain. Some projects appear to have uncertain CP/FPIC results with charges of manipulations being hurled by some interest groups claiming to represent the IPs.

The review also indicated that the IPRA, through the CP/FPIC, has truly provided a venue for and empowered IPs to freely exercise their rights to self-determination within their domain. However, its effectiveness and expected outcomes are compromised by many factors, including the capacity and ability of the NCIP to implement the law, the capacity of IPs to participate meaningfully and benefit from the process, the absence of legitimate and functioning IP organizations that truly represent the IPs, the incomplete delineation of ancestral domain and identification of IP groups, the manipulative actions and bribery of proponents to secure the consent from the IPs, and the different interpretations of what constitutes a consent, due primarily to the lack of written parameters.

Recommendations. The review recommends the following to improve the implementation of the IPRA and the CP/FPIC processes and outcomes:

1. *Harmonizing the IPRA with other existing laws.* The NCIP should initiate coordination with other agencies and pursue inter-agency discussions to harmonize the IPRA with existing laws. Of urgency are the NIPAS Act, the Mining Act, the Local Government Code and the EIS Law. Existing steps that are being undertaken to harmonize these laws need to be followed through.
2. *Identifying and profiling of IP communities, delineating their territories and documenting their customary laws and decision-making process.* The NCIP should prioritize these over other activities considering that the implementation of the CP/FPIC depends on the existence of legitimate and functioning IP organizations that truly represent their communities. The decision-making process in each IP group must be identified and written down and must be made clear at the start to the proponent and the NCIP. Otherwise, consultations and negotiations can become an endless process. The NCIP should link up with the National Statistics Office and the Philippine anthropological community in fine-tuning a mechanism for proper identification and profiling of IP groups and with the Indigenous Law Project of the University of the Philippines College of Law. The NCIP should also strengthen its existing agreements with institutions involved in the delineation of IP territories such as the DENR, Department of Agrarian Reform (DAR), National Mapping and Resource Information Authority (NAMRIA), the Land Registration Agency (LRA) and the National Museum.
3. *Organizing IPs and accrediting IP organizations.* These activities should also be prioritized by the NCIP over others. With traditional leadership and political systems already disappearing or, in some cases, replaced by the barangay system, project proponents are sometimes faced with no legitimate organizations and/or hastily

organized groups to negotiate with. Since IPs are the decision-makers themselves, capacity building efforts should be focused on IPs. The NCIP also needs to recognize the customary-political structures that exist or have previously existed, and should formalize this by issuing guidelines. The guidelines on the accreditation of IP organizations also need to be finalized.

4. *Pre-screening of municipalities, cities and provinces or areas not subject to CP/FPIC process.* The NCIP has recognized the need to pre-screen when it introduced the concept of certificate of non-overlap in the 2006 FPIC guidelines, which specifically mentioned that overlaps or non-overlapping areas will be determined based on the duly approved master list of Ancestral Domain Areas. However, the current master list contains only the certificate of ancestral domain titles, certificate of ancestral domain claim areas, and the list of barangays with IPs according to existing records. Therefore, there is a need to improve and complete the master list to conform to the requirements of the FPIC.
5. *Enhancing the NCIP's organizational and technical capacity and building the capacity of IPs.* Although NCIP's role in CP/FPIC is facilitative, it needs to strengthen its capacity to recognize and analyze social and cultural issues associated with development projects in IP areas and present these for the consideration of the IPs. It also needs to balance responsibilities of each office. The ADO is already saddled with too many responsibilities while other offices are underutilized. Similarly, there is only one person in charge of the CP/FPIC process in each provincial and regional office. The NCIP should have trained anthropologists to augment its field personnel who come mostly from the health and education professions, or the NCIP personnel should at least be given training in anthropological techniques/methods. In addition, the NCIP also needs personnel who are skilled in public administration who can help reconcile the IPRA and its implementing rules and regulations with government procedures for seamless integration.
6. *Improving the efficiency of the CP/FPIC process while simultaneously strengthening the credibility of the FPIC.* Projects that are included in the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) and/or those solicited by the IPs themselves should no longer be subject to the FPIC process. Much as the proponents are subject to stringent rules, special interest groups claiming to represent the interests of the IPs must also be subject to clear procedures on how and when they present their side to the IPs. Also the provincial offices of the NCIP as well as its service centers should be given a greater role in the implementation of the FPIC process.
7. *Assessing the long-term impacts of the IPRA.* A systematic, careful, and long-term impact assessment of how the IPRA has actually worked on the ground in terms of achieving its overall objectives is necessary to know whether it really made a positive difference for the IPs in the Philippines. This impact assessment will require a systematic monitoring of how the IPRA has transformed or failed to transform the lives of its intended beneficiaries.

Action Plan. To achieve the aforementioned recommendations, an Action Plan is proposed to the NCIP and other concerned agencies. This plan identifies targets that may be achieved in the short-term as well as those that may be realized in the medium- and long-term.



Source: William Azucena of Conservation International.

claims from 1992-97. In 1997, the Philippine Congress enacted Republic Act No. 8371, also known as the IPRA. Under this law, the term “indigenous peoples” was used synonymously with “indigenous cultural communities.” The said law also called for the establishment of the National Commission on Indigenous Peoples (NCIP) by merging the ONCC and the OSCC (*see Box 1 for the summary*).

Box 1. History of Government Agencies and Policies on Indigenous Peoples.

1901-57 – During this period, the BNCT served as the government body in charge of “non-Christian and wild tribes” of the Philippines. From 1927 to 1934, the American colonial government established several “non-Christian reservations” similar to those for Native Americans. The type of religion and the degree of colonization by the Americans were the primary criteria for distinguishing indigenous peoples from the rest of the Filipinos. The newly independent Philippine government inherited this framework in 1946 and continued it until 1957.

1957-72 – The post-colonial period was marked by the replacement of the BNCT by the CNI. The new policy of the Philippine government vis-à-vis the indigenous peoples was that of the latter’s integration into the mainstream Philippine society. This is reflected in the mandate of the CNI, i.e. “bringing about, as rapidly as possible, the moral, material, economic, social and political advancement of the non-Christian Filipinos and of making real, complete and permanent their integration into the body politic.” It was also during this period when the categories “national cultural minorities” or “national minorities” were used in the legal parlance instead of the previous “non-Christian tribes”.

1972-86 – The martial law regime of President Ferdinand Marcos was marked by several protest movements carried out by indigenous peoples against government-initiated development projects that would displace these peoples from their ancestral lands. Among these projects were the Chico River Basin Development Project in Kalinga and Mountain Province and the Celophil Resources Corporation in Abra. There was a growing realization among the indigenous peoples’ movement and their advocates that IP rights are closely linked with the issue of ancestral lands. During the period, Marcos issued several decrees and issuances that concerned those of indigenous peoples. In 1974, Marcos signed Presidential Decree No. 410, otherwise known as the Ancestral Land Law. Under this law, all lands occupied by national minorities were classified as “alienable and disposable.” Individual members coming from the national minorities were asked to apply for Torrens titles from the government. Since many members of the national minorities did not bother to apply for individual land titles, the said law did not have any strong impact in providing security of tenure for indigenous peoples.

In the mid ‘80s, the Southern Philippines Development Authority (SPDA) and the PANAMIN were becoming unpopular because of several exposés about their alleged roles in the government’s anti-insurgency campaign as well as the scandals related to the eccentric lifestyle of Secretary Manuel Elizalde of the PANAMIN. In 1985, Executive Order No. 969 dissolved the PANAMIN and the SPDA and created the Office for Muslim Affairs and Cultural Communities (OMACC). The OMACC catered to the needs of both the Muslim and non-Muslim communities.

1986-97 – The newly restored democracy paved the way for several reforms in government policies vis-à-vis indigenous peoples. The OMACC was abolished as part of the Aquino government’s overall effort to revamp the bureaucracy. Three distinct and separate offices under the Office of the President replaced the OMACC namely: the OMA; the ONCC; and the OSCC. A new Philippine Constitution was ratified in 1987 and this contained several provisions on the protection of the rights of “indigenous cultural communities” or ICCs. Since then, the legal jargon “ICCs” was used instead of earlier categories.

The period was also marked by the issuance of several certificates of ancestral domain claims and certificates of ancestral land claims by the DENR pursuant to its Administrative Order No. 2, series of 1991. More specifically, the DENR awarded 181 certificates of ancestral domain claims in the span of 1992 to 1997. Another highlight of this period was the passage of the NIPAS Act in 1992. This law contained specific provisions protecting the rights of ICCs to their ancestral domain.

1997-present – Republic Act No. 8371, otherwise known as the Indigenous Peoples Rights Act, was enacted in 1997. Under this law, the term “indigenous peoples” or “IPs” was used synonymously with “indigenous cultural communities.” The National Commission on Indigenous Peoples was established in 1998 through a merger of the ONCC and the OSCC.

1.2 Objectives of the Review

This review was conducted to identify strengths and weaknesses of the IPRA and to help the NCIP develop and implement a program to achieve a more efficient and effective safeguard system for the IPs. The review focused on the certification precondition/free and prior informed consent (CP/FPIC) process in relation to development and investment projects. It examined the legal and institutional framework as well as the implementation of the IPRA. It also utilized the results from the recently completed World Bank study on stocktaking the country safeguard systems, including the IPRA, and other studies conducted by the *Tanggapang Panligal ng Katutubong Pilipino* (PANLIPI) and the United Nations Development Programme (UNDP).

1.3 The Review Process

This report is a product of an incremental review process that lasted for two years. It started with a series of dialogues and workshops with government agencies, international financing institutions, non-government organizations and local government units from February to May of 2005 to take stock of the Philippine safeguards for the IPs including the implementation capacities and track records of national government agencies.¹ The results of that stocktaking exercise provided the impetus for a rapid assessment in early 2006 which produced a preliminary assessment report and a terms of reference for a more detailed review. The terms of reference, along with the preliminary report was then presented to the NCIP for comments. Undertaken in June to December 2006, the assessment included extensive review of the IPRA and the various laws and issuances affecting the safeguard system for the IPs, interview with project proponents and key staff of the NCIP. Case studies were also conducted on selected projects.

1.4 Organization of the Report

The next three sections provide brief descriptions of the country context. Sections 2 and 3 describe the legal and institutional frameworks, respectively, Section 4 specifically describes the process that has to be followed to ensure the protection of the rights of the IPs in any activity that falls within their domains through the CP/FPIC. The formal assessment of the system starts in Section 5 where the adequacy of the Philippine safeguard system for the protection of IPs was examined vis-à-vis universally accepted concepts on the protection of IPs, including an assessment of the efficiency and effectiveness of the implementation of the system. Section 6 lays out the study's recommendations and proposed action plan to strengthen the implementation of the IPRA.

¹ Approximately 80 individuals, representing 16 government agencies, five non-government organizations, two international financing institutions, and 40 local government units were able to participate in the dialogues and workshops.

THE LEGAL FRAMEWORK

2.

The legal framework of the safeguard system for the IPs is the Philippine Constitution, the IPRA, and all other laws and ordinances pertaining to the rights of the IPs.

2.1 The 1987 Philippine Constitution

The 1987 Philippine Constitution is the main legal basis for all laws and ordinances pertaining to IPs. There are four important sections in the Philippine Constitution that pertain to the State's recognition of the rights of IPs/ICCs, namely:

- The State recognizes and promotes the rights of ICCs within the framework of national unity and development (Section 22, Article II);
- The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of ICCs to their ancestral lands to ensure their economic, social and cultural well-being (Section 5, Article XII);
- The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of ICCs to their ancestral lands (Section 6, Article XIII); and
- The State shall recognize, respect and protect the rights of ICCs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national plans and policies (Section 17, Article XIV).

2.2 Indigenous Peoples Rights Act

Republic Act No. 8371 or the IPRA is the most important legal framework for the protection of the IPs in the Philippines. This law recognizes the existence of IPs as a distinct sector in Philippine society and defines their rights. The IPRA identifies and assigns four distinct clusters of IP rights. These are:

- **Rights to ancestral domains** including the right of ownership; right to develop land and natural resources; right to stay in the territories; right in case of displacement; right to regulate entry of migrants; right to safe and clean air and water; right to claim parts of reservations; and the right to resolve conflict;
- **Right to self-governance and empowerment** including the right to use their own justice system, conflict resolution institutions, and peace building processes; right to participate in decision-making; and the right to determine and decide priorities for development;
- **Social justice and human rights** including State provision of equal protection and non-discrimination; rights during armed conflict; right to equal opportunity and treatment; right to basic services; and the guarantee of the rights of women, children and youth; and

- Cultural integrity including State protection of indigenous culture, traditions and institutions; right to control and establish their own educational system; community intellectual rights; rights to religious, cultural sites and ceremonies; right to indigenous knowledge systems and practices and to develop their own sciences



Source: William Azucena of Conservation International.

and technologies; right of access to biological and genetic resources; and the right to sustainable agro-technical development.

In general, the IPRA grants ownership rights to a territory comprising of the area or areas that they can claim as their ancestral domain as well as the natural resources within the domain. It also grants right to self-governance; social justice and human rights; and the right to cultural integrity. Under this law, IPs shall have the right to accept or reject certain development interventions in their particular communities. The following are some of the specific requirements of the IPRA:

1. **Free and Prior Informed Consent (FPIC)** which is defined as the consensus of all members of the IPs/ICCs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of an activity, in a language and process understandable to the community. This shall first be secured by the project proponent in accordance with the IPs' own practices. The law, however, also provides that only the affected community or communities shall give FPIC.
2. **Full Access to Records and Information**, which provides that the IPs shall have full access to records and information about the project. This shall be ensured through an undertaking on full disclosure and full access to records and information.
3. **Submission of Environmental and Socio-cultural Impact Statement** along with the usual requirement of DENR under the Environmental Impact Statement (EIS) System.
4. **Benefits and Compensation** – The proponent is required to enter into a written undertaking with IPs, stating clearly the former's commitment for damage compensation and cash or surety bond, the sharing of benefits, and measures to protect the rights and value system of the indigenous community.

The IPRA also mandates the establishment of the NCIP as the primary government agency responsible for the formulation and implementation of policies, plans, and programs to promote and protect the rights and well-being of IPs. With specific regard to ancestral

domains, the NCIP is tasked to process ancestral land and domain claims and work for the issuance of certificate of ancestral domain title, which serves as a proof of ownership by a particular indigenous group of their domain, including all natural resources that are found in its surface and subsurface. Unlike a Torrens title, however, the certificate of ancestral domain title is held by the entire indigenous community and not by private individuals. It cannot be sold to outsiders and is held in perpetuity by the ethnic group.

2.3 NCIP Administrative Issuances

The NCIP has issued several administrative orders, circulars, and plans, among which are the following:

NCIP Administrative Order No. 1, series of 1998 is the implementing rules and regulations of the IPRA. The main regulatory instrument for safeguard is the CP/FPIC process. The policies, programs, projects, plans and activities subject to FPIC are the following:

1. Exploration, development, exploitation and utilization of natural resources within ancestral domains/lands;
2. Research in indigenous knowledge, systems and practices related to agriculture, forestry, watershed and resource management systems and technologies, medical and scientific concerns, biodiversity, bio-prospecting and gathering of genetic resources;
3. Displacement and relocation;
4. Archaeological explorations, diggings and excavations, and access to religious and cultural sites;
5. Policies affecting the general welfare and the rights of IPs/ICCs; and
6. Entry of the military or paramilitary forces or establishment of temporary or permanent military facilities within the domains.

NCIP Administrative Order No. 3, series of 1998 recognizes and respects all leases, permits, licenses, contracts and other forms of concession within ancestral domains that are already existing and/or vested upon prior to the effectivity of the NCIP Administrative Order No. 1, s. 1998.

The supplemental guidelines were issued by the NCIP in response to the threat of several mining companies to pull out their investments due to what they perceive as disadvantageous provisions of the implementing rules and regulation. These firms were especially concerned that the NCIP Administrative Order No. 1, s. 1998 will nullify existing contracts, leases, permits and other forms of concessions within ancestral domains. To address these complaints, the Office of the President formed a task force on mining under the Economic Mobilization Group. The technical working group of the task force had representatives from the Chamber of Mines, DENR, Board of Investments (BOI), and the NCIP. Thus, the NCIP Administrative Order No. 3, s. 1998 was a compromise to the mining lobby group. With these new guidelines, mining firms with approved contracts, licenses, agreements and other concessions prior to 1998 can now legitimately continue their mining activities without going through the process of obtaining FPIC by just securing a certification precondition from the NCIP.

NCIP Administrative Order No. 1, series of 2002 provides for the organization of a Special Committee on Review and Verification to review, verify and evaluate the certificate of ancestral domain titles and the certificate of ancestral land titles that were approved by the previous set of NCIP Commissioners. The special committee was created because of suspicions that there were anomalies in the issuance of these certificates. Based on their findings, the special committee will recommend to the commission the appropriate action for these certificate of ancestral domain titles. The administrative order enumerates the types of anomalous cases that the Committee shall review, such as material defects, infirmity, fraud, force, intimidation, and misrepresentation. The administrative order expressly states that the certificate of ancestral domain titles/certificate of ancestral land titles are to be revoked or rejected if found to be anomalous.

NCIP Administrative Order No. 2, series of 2002 requires a review and evaluation of the records of DENR issuances of certificate of ancestral domain claims and certificate of ancestral land claims, and called for the formation of Special Provincial Task Forces under the supervision of the Ancestral Domains Office (ADO) to undertake field validation of these claims. The field validation shall give special emphasis on the following: authenticity of the names of claimants as appearing in the census previously made, if any; confirmation from the communities as to whether they had actually given consent to the conversion; validation as to the authority of the representative of the community in the application for conversion; and the presentation of the survey plan to the applicant community for validation.

NCIP Administrative Order No. 3, series of 2002 repeals NCIP Administrative Order No. 3, s. 1998 and offers a new set of guidelines for the issuance of CP/FPIC. In the previous administrative order, the certification precondition is issued for non-IP areas while the FPIC is issued for IP areas. The revised guidelines, however, corrected this by stating that the NCIP issues the certification precondition while the IP community issues the FPIC. The NCIP may issue a certification precondition for projects whether they are within or outside of IP areas.

NCIP Administrative Circular No. 1, series of 2003 states that the NCIP, through its Regional Hearing Officer, shall exercise original and exclusive jurisdiction over cases involving disputes and controversies over ancestral lands/domains of IPs/ICCs; violations of the requirement of FPIC of IPs/ICCs; actions for enforcement of decisions of IPs/ICCs involving violations of customary laws or desecration of ceremonial sites, sacred places or rituals; actions for redemption/re-conveyance under Section 8(b) of Republic Act 8371; and such other cases analogous to the foregoing. It also emphasizes that the IP community through their council elders, shall resolve cases at their level and may elevate such cases to the Regional Hearing Officer upon written certification of their failure to resolve the case.

NCIP Administrative Order No. 3, series of 2003 seeks to constitute a multi-level consultative body to be organized at the provincial, regional, and national levels. It also provides for the setting up of similar structures at the community level. Coordinating committees in the provincial, regional and national levels shall be created to assist the NCIP in convening the consultative bodies.

NCIP Administrative Order No. 1, series of 2004 outlines the step-by-step procedures in the formulation of Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs). The ADSDPP embodies the goals and objectives as well as policies and strategies of the IPs for the sustainable management and development of their ancestral domain and all resources therein, including the human and cultural resources, such as their indigenous knowledge systems and practices. The ADSDPP also contains the list and schedule of programs and projects toward the sustainable development and protection of ancestral domains as a tool for IP empowerment and as a blueprint of the IPs' total development plan. The ADSDPP is a long-term plan that will serve as the basis for the Five-Year Master Plan of IPs in their respective ancestral domains.

NCIP Administrative Order No. 1, series of 2006 repeals NCIP Administrative Order No. 3, s. 2002 and institutes a new set of FPIC guidelines. The new guidelines make a distinction between the certification precondition and the certificate of non-overlap. The former refers to the certificate of compliance issued by the NCIP attesting that the applicant has complied with the requirements for securing the affected IPs/ICCs' FPIC while the certificate of non-overlap refers to the certificate issued by the concerned Regional Director of the NCIP attesting to the fact that the area affected by a particular plan, program, project or activity does not overlap with any ancestral domain. Both certificates are issued by the NCIP Regional Director unlike in the previous administrative order which points to the ADO as the office that issues a certification precondition. Non-overlaps with ancestral domain areas were verified by comparing the proposed project area with the approved master list of Ancestral Domain Areas. On the other hand, the IP community's consent to a plan, program, project or activity is reflected through a Resolution of Consent while the denial of the FPIC is formalized through a Resolution of Non-Consent.

In summary, the NCIP issued all these issuances to serve as implementing rules and regulations of the IPRA. Four of the issuances (Administrative Order 1, Administrative Order 3 of 1998; Administrative Order 3 of 2002; Administrative Order 3 of 2006) dealt mainly with clarifying the CP/FPIC process by: (i) clearly listing the types of projects without approved contract licenses and agreements after 1998 that will require CP/FPIC; (ii) clarifying that FPIC is for issuance by the IP community while certification precondition is for the NCIP issuance and that it is for projects that have met all the FPIC requirements, while certificate of non-overlap is for projects that do not affect IPs or those that fall outside ancestral domains; (iii) specifying the streamlined steps and acceptable timeframe to complete the CP/FPIC process; and (iv) decentralizing the issuance of certificate of non-overlap and certification precondition to the NCIP Regional Director.

Since the rights of the IPs are heavily intertwined with their ancestral domains, the NCIP issued three administrative orders pertinent to the creation of bodies and prescribing the procedures for the following: (i) validation of certificate of ancestral land titles/certificate of ancestral domain titles in response to accusations that some of them are fraudulent; (ii) conversion of certificate of ancestral domain claims/certificate of ancestral land claims to certificate of ancestral domain titles/certificate of ancestral land titles; and, (iii) formulation of the ADSDPP which is a five-year plan of the IPs in their ancestral domains.

The NCIP has also issued administrative orders to address grievances and consultative mechanisms specifying the procedure and body expected to resolve them. This takes on issues between IP tribes that may sometimes have conflicting claims and interest as well as advocacy issues needing the creation of a united front among them.

Medium-Term Philippine Development Plan for Indigenous Peoples, 2004-2008 concretizes the IP sector's agenda into specific and measurable goals, programs and targets for the years 2004 to 2008 that can serve as the basis for medium-term planning, investment and implementation. It serves as input to the Philippine government's Medium-Term Development Plan (MTDP) and as a guide for international partners, civil society groups and IPs for designing support and defining coverage areas.

2.4 Other Philippine Laws

There are other laws that partly discuss IPs and their rights. These laws contribute to the overall Philippine jurisprudence on IPs' rights. These different laws can be clustered into 10 general categories, namely: (i) land laws; (ii) forestry laws; (iii) agriculture and fisheries laws; (iv) laws on mining; (v) laws on environmental protection and conservation; (vi) laws on EIS System; (vii) laws on genetic and biological resources; (viii) laws on cultural properties; (ix) laws on local governance and autonomy; and (x) laws on the NCIP. *(Please refer to Annex A for a list of these Philippine laws.)*

Commonwealth Act No. 141 (Public Land Act), although passed during the time of the Philippine Commonwealth, is still in place. According to Sections 7 and 8 of the said law, the confirmation of incomplete or imperfect titles may be done in two ways: either by judicial legalization (entailing court process) or by administrative legalization (called the free patent). In order to come under any of these two ways, the applicant must show that he/she has been in open, continuous and exclusive possession of the land since 1945. However, for the former, the limit for the size of the area that may be legalized is 144 hectares and for the latter, the requirement is not to own more than 24 hectares of land. IPs may utilize any of these two modes.

PD 1586 (Philippine Environmental Impact Statement System of 1978) declares environmentally critical projects and projects within environmentally critical areas as projects which require the submission of an EIS. Section 4 stated that "no person, partnership or corporation shall undertake or operate any in part such declared environmentally critical projects or project within an environmentally critical areas without first securing an environmental compliance certificate."

RA 4846 (Cultural Properties Preservation and Protection Act) as amended by PD 374, mandates that only the National Museum of the Philippines can undertake archaeological explorations, assessments and excavations. Anyone violating this law will be fined. The National Museum believes that the law applies throughout any part of the country. Agencies and/or individuals wanting to engage in archaeological practice (e.g. those in the academe), have to seek a permit from the National Museum to be able to practice their craft.

Republic Act 6657 (Comprehensive Agrarian Reform Law or CARL) is another law that has some impact on IPs as it provides some legal protection to the ancestral domains/lands. According to Section 2, par. 5 of this law, “The State shall apply the principles of agrarian reform, or stewardship, whenever applicable, in accordance with law in the disposition or utilization of other natural resources, including lands of the public domain, and their lease or concession, suitable to agriculture, *subject to prior rights of indigenous communities to their ancestral lands.*” This law implies that the rights of the IP to their ancestral domain/land must prevail over that of the farmer. Furthermore, the law provides that in leasing out undeveloped lands of the public domain to qualified entities for the development of capital-intensive farms and traditional and pioneering crops, especially those for export, prior rights of IPs to their ancestral lands shall likewise be respected (Section 2, par. 12).

Republic Act 7076 (People’s Small-Scale Mining Act of 1991) provides that Filipino citizens may form cooperatives to be licensed by the DENR to engage in the extraction of minerals. However, within declared ancestral lands, IPs shall have priority in the awarding of such licenses or contracts. Republic Act 7076 excludes all active mining areas, thus, leaving the IPs helpless against previously existing large-scale miners who have encroached on their ancestral domains/lands.

Republic Act 7160 (Local Government Code of 1991) provides that ICCs have the option to establish tribal barangays. According to Section 386 of the Local Government Code, “To enhance the delivery of basic services in the indigenous cultural communities, barangays may be created in such communities by an Act of Congress” notwithstanding the minimum requirements for the creation of a barangay. This option is recognized by the IPRA (Section 18), which states that “the IPs/ICCs living in contiguous areas or communities where they form the predominant population but which are located in municipalities, provinces or cities where they do not constitute the majority of the population, may form or constitute a separate barangay in accordance with the Local Government Code on the creation of tribal barangays.”

Republic Act 7586 (National Integrated Protected Areas System Act of 1992) is designed to safeguard protected areas from further encroachment and to allow development projects which have compatible uses or which enhance the protection of these areas. It includes specific provisions protecting the rights of cultural communities to their ancestral domain. Under this law, the IPs cannot be evicted from protected areas.

Republic Act 7611 (Strategic Environment Plan for Palawan) is the framework plan for the island of Palawan. This framework plan serves as a guide to government agencies in the formulation and implementation of plans, programs, and projects affecting the environment and natural resources of Palawan. It establishes a graded system of protection and development over the whole of Palawan known as the Environmentally Critical Areas Network. One of the objectives of the network is to ensure the protection of IPs and the preservation of their culture.

Republic Act 7942 (Philippine Mining Act of 1995) is the first law which vests the ICCs with FPIC over proposed mining projects in their areas. It provides a definition of ICCs and ancestral lands and prohibits opening of mining operations on ancestral lands without the prior consent of the concerned ICC. It also provides for the ICCs to be entitled to royalty payments for the use of minerals. The said royalty shall form part of a trust fund for the socio-economic well-being of ICCs. It also provides that “All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State” (Section 2, Republic Act 7942).

RA 9054 (An Act Providing for an Organic Act for the Autonomous Region in Muslim Mindanao) amends Republic Act 6734 and calls for the creation of the Autonomous Region in Muslim Mindanao (ARMM). The the Autonomous Region in Muslim Mindanao shall have powers and jurisdiction over the following: administrative organization; creation of revenue sources; ancestral domain and natural resources; personal, family and property relations; regional urban and rural planning development; economic, social and tourism development; educational policies; preservation and development of the cultural heritage; eminent domain; and powers, functions and responsibilities being exercised by the departments of the national government. For IPs within the Autonomous Region in Muslim Mindanao, the law provides for the creation of “tribal courts,” which may include a Tribal Appellate Court. These tribal courts will determine, settle and decide controversies and enforce decisions involving family and property rights in accordance with the tribal codes of indigenous communities. Thus, the law mandates the Regional Assembly to enact a local legislation mandating the codification of indigenous laws and the compilation of customary laws in the autonomous region.

Department Administrative Order 2003-30 (Philippine EIS System Implementation Guidelines and Procedures) identifies “areas which are traditionally occupied by cultural communities or tribes” as environmentally critical areas. According to Part 2.2E of the manual, “this refers to all ancestral lands of National Cultural Communities identified in Sec. 1 of Presidential Decree No. 410 and settlements designed, implemented and maintained by the PANAMIN for national minorities (non-Muslim hill tribes referred to in Presidential Decree No. 719) as may be amended by Republic Act No. 8371 (IPRA) and its implementing rules and regulation. This also refers to all areas that are occupied or claimed as ancestral lands or ancestral domains by ICCs, or certified as such (certificate of ancestral domain claim/certificate of ancestral land title) pursuant to DENR Administrative Order No. 2, series of 1993 regarding the identification and delineation of ancestral land or domain claims.”

THE INSTITUTIONAL FRAMEWORK

3.

This section looks into the institutional framework within which the Philippine safeguard system for IPs operates. The main area of scrutiny is the NCIP, its organizational structure, its powers and mandates, its major programs, and how it concretely implements the FPIC process.

3.1 The National Commission on Indigenous Peoples

The primary agency in charge with ensuring the protection of the rights of IPs is the NCIP whose charter is provided for by the IPRA. In 2004, Executive Order No. 364 subsumed the NCIP under the Department of Agrarian Reform (DAR) and renamed the new agency Department of Land Reform (DLR). Consultations conducted by the NCIP on Executive Order 364 reportedly revealed strong opposition as the executive order allegedly diminished the spirit and intent of the IPRA, further delaying its implementation. A petition signed by various sectors urging the recall of Executive Order 364 prompted the issuance of Executive Order 379 in October 26, 2004, which amended Executive Order 364. The amendment specifically provided for the NCIP to be an attached agency of the DLR and that the NCIP Chairman shall not suffer diminution in rank and salary.

3.2 Organizational Structure

The policy-making body of the NCIP is composed of seven Commissioners belonging to IPs/ICCs, one of whom serves as the Chairperson. These Commissioners are appointed by the President of the Philippines from a list of recommendees submitted by authentic IPs/ICCs. The seven Commissioners come from the following “ethnographic areas:” i) Region I (Ilocos Region) and the Cordilleras; ii) Region II (Cagayan Valley); iii) the rest of Luzon; iv) Island groups, including Mindoro, Palawan, Romblon, Panay, and the rest of the Visayas; v) Northern and Western Mindanao; vi) Southern and Eastern Mindanao; and vii) Central Mindanao. Section 40 of the IPRA provides that at least two Commissioners of the NCIP should be women. Section 41 mandates that at least two Commissioners of the NCIP must be members of the Philippine Bar.

Section 46 of the IPRA called for the creation of the following offices within the NCIP:

1. **Ancestral Domains Office (ADO)** is responsible for the identification, delineation, and recognition of ancestral lands/domains. It is also responsible for the management of ancestral lands/domains in accordance with a master plan as well as the implementation of the ancestral domain rights of the IPs/ICCs as provided for in Chapter III of the IPRA. It shall issue, upon the FPIC of the IPs/ICCs concerned, certification prior to the grant of any license, lease or permit for the use of natural resources affecting the interests of IPs/ICCs in protecting the territorial integrity of all ancestral domains. It shall likewise perform other functions as the Commission may deem appropriate and necessary.

2. **Office on Policy, Planning, and Research** shall be responsible for the formulation of appropriate policies and programs for IPs/ICCs such as the development of a Five-Year Master Plan for the IPs/ICCs. Such plan shall undergo a process such that every five years, the Commission shall assess the plan and make adjustments in accordance with the changing situations. The Office shall also undertake the documentation of customary law and shall establish and maintain a Research Center that would serve as a depository of ethnographic information for monitoring, evaluation and policy formulation. It shall assist the legislative branch of the national government in the formulation of appropriate legislation benefiting IPs/ICCs.
3. **Office of Education, Culture and Health** shall be responsible for the effective implementation of the education, cultural and related rights as provided for in this Act. It shall assist, promote and support community schools, both formal and non-formal, for the benefit of the local indigenous community, especially in areas where existing educational facilities are not accessible to members of the indigenous group. It shall administer all scholarship programs and other educational rights intended for IPs/ICCs beneficiaries in coordination with the Department of Education (DepEd) and the Commission on Higher Education (CHED). It shall undertake a special program that includes language and vocational training, public health, and family assistance program and related subjects. It shall also identify IPs/ICCs with potential training in the health profession and encourage and assist them to enroll in schools of medicine, nursing, physical therapy and other allied courses pertaining to the health profession. It shall also monitor the activities of the National Museum and other similar government agencies generally intended to manage and preserve historical and archeological artifacts of the IPs/ICCs and shall be responsible for the implementation of other functions the NCIP may deem necessary.
4. **Office on Socio-Economic Services and Special Concerns** shall serve as the office through which the NCIP shall coordinate with pertinent government agencies specially charged with the implementation of various basic socio-economic services, policies, plans and programs affecting the IPs/ICCs to ensure that the same are properly and directly enjoyed by them. It shall also be responsible for other functions that the NCIP may deem appropriate and necessary.
5. **Office of Empowerment and Human Rights** shall ensure that indigenous socio-political, cultural and economic rights are respected and recognized. It shall ensure that capacity building mechanisms are instituted and IPs/ICCs are afforded every opportunity to participate in all levels of decision-making. It shall likewise ensure that the basic human rights and such other rights as the NCIP may determine, subject to existing laws, rules and regulations, are protected and promoted.
6. **Administrative Office** shall provide the NCIP with economical, efficient and effective services pertaining to personnel, finance, records, equipment, security, supplies and related services. It shall also administer the Ancestral Domains Fund.
7. **Legal Affairs Office** shall advise the NCIP on all legal matters concerning IPs/ICCs with legal assistance in litigation involving community interest. It shall conduct preliminary investigation on the basis of complaints filed by the IPs/ICCs against a natural or juridical person believed to have violated the rights of IPs/ICCs. On the basis of its findings, it shall initiate the filing of appropriate legal or administrative action to the NCIP.

Section 49 of the IPRA called for the creation of the Office of the Executive Director of the NCIP. This office shall serve as NCIP’s secretariat. It shall be headed by an Executive Director who shall be appointed by the President of the Philippines, upon recommendation of the NCIP.

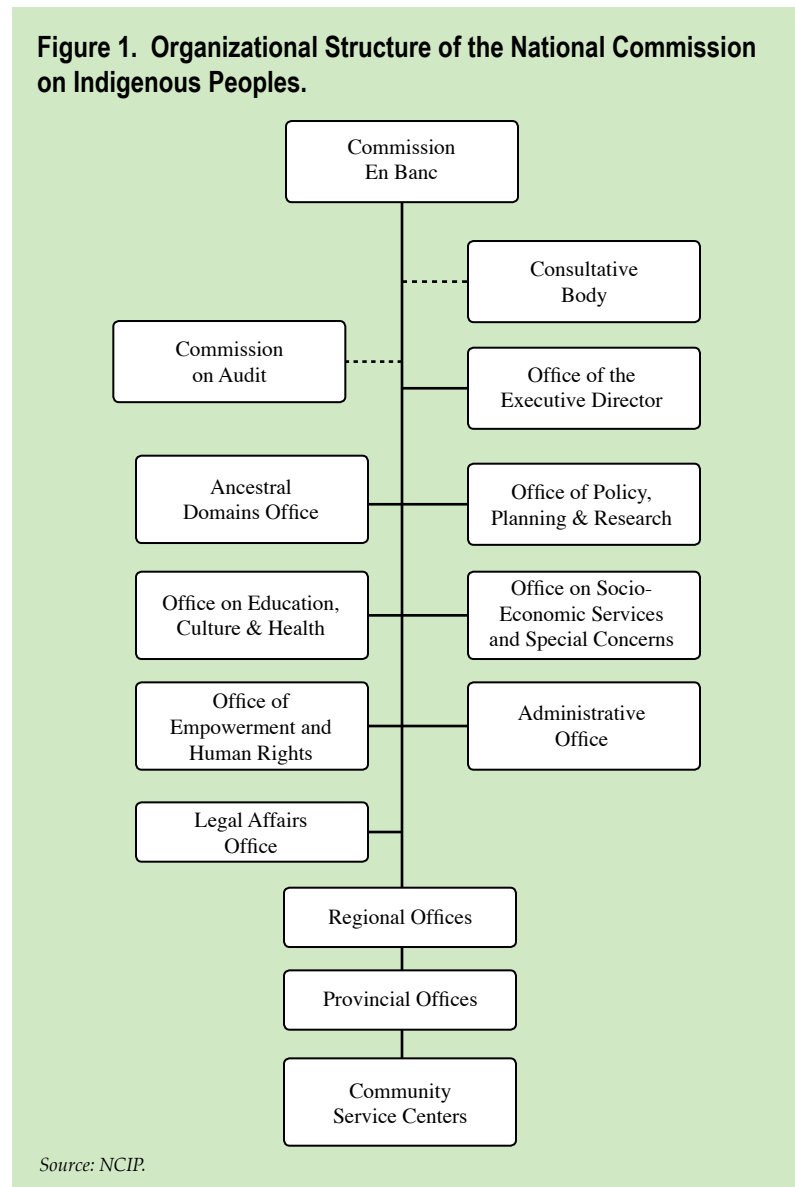
All of the national offices of the NCIP have already been organized and are functional (*Figure 1*).

Section 48 of the IPRA called for the creation of regional and field Offices of the NCIP. At present, the NCIP has 12 regional offices each headed by a Regional Director. The regions where the NCIP has regional offices are: (i) Cordillera Administrative Region; (ii) Region I; (iii) Region II; (iv) Region III; (v) Region IV; (vi) Region V; (vii) Region VI and VII; (viii) Region IX; (ix) Region X; (x) Region XI; (xi) Region XII; and (xii) Region XIII.

The IPRA and its implementing rules and regulations did not specify the field offices to be organized by the NCIP. The NCIP, however, organized provincial offices under its

regional offices. As of 2006, there are 46 provincial offices. At the municipal and city levels, 108 NCIP service centers have been established. There are instances where these service centers are under the jurisdiction of the provincial office but there are also cases where there is no provincial office and thus, the service center is directly under the administration of the regional office. (*Please refer to Annex B for the list of regional and provincial offices of the NCIP.*)

Figure 1. Organizational Structure of the National Commission on Indigenous Peoples.



3.3 Human and Financial Resources

As of 2001, the NCIP has a total personnel complement of 1,588 plantilla positions (NCIP Annual Report 2001). The breakdown of this personnel complement is as follows: the

central office has 118, the regional offices have 300, the provincial offices have 414, and the service centers have 756. Of the total personnel complement, 799 belong to the first level of position while 762 belong to the second level. There are 27 positions belonging to the third level position that represents the Directors, Executive Director, Commissioners and the Chairperson. However, five positions of this level are occupied by Officers-In-Charge.

Regional offices have two divisions, namely: the Administrative Division and the Technical Management Division (TMD). Only one person in the TMD is designated to oversee all CP/FPIC applications and activities.

From 2002 to 2005, the NCIP was supported by a regular budgetary appropriation of more than PhP400 million each year. The bulk of the budgetary allocation goes to personnel services, with the rest going to regular maintenance and other operating expenses (MOOE), retirement and life insurance premium and implementation of programs and projects, wherein CP/FPIC activities and titling of ancestral lands and domains are just part of the long list of the NCIP programs and projects. *Table 1* shows the distribution of budgetary appropriation for the NCIP during Fiscal Years 2002 to 2005.

Table 1. Budgetary appropriation for NCIP for Fiscal Years 2002-2005 (in Philippine pesos).

Expense Item	2002	2003	2004	2005
Personal Service	282,549,000	282,475,000	279,270,000	287,765,051
Maintenance and Other Operating Expenses				
Regular	44,126,000	63,249,000	64,126,000	71,580,520
Socio-economic/Livelihood Projects	3,479,000	10,781,000	10,851,000	7,695,000
Scholarship/Educational Assistance Program	65,000,000	84,070,000	110,000,000	52,621,000
Management/Development of Ancestral Lands to support SRA	12,692,000	12,692,000		
PDAF			3,100,000	
Special Fund			41,181,850	
TOTAL MOOE	125,297,000	158,100,000	229,502,850	131,896,520
Terminal Leave Benefits			1,610,817	
Capital Outlay	1,000,000			
Automatic Appropriation		25,605,000	25,605,000	
Special Allotment		74,140,518		50,335,030
Total Additional Allotment	80,351,315			
Total Regular Appropriation	408,846,000	440,575,000		
Total Allotment	408,846,000	540,320,518	536,383,667	469,996,601

Source: NCIP Annual Reports 2002-2005.

The NCIP does not have a breakdown of its budget allocation for CP/FPIC activities since, aside from the involved personnel, all other line expenses incurred during the CP/FPIC process are shouldered by the project applicant or proponent.

3.4 Powers and Mandates

The NCIP is endowed with quasi-judicial, quasi-legislative and executive functions. According to Section 44 of the IPRA, the powers, jurisdiction and function of the NCIP are the following:

- To serve as the primary government agency through which IPs/ICs can seek government assistance and as the medium, through which such assistance can be extended;
- To review and assess the conditions of IPs/ICCs including existing laws and policies pertinent thereto and to propose relevant laws and policies to address their role in national development;
- To formulate and implement policies, plans, programs and projects for the economic, social and cultural development of the IPs/ICCs and to monitor the implementation thereof;
- To request and engage the services and support of experts from other government agencies or private experts and consultants as may be required in the pursuit of its objectives;
- To issue certificates of ancestral land/domain title;
- Subject to existing laws, to enter into contracts, agreements or arrangements with government or private agencies or entities as may be necessary to attain the objectives of the IPRA, and subject to the approval of the President, to obtain loans from government and lending institutions to finance its programs;
- To negotiate for funds and to accept grants, donations, gifts and/or properties in whatever form and from whatever source, local and international, subject to the approval of the President, for the benefit of IPs/ICCs and administer the same in accordance with the terms thereof; or in the absence of any condition, in such manner consistent with the interest of IPs/ICCs and existing laws;
- To coordinate development programs and projects for the advancement of IPs/ICCs and to oversee the proper implementation thereof;
- To convene periodic conventions or assemblies of IPs to review, assess, as well as propose policies or plans;
- To advise the President on all matters relating to the IPs/ICCs and to submit within 60 days after the close of each calendar year, a report of its operations and achievements;
- To submit to Congress appropriate legislative proposals intended to carry out the policies under this Act;
- To issue appropriate certification as a pre-condition to the grant of permit, lease, grant, or any other similar authority for the disposition, utilization, management and appropriation by any private individual, corporate entity, or any government agency, corporation or subdivision thereof, or any part or portion of the ancestral domain taking into consideration the consensus approval of the IPs/ICCs concerned;
- To decide all appeals from the decisions and acts of all the various offices within the Commission;
- To promulgate the rules and regulations for the implementation of this Act;
- To exercise such other powers and functions as may be directed by the President; and
- To represent the Philippine IPs/ICCs in all international conferences and conventions dealing with indigenous peoples and other related concerns.

3.5 Major Programs

The present activities of the NCIP are divided into three program areas: land tenure security; development of IP communities; and enforcement of IP rights.

Land tenure security. Under land tenure security, the NCIP is engaged in cultural mapping of all IP communities; delineation of ancestral domain and issuance of certificate of ancestral domain title and certificate of ancestral land titles.

Community development program. Under its community development program, NCIP engages and prepares the Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs) in the delivery of livelihood support, educational assistance, health care, shelter and other basic services and the protection and enhancement of cultural heritage in the IP communities by coordinating and securing international agency and inter-government agency support.



Source: Philippine National Oil Company Energy Development Corporation.

Enforcement of IP rights. The NCIP is engaged in the adjudication of conflicts through customary laws, traditions, the NCIP adjudication processes, the provision of legal assistance to IP individuals and groups, and the preparation and implementation of procedures for the FPIC.

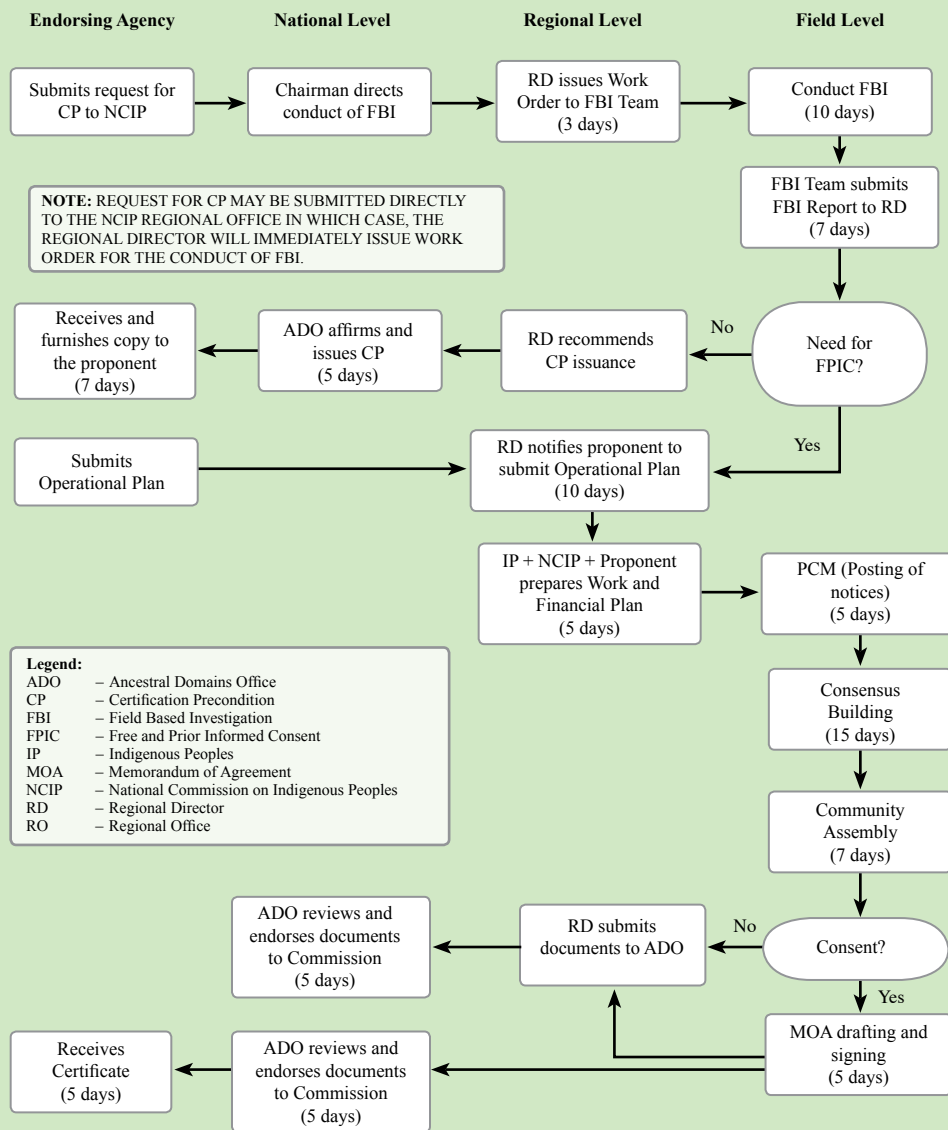
3. **Project Operational Plan** – If the field-based investigation report recommends FPIC, the Regional Director, within 15 days from receipt of the report, will give notice to the proponent to submit within 15 days the Project Operational Plan and advise the proponent to commence the FPIC process.
4. **Preliminary Consultative Meeting** – Once the Project Operational Plan is submitted, the FPIC process may be initiated by the NCIP by posting notice at the community at least five days before the Preliminary Consultative Meeting. The NCIP will also serve personal notices to the recognized elders or leaders of the community. The NCIP, IPs/ICCc leaders and members, and local non-government organizations or civil society groups will attend the preliminary consultative meeting. In this meeting, the proponent will present the project to the IPs/ICCs including estimates of the costs and benefits of the project to the community. Oppositionists to the project will be given the opportunity to present their arguments. The attendees of the meeting will then determine if another consultative meeting is needed.
5. **Consensus Building** – When the parties have determined that no more consultative meetings are necessary, then the IPs/ICCs leaders will be given time to consult their members. During this time, the proponent will not be allowed in the community.
6. **Community Assembly** – After the consensus building, the NCIP will call a community assembly where the IPs/ICCs will vote to accept or reject the project and to articulate the conditions for accepting or the reasons for rejecting the project.
7. **Memorandum of Agreement** – If the IPs/ICCs accept the project and the project proponents agree with the conditions, a memorandum of agreement shall be executed between the proponent, host IPs/ICCs and the NCIP, written in the dialect or language of the concerned IPs/ICCs, with corresponding English and Filipino translations. The memorandum of agreement shall stipulate, among others: (i) benefits due to the host IPs/ICCs; (ii) measures to protect the IPs' rights and value systems; and (iii) the responsibilities of the proponent as well as those of the host IPs/ICCs and the NCIP.
8. **Issuance of Certificate of FPIC** – The Certificate of FPIC will be issued by the IPs/ICCs after the signing of the memorandum of agreement. In case the IPs/ICCs reject the proponent, it will issue a certificate of rejection.



Source: Nestor Castro.

A flowchart of the CP/FPIC process is given in *Figure 2*.

Figure 2. Schematic Diagram of the CP/FPIC Process.



Source: NCIP.

Aside from undergoing the above process, the proponent of any policy, program, project, or activity requiring the FPIC is required to submit to the IP community and the NCIP the following: (i) an undertaking of full disclosure of records and information relevant to the policy, program, project or activity, and allow full access to records, documents, material information and facilities pertinent to the same; (ii) an Environmental and Socio-cultural Impact Statement, detailing all the possible impacts on the ecological, economic, social and cultural aspect of the community; and (iii) an undertaking pledging that it will answer for damages which the IPs/ICCs may suffer resulting from the policy, program, project, plan or activity. Pursuant to this, the proponent may be required by the IPs/ICCs to deposit a cash

bond or post a surety bond with the NCIP equivalent to a percentage of its investments. The amount of bond shall be determined by the NCIP with the concurrence of the IPs/ICCs based on the impact of the project. Finally, the proponent is also required to underwrite all expenses attendant to securing the FPIC of IPs/ICCs.

According to NCIP Administrative Order No. 3, s. 2002, the role and responsibilities of the various NCIP offices with regard to the CP/FPIC process are the following:

Ancestral Domains Office:

1. Evaluates and validates, if necessary, the field-based investigation and the conduct of the FPIC process;
2. Monitors the field-based investigation/FPIC process; and
3. Keeps duplicate copy of the memorandum of agreement.

NCIP Regional Office:

1. Collects and issues official receipt to the proponent for the inspection fee on the conduct of the field-based investigation;
2. Conducts the census or genealogical survey of IPs/ICCs concerned;
3. Documents the customary practices on consensus building among the affected IPs/ICCs;
4. Evaluates and coordinates the FPIC Action Plan;
5. Facilitates registration of the authentic indigenous peoples' organizations, elders, leaders, and representatives of families and clans;
6. Facilitates the execution of the memorandum of agreement and endorses it to the Commission through the Director of the Legal Affairs Office for review and authority to sign as third party;
7. Monitors the compliance of the terms and conditions stipulated in the memorandum of agreement; and
8. Keeps certified true copy of the memorandum of agreement.

The roles and responsibilities of other NCIP national offices and sub-regional offices are not clearly defined in the administrative order. It just mentions that three members of the five-member field-based investigation team shall come from the concerned provincial office or the community service center while the two other members, including its team leader, shall come from the regional office.

5. **5.1 Legal Framework**

The IPRA is considered a landmark legislation that finally addresses the centuries-old problems confronted by the IPs, such as ethnic discrimination, underdevelopment, and political non-representation. It incorporates the key elements of universally accepted concepts on the protection of IPs affected by any program, project and business or profit-oriented undertaking, among which are: (i) screening for their presence and assessment of the impacts of programs, projects and any business or profit-oriented investments; (ii) consultations with IPs prior to any development interventions; (iii) securing broad community support among IPs for the program, or project or undertaking; (iii) provision of culturally appropriate benefits to the IPs; and (iv) recognition of their customary land tenure and rights to natural and cultural resources. The IPRA even goes beyond the principle of consultation and calls for the securing of free and prior informed consent by the IPs/ICCs on any plans, program, projects and activities that fall within their domains. In this sense, it is an adequate framework to protect the rights of the IPs in the Philippines.

In Part II, Section 1 of the implementing rules and regulation, the NCIP considers itself as “an independent agency under the Office of the President” and that “the administrative relationship of the NCIP to the Office of the President is characterized as a lateral but autonomous relationship for the purposes of policy and program coordination... Matters of day-to-day administration or all those pertaining to internal operations shall be left to the discretion of the Chairperson of the Commission, as Chief Executive Officer.” In Rule IX, Section 6, it provides that “no inferior court of the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against the NCIP or any of its duly authorized or designated offices in any case, dispute or controversy arising from, necessary to, or interpretation of the Act and other pertinent laws relating to IPs/ICCs and ancestral domains.”

Despite the strengths of the IPRA, there are still many legal issues that need to be confronted. More specifically, the IPRA has conflicts with several Philippine laws. In many instances, these conflicts have affected the implementation of the CP/FPIC process. Some project proponents have opted to delay their investments within ancestral domains pending the resolution of legal issues relevant to the IPRA. On the other hand, others have invoked on these other laws that conflict with the IPRA in order to circumvent the processes and procedures outlined in the CP/FPIC guidelines.

Conflicts Between the IPRA and Other Laws

Certain provisions of the IPRA and the NCIP issuances are perceived to be in conflict with other laws of the land including those with the NIPAS Act, the Philippine Mining Act,

and the National Museum Act. These conflicts may be classified as substantive issues, jurisdictional issues, and procedural issues.

It is clear in Philippine jurisprudence that in case of conflict, the provision of the law that is the most recent is the one that is usually binding. However, at the agency level, the implementing rules and regulations that are just subsidiary laws will often conflict with other laws and their implementing rules and regulations. These are resolved either through harmonization of the agencies' implementing rules and regulations or by court action when there is litigation.

Substantive Issues

Ancestral Domain vs. Public Domain

The IPRA recognizes the IPs' option to secure a certificate of title under Commonwealth Act 141 (Public Land Act), as amended. According to Section 12 of the IPRA, "individual members of cultural communities, with respect to their individually-owned ancestral lands who, by themselves or through their predecessors-in-interest, have been in continuous possession and occupation of the same in the concept of ownership since time immemorial or for a period of not less than 30 years immediately preceding the approval of this Act and uncontested by the members of the same IPs/ICCs, shall have the option to secure title to their ancestral lands under the provisions of Commonwealth Act 141, as amended, or the Land Registration Act 496." The option granted under this section shall be exercised within 20 years from the approval of the IPRA.



Source: Philippine National Oil Company Energy Development Corporation.

However, applying the provisions of the Public Land Act to ancestral domains/lands lends support to the idea that these domains/lands are held from the State. Though time immemorial possession is expressly admitted, ancestral lands are still considered as public lands and only upon compliance with the required period of occupancy does possession ripen into ownership. The Public Land Act does not in any way recognize original or pre-conquest vested right that is tantamount to a native title. On the other hand, ancestral domains/lands can only be owned through the State's administrative grace.

Native Title vs. Private Title

Section 9 of the Comprehensive Agrarian Reform Law (CARL) acknowledges the superiority of lands that have come under the operation of the Torrens System of titling as against ancestral domains/lands. The law states, “For purposes of this Act, ancestral lands of each ICC shall include, but not be limited to lands in the actual, continuous and open possession and occupation of the community and its members, provided, that the Torrens System shall be respected.” Thus, in case of conflict between ancestral domains/lands and Torrens titles, CARL will settle in favor of the titled lands.

Ancestral Waters as Part of Ancestral Domain

The Strategic Environment Plan for Palawan Act (RA 7611) defined tribal ancestral lands as those lands traditionally occupied by cultural minorities, comprising both land and sea areas identified in consultation with tribal communities concerned and the appropriate agencies of the government. The IPRA, on the other hand, limits ancestral domain to inland waters and coastal areas, and is silent with regard to sea areas. The two laws must, therefore, be harmonized.

Right to Traditional Practices vs. Right to Modernize

The implementing rules and regulation of the NIPAS Act (Department Administrative Order 92-25) state that “the zoning of a protected area and its buffer zones and management prescriptions within those zones shall not restrict the rights of indigenous communities to pursue traditional and sustainable means of livelihood within their ancestral domain unless they so concur; ... “traditional” shall mean using no power machinery in extraction process and consistent with historically customary techniques of production (Section 10).” Certain IP advocates perceive this as running contrary to the concept of the right to self-determination of indigenous peoples as defined by the IPRA. Advocates say it is up to the IPs themselves whether they want to maintain traditional subsistence practices within their domain or whether they would want to modernize their technologies just like the dominant segments of Philippine society.

Jurisdictional Issues

The IPRA has conflicts with several laws with regard to jurisdictional issues, i.e., which agency should be in charge of responding to specific concerns.

NCIP vs. National Museum

There is a conflict on which agency should be in charge of the country’s cultural properties. According to Republic Act 4846 (Cultural Properties Preservation and Protection Act), as amended by Presidential Decree 374, only the National Museum of the Philippines can undertake archaeological explorations, assessments and excavations. Anyone violating this law will be fined. Because of these laws, National Museum personnel believe that they have the mandate to engage in archaeological work in any part of the country, including those within ancestral domains. Agencies or individuals wanting to engage in archaeological

practice, e.g. those in the academe, have to seek a permit from the National Museum to be able to practice their craft.

On the other hand, Section 33 of the IPRA states that “it shall be unlawful to explore, excavate, or make diggings on archeological sites of the IPs/ICCs for the purpose of obtaining materials of cultural values without the free and prior informed consent of the community concerned.” Section 46(c) also mentioned that the NCIP, through its Office of Education, Culture and Health, “shall also monitor the activities of the National Museum and other similar agencies generally intended to manage and preserve historical archeological artifacts of the IPs/ICCs.” Furthermore, Section 37 of the IPRA identified that “IPs/ICCs shall have the right to receive from the national government all funds especially earmarked or allocated for the management and preservation of their archeological and historical sites and artifacts with the financial and technical support of the national government agencies.”

The two laws obviously contradict each other. Many IPs resent the fact that archaeologists from the National Museum go to their ancestral domains and engage in archaeological excavations without securing their consent.

NCIP vs. ARMM

One conflict between the the IPRA and the Organic Act for Muslim Mindanao is with regard to jurisdiction over ancestral domains/lands. The IPRA is silent as to whether the NCIP has jurisdiction over ancestral domains within the Autonomous Region in Muslim Mindanao. Chapter VII, Section 52 (i) of the IPRA states, “Turnover of Areas within Ancestral Domains Managed by other Government Agencies – The Chairperson of the NCIP shall certify that the area is an ancestral domain. The Secretaries of DAR, DENR, Department of the Interior and Local Government (DILG), Department of Justice (DOJ), the Commissioner of the National Development Corporation, and other government agencies claiming jurisdiction over the area shall be notified thereof. Such notification shall terminate any legal basis for the jurisdiction previously claimed.” Since there is no mention of the ancestral domains/lands within the Autonomous Region in Muslim Mindanao, it can be interpreted that it will retain its jurisdiction over ancestral domains/lands within its territorial jurisdiction.

Ancestral Domain Holders vs. Protected Area Management Board

The NIPAS Act calls for the establishment of a Protected Area Management Board (PAMB) for each protected area. The PAMB shall decide on matters pertaining to planning, peripheral protection, and general administration of the protected area in accordance with the general management strategy. The PAMB shall be headed by the Regional Executive Director of the DENR and its members shall be composed of: one representative from the autonomous regional government, if applicable; the Provincial Development Officer; one representative from the municipal government, one representative from each barangay covering the protected area; one representative from each tribal community, if applicable; and at least three representatives from NGOs/local community organizations; and, if necessary, one representative from other departments of national government agencies involved in protected area management.

In case the protected area overlaps with an ancestral domain area, there are potential conflicts between the PAMB, on one hand, and the traditional political structure of the ancestral domain holders, on the other hand, in terms of managing the protected area (*Box 2*). The issue is whether it is the PAMB or the ancestral domain holders who will decide on matters pertaining to the protected area.

IPRA vs. Mining Act on the Issuance of FPIC

The revised implementing rules and regulation of the Philippine Mining Act (Department Administrative Order 96-40) requires “prior informed consent” from communities before mineral agreements, Financial or Technical Assistance Agreements (FTAAs) or mining permits are granted. Elements of the process include public notification, sector consultation through a community assembly, and royalty payments of not less than one percent of the mining and milling costs. However, these guidelines were issued prior to the enactment of the IPRA and establishment of the NCIP. As such, the role of the NCIP is nowhere defined in the implementing rules and regulation of the Mining Act.

More concretely, several memorandum of agreements between IPs and mining companies that were signed prior to the enactment of the IPRA did not include the NCIP as a party to the agreement. In such instances, the NCIP is demanding amendment to these memorandum of agreements so that it can be a signatory to the agreements (*Box 3*). Many mining companies, however, point out to the IPRA Section 56, which states that “Property rights within the ancestral domains already existing and/or vested upon the effectivity of this Act, shall be recognized and respected.”

Box 2. Protected Area Management in Mt. Kitanglad.

In 2001, the Protected Area Superintendent (PASu) of the Mt. Kitanglad Range Natural Park (MKRNP) charged some of the tribal elders in the area with the violation of the NIPAS Act for engaging in logging activities within the Park. According to the IRR of the NIPAS Act, “Hunting, destroying, disturbing or mere possession of any plant or animal or products derived therefrom without a permit, specifically authorizing such activity, from the Board or, in the case of indigenous cultural communities, without a mutually agreed policy” are considered as prohibited acts (Section 70). Since there is no mutually agreed policy between the indigenous peoples – the Bukidnons, Higaonons, and Talaandigs – and the Protected Area Management Board (PAMB) on this matter, the logging activities were deemed as illegal acts from the point of view of the PASu. Moreover, the IRR of NIPAS Act only allows the indigenous peoples to go into the Strict Protection Zone of the Park in case of “ceremonial or religious use by indigenous communities” while in the Sustainable Use Zone, the “indigenous community members... may be allowed to collect and utilize natural resources using traditional sustainable methods that are not in conflict with biodiversity conservation requirements” (Section 10). Since the use of chainsaws for logging is non-traditional, the PASu considers the act as illegal.

On the other hand, Datu Migketay Victorino Saway argued that the IPs had the right to engage in timber-cutting activities in the Park based on their rights to ancestral domain as mandated by IPRA. The Bukidnons, Higaonons, and Talaandigs claim the entire MKRNP as their ancestral domain and thus, according to the IRR of IPRA, the IPs have the rights of ownership of their ancestral domain and the right to develop lands and natural resources within this domain (Part I, Sections 1-2). Furthermore, the *datu* (chieftain) claimed that the tribal elders of the MKRNP were the real managers of the protected area and not the PAMB. In retaliation, the tribal elders imposed a sala (sanction) – equivalent to the death penalty – on the PASu for preventing the IPs from exercising their rights. The sala can only be lifted if the accused agrees to pay a fine consisting of several heads of draft animals. Up to the present, this sala has not been lifted and the case remains unresolved.

**Compiled by the authors.*

Box 3. The B'laans and the Tampakan Copper-Gold Project.

Shortly after the passage of the Philippine Mining Act in 1995, a Financial or Technical Assistance Agreement was signed between the Philippine government and the Australian-owned Western Mining Corporation (WMC) allowing the latter to develop the Tampakan Copper-Gold Project in the border areas of South Cotabato, Sultan Kudarat and Davao del Sur. In August 2002, the Sagittarius Mines, Inc. (SMI) acquired the rights to the said project from the WMC.

Two years later, the SMI forged a Principal Agreement (similar to a Memorandum of Agreement) with the B'laans of Salnaong in Sultan Kudarat, as represented by the Salnaong Tribal Council, the *bong fulong* (big man), and the other *fulong* (traditional headmen) of the Salnaong B'laans. According to this Agreement, "the Community consents to the opening and use of the Schedule One Land for mineral development and utilization; and agrees to the compensation, relocation commitment, royalties, community development program and community development commitment provided for in this Agreement." The Mines and Geosciences Bureau (MGB) of the DENR and the lawyers of the B'laans acted as witnesses to the Agreement. The Regional Office of the NCIP wanted to be a party to the Agreement but this was not entertained by the SMI because the Mining Act does not require the NCIP as a signatory to any agreement between project proponents and indigenous peoples.

The Principal Agreement also provided that "in the event of any disputes or disagreements arising out of this Agreement the parties shall endeavor to resolve the dispute between them by referring it to mediation by a panel comprised of a Manila-based representative of each of the NCIP, DENR, MGB and the President of the Republic of the Philippines." This proviso is clearly in conflict with Rule IX, Section 1 of the IPRA Implementing Rules and Regulations which states that "All conflicts related to ancestral domains or lands where one of the parties is a non-IP/ICC or where the dispute... shall be heard and adjudicated in accordance with the Rules on Pleadings, Practice and Procedures before the NCIP to be adopted hereafter."

** Compiled by the authors.*

Procedural Issues

State Law vs. Customary Laws

The Local Government Code states that in barangays where the majority of the inhabitants are members of ICCs, the customs and traditions of the latter shall be applied in settling disputes among its members (Section 412). In conciliation proceedings among members of ICCs, the customs and traditions shall be applied in settling disputes. For the settlement under customary laws to be a bar to a subsequent filing of a case in court, there must be attestation of successful settlement. The attested settlement shall have the same force and effect as that of a settlement arrived at through the procedures provided upon the expiration of 10 days from the date the attested copy of settlement is received by the *Punong Barangay* (village chief).

However, the Local Government Code indicates that if there is a dispute between a member and a non-member of ICCs, the general law – that is, the State law – and not the customary law shall apply because the latter only applies to settling disputes between members of the same cultural minorities. The IPRA, however, does not have a specific provision on how disputes between a member and a non-member of ICCs will be resolved. On one hand, there is no mechanism that states that the Local Government Code shall prevail in such a situation, although in the Philippine jurisprudence, newer laws prevail over older laws. Thus the IPRA, being more recent, may apply but then again it is silent on how the disputes would be resolved, thereby adding to the confusion.

Philippine EIS System vs. Environmental and Socio-cultural Impact Statement

Presidential Decree 1586 (EIS System) provides that "no person, partnership or corporation shall undertake or operate an environmentally critical project or project within an environmentally critical area without first securing an environmental

compliance certificate.” The procedural manual for DENR Administrative Order 03-30 identified social acceptability by stakeholders as a necessary requirement in the granting of an environmental compliance certificate. The public participation processes include the identification and profiling of stakeholders; conduct of information, education and communication (IEC); public participation in scoping meetings; public participation in baseline data gathering; public participation in impact identification, prediction and evaluation; public participation in the planning process of the EIS; undertaking of public consultations; and convening a public hearing.

On the other hand, Rule IV, Section 6b the IPRA implementing rules and regulation calls for the submission of an Environmental and Socio-cultural Impact Statement by all proponents. This Statement should contain details of “all the possible impact of the policy, program, project or activity upon the ecological, economic, social and cultural aspect of the community as a whole.”

The relationship between this Environmental and Socio-cultural Impact Statement and the Philippine EIS System is not clear. In the past, the Environmental Management Bureau (EMB) of the DENR has been requiring project proponents to submit a certification from the NCIP that the proposed project site is not within an ancestral domain. The dominant view now from the DENR is that this requirement should no longer be a prerequisite in the granting of environmental compliance certificates.

5.2 Institutional Framework and Organizational Effectiveness

The assessment of institutional adequacy evaluated the NCIP as the primary agency mandated to implement the IPRA. The review found that there is an adequate institutional framework to implement the IPRA. The NCIP has the policy-making body at the central office composed of seven Commissioners coming from major ethnographic areas, one of whom is appointed as the Chairperson. It has six offices at the central office, including the ADO. It also has 12 regional offices each headed by a Regional Director, 46 provincial offices and 108 service centers at the city and municipal levels. The institutional set up ensures that there is a central office to issue policies and provide advice and guidance, with the regional, provincial and service centers implementing the policies and issuances and ensuring that IPs are not disadvantaged in the CP/FPIC process.

The NCIP, however, has experienced several organizational challenges due to its inadequate human, logistic and financial resources to effectively carry out its diverse functions. The CP/FPIC is just one of its many functions assigned to its ADO, which is saddled with the enormous tasks of delineating ancestral domain areas and issuing certificate of ancestral domain titles and certificate of ancestral land titles. In regional and provincial offices, there is only one person that oversees the CP/FPIC process. The NCIP does not have trained anthropologists to undertake ethnographic research and analyze and respond to cross-cultural problems. Basic requirements to efficiently and effectively implement the CP/FPIC process in particular and the IPRA in general, are not met which include full identification of the IPs and their territories, the proper representation of all major sectors within the ancestral domain and providing the NCIP with adequate resources.

IPs and Their Territories Not Yet Identified

A problem, which is immediately apparent, is the lack of a system to specify who these IPs are and where their ancestral domains are located. The law only provided a general definition of the IPs/ICCs, ancestral domain and ancestral land (*Box 4*). Despite numerous studies by anthropologists on indigenous ethnolinguistic groups, the law was passed ahead of the full delineation of the IP territories and determination of the status of the integrity of their cultures and socio-political systems. Without proper identification and mapping of IPs, the system can be manipulated by vested groups (*see Box 5 for the case of the Tasadays*).



Source: Nestor Castro.

Box 4. Legal Definitions of Indigenous Peoples, Ancestral Domain and Ancestral Lands (Section 56).

Indigenous Cultural Communities/Indigenous Peoples – refer to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. Likewise, IPs/ICCs include people who are regarded as indigenous on account of their descent from the populations who inhabited the country at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

Ancestral Domains – refer to all areas generally belonging to IPs/ICCs comprising lands, inland waters, coastal areas and natural resources therein, held under a claim of ownership, occupied or possessed by the IPs/ICCs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by IPs/ICCs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of IPs/ICCs who are still nomadic and/or shifting cultivators.

Ancestral Lands – refer to land occupied, possessed and utilized by individuals, families and clans who are members of the IPs/ICCs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations including residential lots, rice terraces or paddies, private forests, swidden farms and tree lots.

The NCIP claims that there are about 12 million IPs in the Philippines. (*Table 2 shows the population of IPs per region.*) It is not very clear, however, as to how these figures were gathered. It is known that the National Statistics Office did not include ethnicity as a variable in its census of Population and Housing. The NCIP IP population count reflects that there are no IPs in Region VIII (Eastern Visayas) although anthropologists and linguists know that there are Mamanwas in Leyte and Southern Leyte. It is also not clear as to how those coming from mixed ethnic backgrounds are classified (e.g., a son of a Tagalog father and an Iraya Mangyan).

Different sources reveal different numbers and ethnic names for IPs and other ethnolinguistic

groups. In particular, the list of IPs/ethnolinguistic groups of the NCIP, the National Museum, and the Private Enterprise Development Corporation of Asia (PEDCA) reveal several incompatibilities. (*Refer to Annex C for the comparison of lists of indigenous peoples.*) There are some groups that are mentioned in the NCIP list but are absent in the lists of the two other sources. There are also those that are identified in either the National Museum or the PEDCA lists but are absent in the NCIP list. Moreover, there are other lists done by anthropologists, such as H. Otley Beyer (1918), Marcelo Tangco (1951), Robert Fox (1974), and F. Landa Jocano (1994). Other institutions have already mapped the presence of these IPs. One such agency is the Ateneo-based Environmental Science for Social Change, Inc. (ESSC), which has produced a map relating to the IPs of the Philippines with distinct ecosystem types.

Box 5. The Tasadays: A Case of Invented Ethnicity.

In 1971, PANAMIN Director Manuel Elizalde announced to the world the discovery in a cave in South Cotabato of the Tasadays, an alleged stone-age tribe composed of 26 individuals. The discovery attracted the interest of the international scientific community. The Marcos government received a lot of external funding for research on the Tasaday and the preservation of their habitat. In 1986, however, the Tasadays were exposed to be a hoax, based on the findings of the national and international anthropological community.

The Tasaday controversy proved that ethnic identity can be manipulated by certain individuals or institutions with vested interests. Certain groups can claim to be “indigenous peoples” in order to reap economic and political benefits from the Philippine government and other agencies.

**Compiled by the authors.*

Table 2. Regional Distribution of Indigenous Peoples in the Philippines.

REGION	ESTIMATED IP POPULATION
CAR (Cordillera Administrative Region)	1,252,962
Region I (Ilocos)	1,039,447
Region II (Cagayan Valley)	1,014,955
Region III (Central Luzon)	227,675
Region IV (Southern Tagalog)	717,122
Region V (Bicol)	185,448
Region VI (Western Visayas)	145,959
Region VII (Central Visayas)	29,150
Region IX (Northern Mindanao)	1,137,197
Region X (Western Mindanao)	1,444,503
Region XI (Southern Mindanao)	2,539,767
Region XII (Central Mindanao)	855,760
Region XIII (Caraga)	874,456
ARMM (Autonomous Region of Muslim Mindanao)	313,749
Total	11,778,150

Source: NCIP website 2006.

There are various reasons for the discrepancies found in the lists. One reason lies on whether certain ethnic labels refer to distinct IP groups or are mere subgroups of the same IP community. For example, the Adassen, Binongan, Maeng, and Masadiit are mentioned in the NCIP list as distinct IP groups but are considered as mere subgroups of the Tinggian in the other lists. Another source of confusion is the different ethnic

names used by the people belonging to the same cultural area. For example, the Ilongot of Nueva Vizcaya and Quirino prefer to be called as “Bugkalots,” while their counterparts in Aurora prefer to use the term “Ilongot.” A third reason is whether some groups should be considered as “IPs” or as other socio-cultural groups. For example, the NCIP field in Bohol classifies the Eskaya as IPs while many anthropologists reject the notion that the Eskaya is an ethnic group but a mere religious sect. Moreover, the NCIP considers some groups as IPs even if these groups are very much acculturated, have embraced Christianity,

and/or have no concepts of communal property in contradiction with the IPRA's definition of who IPs are. For example, as early as 1918, Beyer (in Tangco 1951) already considered the Ibanags and Ivatans as belonging to the Christian peoples of the Philippines together with other dominant ethno-linguistic groups such as the Tagalogs, Sugbuanons and Ilokanos, but the NCIP still considers them as IPs.

A study commissioned by the Philippine National Oil Company Energy Development Corporation (PNOC EDC) on the various IPs within and around Mt. Apo revealed that the barangay system has already replaced the indigenous socio-political



Source: Philippine National Oil Company Energy Development Corporation.

systems of these groups (Castro 1995). Many IPs have already intermarried with mainstream settlers. Since the identification of IPs/ICCs and the delineation of ancestral domains are assigned to the NCIP, the value of this law in terms of providing social safeguards to the IPs depends largely on the effectiveness and efficiency of the NCIP in profiling and mapping these IPs and their territories.

The NCIP uses the framework of “self-ascription” in identifying IPs without a built-in verification process. The NCIP inherited the old list of “cultural communities” from its predecessor institutions, i.e., the ONCC and OSCC, and merely converted this into a “list of IPs” even if many of these groups are minority only in terms of population but belong to Christian and acculturated groups.

Inadequate Representation from Non-IPs

The IPRA and its implementing rules and regulations were enacted on the premise that the IPs are underprivileged and unrepresented and that non-IPs are minority and informal settlers in ancestral lands. Although the IPRA provides that property rights already existing within the ancestral domain shall be respected, it does not have specific provisions for the adequate representation for non-IPs both during the delineation of the ancestral domain and the planning and decision-making for development activities within the ancestral domain. The implementing rules and regulation provide that only the IPs and the NCIP can delineate the ancestral domain. The fact that the NCIP always represents the interest of IPs and is given the legislative, executive, and judicial powers is one great source of apprehension of non-IPs. However, as currently practiced, non-IPs can register their objection during the identification and demarcation of ancestral domains. Pragmatically, the NCIP has not prioritized the awarding of certificate of ancestral domain titles in areas where there is widespread opposition by migrant groups. However, once certificate of ancestral domain titles are issued, the IPRA is not explicit about the role of non-IPs.

This problem is more pressing in many parts of Mindanao where the IPs are the minority even within their ancestral domains. According to the IPRA, “All conflicts pertaining to property rights, claims and ownership, hereditary succession and settlement of land disputes within ancestral domains/ lands shall be resolved in accordance with the customary laws, traditions and practices of the IPs/ICCs in the area where conflict arises. If the conflict between or among IPs/ICCs is not resolved, through such customary laws, traditions and practices, the Council of Elders/Leaders who participated in the attempt to settle the dispute shall certify that the same has not been resolved. Such certification shall be a condition precedent for the filing of the complaint with the NCIP, through its regional offices for adjudication (IPRA implementing rules and regulations, Rule III, Part II, Section 8).” There are serious doubts, however, as to whether these customary laws can be imposed upon a dominant migrant population. One can ask whether the ancestral domain can be effectively managed in such a situation and without the representation of the non-IPs.

Box 6. Ethnic Tension in Mount Kanlaon.

“This mountain belongs to the indigenous people! Leave this place at once or something bad will happen to you,” shouted Auring (not her real name) to the Protected Area Superintendent (PASu) of the Mount Kanlaon Natural Park and his staff members one day in 1998. The PASu came to investigate the claim of Auring, a leader of the Bukidnons of Codcod, a village located on the slopes of Mount Kanlaon, and the Iliranan Tribal Council. Auring and the members of the Tribal Council are claiming the village as part of the ancestral domain of the Bukidnons.

Two years before the incident, the Iliranan Tribal Council was not yet in existence. The Bukidnons of Codcod belonged to the Codcod Tribal Council. The Office of Southern Cultural Communities (OSCC) asked the said Council to apply for a Certificate of Ancestral Domain Claim (CADC) for the area. The tribal officials, however, refused since they did not want to offend the Visayan residents who comprise the ethnic majority of Codcod. According to them, they have intermarried with these Visayans and have good relations with them. As a matter of fact, Bukidnon households are interspersed in between Visayan households. There is not a single area within the village that is homogeneously Bukidnon.

Because the tribal council did not heed the OSCC’s instructions, the latter organized a rival tribal council – the Iliranan Tribal Council, which is located in Sitio Iliranan of Codcod. It was the Iliranan Tribal Council that pursued the demand for a CADC. This claim, however, was contested by the Visayan residents in the area, who questioned why the Bukidnons, a minority in the village, will become the owners of the entire territory. Moreover, they did not agree that the entire territory be subject to the customary laws of the Bukidnons. This led to tensions in the previously harmonious relationship between the Visayans and the Bukidnons. Even the Bukidnons have become divided into those who supported the ancestral domain claim and those who were against it.

**Compiled by the authors.*

Resource Constraints of the NCIP

The NCIP has enormous mandates that include the delivery of services and the provision of social infrastructure and livelihood projects to very diverse IP communities. However, being a relatively young agency, the NCIP is bogged down by meager human, logistical and financial resources.

The program of activities of the NCIP points to the fact that safeguards, through the CP/FPIC process, is just one of its many functions. This function is assigned particularly to its ADO, which is saddled with the enormous tasks of delineating ancestral domain areas and the issuance of certificate of ancestral domain titles and certificate of ancestral land titles. The survey and validation of certificate of ancestral land titles applications are already by itself a gargantuan task considering an estimated 5.11 million hectares that need to be delineated. To a limited extent, the 2006 FPIC Guidelines has addressed this problem

by delegating the field-based investigation process from the ADO to the NCIP regional offices. However, the approval and issuance of certificates is still centralized. Moreover, there is only one person in each regional office that is designated to oversee all CP/FPIC applications and activities.

Despite the urgent task of delineating ancestral domains and ancestral lands, it is receiving only a modest budget. In 2004, the NCIP had a total allocation of PhP 536 million (*Table 3*). About 57 percent of the NCIP budget goes to Personnel Services (PS). The rest goes to maintenance and other operating expenses. (*Refer to Figure 3 for the breakdown of the NCIP MOOE allocation in 2004.*) The Scholarship Fund received the biggest share because the 2003 allocation of PhP80 million for the fund was only released in 2004. Special funds include partial releases for Benguet Province funded by the National Power Corporation. Due to lack of government support, IP communities still depend on support from other entities. The Mt. Apo Foundation Inc., created in 1993 and funded by PNOC EDC, also supports educational programs within the Mt. Apo Natural Park, namely: (i) collegiate scholarship; (ii) high school financial assistance; (iii) law scholarship grant; (iv) masteral educational scholarship project; and (v) teachers back-to-barangay project.

The NCIP does not have a breakdown on its budget allocation for the CP/FPIC activities. All expenses incurred in the CP/FPIC process were charged to the project proponent. The NCIP Administrative Order No. 3, s. 2002, and reiterated in Administrative Order No. 1, s. 2006, requires the project proponent or the FPIC applicant the payment of field-based investigation fees and FPIC fees to the NCIP. While

Table 3. Actual budget released by the Department of Budget and Management to the NCIP in FY 2004.

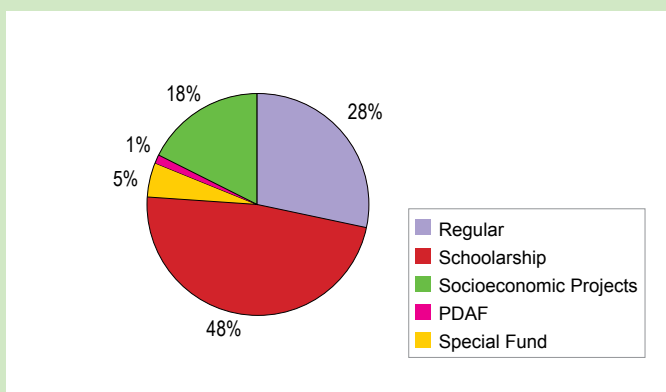
Particulars	PS (million PhP)	MOOE (million PhP)	Total (million PhP)	Per Capita Allocation (PhP/IP)*
Central Office	46.16	11.15	57.31	-
CAR	42.06	42.86	84.92	67.78
Region I	19.23	15.88	35.12	33.78
Region II	25.41	23.02	48.43	47.72
Region III	22.96	8.00	30.96	135.98
Region IV	22.70	10.70	33.40	46.58
Region V	14.06	4.88	18.94	102.14
Region VI & VII	15.73	4.80	20.53	117.25
Region IX	19.29	14.57	33.85	29.77
Region X	19.01	14.11	33.12	22.93
Region XI	24.10	19.42	43.52	17.13
Region XII	16.46	18.49	34.96	40.85
Region XIII	19.70	13.69	33.39	38.19
Others	-	27.93	27.93	-
Grand Total	306.88	229.50	536.38	41.62**

*Based on regional IP population given in Table 2.

**Based on IP population of 12,887,291.

Source: NCIP Annual Report 2004.

Figure 3. Distribution of MOOE Allocation of NCIP in 2004.



Source: NCIP Annual Accomplishment Report 2004.

this measure has contributed to the overcoming of the NCIP's budgetary limitations, many IP advocates question this arrangement as it allegedly makes the CP/FPIC process vulnerable to bribery. According to Uy (2004), "The fact that costs incurred in the procurement of the FPIC are to be borne by the project proponent, this might encourage corruption and is inconsistent with the idea of a process supposed to be free from undue influence."

Given its enormous mandate, there is a need to increase NCIP's regular budget. Most importantly, the NCIP should spend its resources towards the IPRA's effective and efficient implementation, such as the delineation of ancestral domain, identification of the IPs, documentation of customary laws and the IP decision-making process in each IP group.

Safeguard Process

The Philippine IP safeguard process, as enshrined in the IPRA, goes beyond the principle of consultation and calls for the securing of FPIC from host IPs/ICCs. In practice, this consultation process is not a single, one-time event but rather is a continuous one, requiring projects to constantly engage host IPs/ICCs towards renewing their ongoing consent for the project.⁴

The IPRA incorporates most of the key elements and universally accepted concepts on the protection of IPs:

1. **Screening for the presence of IPs** is done by the NCIP through a field-based investigation as part of the CP/FPIC process. Screening for the presence of IPs can also occur during the EIS process and the conduct of the environmental impact assessment (EIA) under the EIS System, as the Philippine EIA scoping process is sensitive to IPs and other social issues.
2. **Screening for impacts on IPs** – The CP/FPIC process does not have a clear mechanism for screening projects in terms of its impacts to the IPs. So far, the guidelines consider all projects in the ancestral domain as having an impact to the IP community. For projects outside the ancestral domain, the EIS process is expected to address impacts on IPs.
3. **Definition of IPs** – The IPRA has a very broad definition of IPs/ICCs, which embraces the concepts of self-ascription or self-identification, differentiation from the mainstream Filipino society, attachment to land and its natural resources, separate socio-cultural and political institutions, and distinct language (*see Box 4*). The law also recognizes the predicament of IPs as being marginalized culturally and economically.
4. **Consultation with IPs** occurs prior to any development as no project is allowed without the FPIC. The CP/FPIC process ensures consultation with the IP community in a manner that is voluntary, free from external manipulation, iterative and broad-based. The FPIC guidelines also require that the consultation process shall be conducted according to the customary processes of the community.

⁴For example, a certificate of compliance to the FPIC process may have been given to a particular company only for project exploration and not for construction and operation. In this case, the proponent will need to secure again the consent of the IPs during construction and operation. There are also instances when, at the time of securing the consent from the IPs, the proponents do not have the full project details and therefore could only provide the IPs the information at hand. The proponents will need to inform the IPs again and get their consent once the full project details are known. In this regard, the FPIC should be seen as a process and not as an event.

5. **Broad community support among IPs** – The system requires not only broad community support but actual consent which in effect gives the IPs the veto power over development projects, policies, plans and programs.
6. **Environmental and social assessment** – The project proponent is required to submit an Environmental and Socio-cultural Impact Statement to the IPs and to the NCIP.
7. **Culturally appropriate benefits** – As part of the FPIC, a memorandum of agreement on the intended benefits is required between the project proponent and the IPs.
8. **Recognition of customary land tenure** – The IPRA is basically a land tenure law. It not only recognizes native or customary titles; it also recognizes the IPs' collective ownership of a territory called the ancestral domain.
9. **IPs and Protected Areas** – The rights of IPs within the protected areas such as natural parks, national parks, protected landscapes, protected seascapes and wildlife sanctuaries are recognized and protected under the NIPAS Act.
10. **Rights to natural and cultural resources** – The IPs' collective ownership of the ancestral domain includes natural and cultural resources including indigenous knowledge. Hence, consent from the IPs is required for any commercial or non-commercial exploitation of these resources.
11. **IPs Plans** – The proponent is not required to prepare a separate Indigenous Peoples Plan (IPP) similar to that required by the World Bank based on its Operational Policy 4.10. However, the Environmental and Socio-cultural Impact Statement is required to include impact mitigation and a Social Development Plan. Under the IPRA, the NCIP is also assisting the IPs in the preparation of their Ancestral Domain Sustainable Development and Protection Plan.

While the implementing rules and regulation of the IPRA outline the procedures and requirements for securing FPIC, these remain insufficient and are prone to different interpretations. For example, some NCIP officials believe that a 100 percent approval by the entire community is necessary in order to be considered as consent to a particular activity or project. Other officials believe that a majority vote is sufficient to be considered as consent. Others have argued that the approval of a tribal chieftain is enough if that is the traditional mode of decision-making by a particular indigenous community. Finally, there are others who believe that a *barangay* (village) or municipal resolution supporting a particular activity or project is equivalent to consent in cases where the IPs dominate the affected village or town and the LGU officials are also indigenous leaders. These differences of opinion are reflective of the ongoing confusion as to what really constitutes FPIC. Thus, despite the implementation of the IPRA since 1997, there are still projects that claim to have secured consent but whose validity are being questioned because of complaints that consents have not been properly obtained.

Implementation Performance

The adequacy of implementing the CP/FPIC process is measured in terms of how efficiently it is being carried out and how effective the process and the outcomes are. The proxy indicators to measuring efficiency include: (i) timeliness in the processing and completing the CP/FPIC; (ii) time spent and cost incurred by the NCIP in administering the process; (iii) the selection and prioritization of areas and projects where the NCIP

has given attention and focus given its limited resources; and (iv) cost incurred by the proponents in complying with the process.

Measuring effectiveness on one hand, appears to be challenging. The effectiveness of the CP/FPIC process can be gauged if the said process is actually being implemented on the ground by IPs themselves with the support of the various NCIP offices. Another way of assessing the effectiveness of the CP/FPIC is to look into whether the implementation of the process meets its desired objective, which is to enable IPs to exercise their right to self-



Source: Philippine National Oil Company Energy Development Corporation.

determination. In such a case, it is important to find out whether the implementation of the FPIC guidelines has contributed to the empowerment of IPs. Unfortunately, the NCIP has not identified key indicators as to how the aforementioned objective can be met. As proxy indicators of effectiveness, one can therefore look into the concrete outcomes of the FPIC based on the number of FPIC applications received and processed by the NCIP and the number of consents given by the IPs to development interventions falling within ancestral domain areas. Others could include recorded complaints on the consents already given and incidences of consents being revoked or invalidated due to charges of manipulations.

Efficiency

The Implementation of the CP/FPIC Process Does Not Make Use of Existing Knowledge on the Location of IPs

The NCIP's approach to the IP safeguard process through the CP/FPIC, especially the screening of projects through field-based investigation is inefficient and does not benefit from existing knowledge about the general location of the IP population. Since the formal mapping and delineation of ancestral domain areas has not yet been completed, the NCIP policy is to subject each and every project in all areas to field-based investigation. Even though, by NCIP's admission, ancestral domain claims constitute only 17 percent of the total land area of the country, Administrative Order 3-2002 does not require a preliminary screening of projects in areas that are generally known to be outside IP territories. Projects are only cleared from the FPIC requirement after a field-based investigation proves that the area is outside an ancestral domain claim. It is therefore not surprising that between the periods 2004-2006 more than 90 percent of the projects issued with certification preconditions are outside the ancestral domain areas (*Table 4*).

Because of the policy of not excluding projects from obviously non-IP areas in the CP/FPIC process, the NCIP is spending too much time and its meager resources on projects outside IP areas and on those without any impact on IPs. This also creates the impression

that the CP/FPIC process is a requirement to the project approval process in non-IP areas. There also appears weak targeting and prioritization of projects that undergo CP/FPIC as shown in *Table 5*, where too much attention and focus have been given to regions with the least number of IPs (Regions VI & VII with only 1.49% IP population). The NCIP could have devoted more attention in regions where IPs are clearly heavily present (e.g., CAR and Region XI).

Table 4. Issued CP/FPIC from 2004-2006.

Region	As of 2004			As of 2005			As of 2006		
	Not Covered (CP)	Covered (Certificates of FPIC)	Total	Not Covered (CP)	Covered (Certificates of FPIC)	Total	Not Covered (CP)	Covered (Certificates of FPIC)	Total
CAR	1	3	4	1	4	5	2	5	7
R-I	6	1	7	29	1	30	37	1	38
R-II	5	0	5	27	1	28	44	2	46
R-III	10	0	10	27	1	28	47	3	50
R-IV	20	2	22	56	6	62	92	8	100
R-V	22	0	22	52	1	53	74	3	77
R-VI & VII	40	0	40	131	0	131	178	0	178
R-IX	2	0	2	3	0	3	13	0	13
R-X	3	0	3	8	0	8	14	1	15
R-XI	2	3	5	7	5	12	22	13	35
R-XII	4	1	5	16	1	17	20	3	23
R-XIII	4	3	7	21	3	24	30	5	35
Total	119 (90%)	13 (10%)	132	378 (94%)	23 (6%)	401	574 (93%)	45 (7%)	619

Source: NCIP Annual Accomplishment Report 2006.

Table 5. Certificates Issued vs. IP population from 2004-2006.

Region	Estimated IP Population	Percentage of IP Population (%)	Certificate of No Overlaps Issued	Percentage (%)	Certificates issued within Ancestral Domain	Percentage (%)
CAR	1,252,962	10.64	4	25	12	75
Region I	1,039,447	8.82	72	96	3	4
Region II	1,014,955	8.62	76	96	3	4
Region III	227,675	1.93	84	95	4	5
Region IV	717,122	6.09	168	91	16	9
Region V	185,448	1.57	148	97	4	3
Region VI and VII	175,109	1.49	349	100	0	0
Region IX	1,137,197	9.66	18	100	0	0
Region X	1,444,503	12.26	25	96	1	4
Region XI	2,539,767	21.56	31	60	21	40
Region XII	855,760	7.27	40	89	5	11
Region XIII	874,456	7.42	55	83	11	17
ARMM*	313,749	2.66	*	*	*	*
Total	11,778,150	100.00	1,070		80	

*Excluded from ARCDP2 sites, hence data were not collected.

Source: Second Agrarian Reform Communities Development Project, Department of Agrarian Reform.

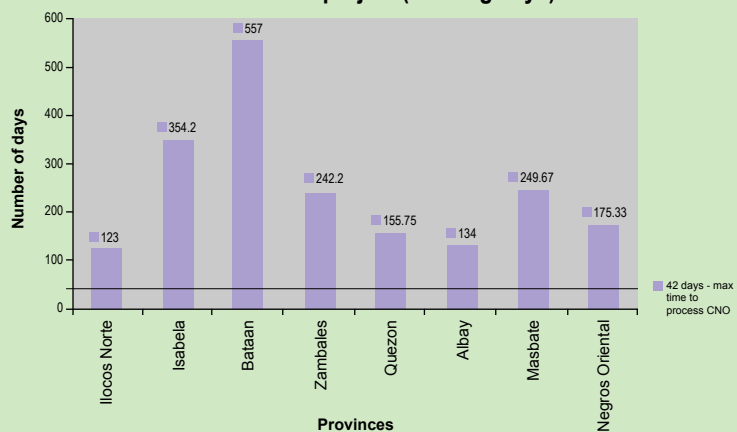
The Need to Improve FPIC Processes and Timeliness

There are also complaints about the length of time involved in the processing and approval of the CP/FPIC even for projects outside of the ancestral domain areas. Records of the CP/FPIC application and approval of the subprojects financed under the World Bank-financed Second Agrarian Reform Communities Development Project (ARCDP2) shows that the processing and approval of CP/FPIC applications even for projects that are outside of ancestral domain areas took much longer (123-557 working days) than what is required under the guidelines of 42 working days (*Figure 4*).

For projects within ancestral domain, the approval is even longer because of the consultations and

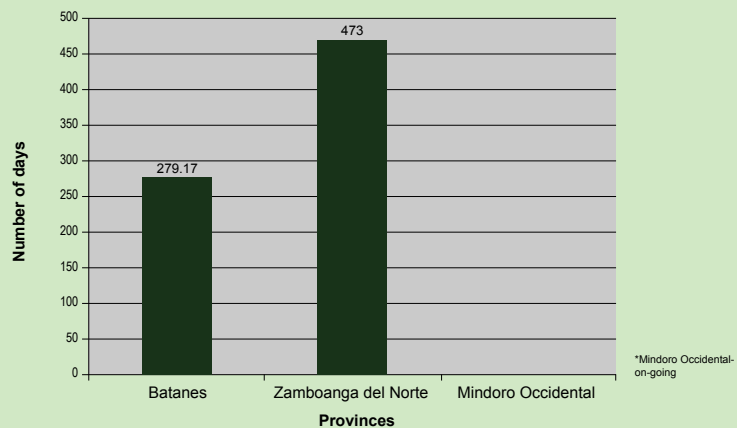
negotiations with the concerned IP communities (*Figure 5*). In the Tanay environmental enhancement sub-project, for example, which is financed by the World Bank through the Laguna de Bay Institutional Strengthening and Community Participation Project, the memorandum of agreement between the local government unit of Tanay and the IPs belonging to the Remontado was only signed by all parties two years after the field-based investigation was completed. This sub-project has a component whose beneficiaries are the Remontados themselves. There are indications that the CP/FPIC requirement is deterring project proponents from investing in IP areas. Developers are also discouraged by the cumbersome requirement of the CP/FPIC process as well as the fact that the outcome of the process is uncertain. In some instances, even after the FPIC has been issued, special interest groups coming from outside the ancestral domain or those outside of the direct impact areas continue to hurl charges of manipulation, thus making the operation of the project politically difficult for the government and the proponents. The Mindex Project is an example of such a case (*Box 7*). The NCIP is aware of the bureaucratic inefficiency of the CP/FPIC procedures as outlined in Administrative Order 3-2002, and this is the reason

Figure 4. Average Duration of Processing Certificate of Non-Overlap in ARCDP2 Subproject (working days).



Source: Second Agrarian Reform Communities Development Project, Department of Agrarian Reform.

Figure 5. Average Duration of Processing Certificate of Precondition Within Ancestral Domain Area.



Source: Second Agrarian Reform Communities Development Project, Department of Agrarian Reform.

why it has promulgated Administrative Order 1-2006 with the hope of streamlining and fast-tracking the process.

Cost involved in CP/FPIC

There is no breakdown of the cost incurred by the NCIP in facilitating the CP/FPIC process. In terms of direct monetary cost, this may be negligible considering that all costs are being charged to the proponents. However, translated into staff time, this may be substantial given the human resource constraints of the NCIP relative to its huge mandates. In ARCDP2, the costs incurred by the proponents to secure the CP/FPIC range from PhP4,000 to PhP83,000. This may even increase depending on the number of meetings and consultations. Big projects like mining and infrastructure that are strictly required to adhere to the process presumably are spending much more. The costs reflected for ARCDP2 do not include the benefits that accrue to the IPs as agreed in the signed memorandum of agreement. Moreover, costs incurred by the proponents for the delays in issuing the certification preconditions and/or because of the questions raised after the consent has been given, are also not monetized, which could be substantial.

Clearly, there are inefficiencies in the implementation of the CP/FPIC process primarily because its implementation does not make use of existing knowledge on the location of the IPs, the length of time to process and approve applications, and the greater attention and resources being spent on projects that are outside ancestral domain areas.

Effectiveness

As of December 5, 2005, the NCIP had issued 378 certification preconditions for projects that do not overlap with ancestral domains and ancestral domain claims. There were no CP/FPIC applications from 1998 until early 2002 due to the moratorium on CP/FPIC applications imposed upon the NCIP when the IPRA's constitutionality was challenged before the Supreme Court.⁵ It was only in 2002 when the NCIP began to process CP/

Box 7. The Mangyans and the Philippine EIS System.

In 1998, Mindex applied for an ECC from the DENR for its US\$650-million Mindoro Nickel Project (MNP) in Sablayan, Occidental Mindoro. To gauge the project's social acceptability, the EIA Review Committee asked Mindex to submit a proof of FPIC from the IPs found in the Direct Impact Area (DIA). Based on this requirement, Mindex submitted a copy of the Memorandum of Agreement that it signed with the Lupang Ninuno Kabilogan Mangyan, Inc. (LNKMI) and witnessed by the NCIP Regional Director, proving that the Mangyans in the DIA were giving their FPIC to the project.

However, the provincial federation of Mangyan organizations—the Kalipunan Para sa Lupaing Ninuno (KPLN) – contested the claim that Mindex was able to secure a genuine FPIC. The group invoked the IPRA that defined FPIC as “the consensus of all members of the IPs/ICCs” (IRR Rule II, Section 1k). Thus, the KPLN believed that the LNKMI represented only a minority of the project's stakeholders. The group argued that all Tadyawan Mangyans and all Alangan Mangyans should be the ones to provide the FPIC and not only those found within the DIA.

**Compiled by the authors.*

⁵A case was filed on September 28, 1998 by former Supreme Court Justice Isagani Cruz and Atty. Cesar Europa questioning the constitutionality of the IPRA based on three major issues: (i) the granting of the right of ownership to IPs over ancestral lands, including minerals and other resources, violates the Constitution which provides that all mineral resources belong to the State; (ii) use of customary laws within ancestral domain violates the Philippine jurisprudence which requires that all laws should first be published before these are formalized into laws, whereas customary laws are unwritten; and (iii) the IPRA provision on the right of IPs to limit the entry of migrants into their domains violates the Filipinos' basic right to mobility and abode within the country. The case was dismissed by the Supreme Court on December 6, 2000 because of a technicality, i.e., the SC justices were divided and voted 7-7, and not on the merits of the case.

FPIC applications and only a year later when the first certification precondition issuances were released. Thus, the low certification preconditions turnout from 2002-04 is quite understandable as compared to relatively more certification preconditions in 2005.

When it comes to the issuance of certificates of compliance (certificate of compliance to FPIC process and certification that the community has given its consent), the NCIP issued 58 certificates of compliance from 2004 to 2006 (*Table 6*). The number of certificates of compliance issued has improved from 2004 to 2006, and just for the first month of 2007, an additional four certificates of compliance were handed out. The performance by region, however, is uneven. Regions XII and XIII have relatively high accomplishments while most of the other regions have very low accomplishments.

Table 6. Number of Certificates of Compliance Issued by the NCIP, by Region from 2004-2006.

REGION	2004	2005	2006	TOTAL
CAR	3	1	2	6
Region I	1	0	1	2
Region II	0	0	2	2
Region III	0	1	3	4
Region IV	2	4	4	10
Region V	0	1	2	3
Region VI-VII	0	0	1	1
Region IX	0	0	2	2
Region X	0	0	1	1
Region XI	3	2	7	12
Region XII	1	1	3	5
Region XIII	3	0	7	10
ARMM	0	0	0	0
Total	13	10	35	58

Source: NCIP Ancestral Domains Office 2007.

There are many pending applications for FPIC and many of these applications were filed way back in 2000 to 2002. While there may be other factors that may contribute to the delay of their processing (e.g., proponents not paying the field-based investigation fees, community taking a long time to decide whether to give its consent, etc.), the effectiveness of the FPIC guidelines can still be questioned since the FPIC processing time (i.e., from the time the proponent applies for FPIC) could go on forever. There are also no certificates of compliance issued in the Autonomous Region in Muslim Mindanao (ARMM). While the the ARMM is not under NCIP jurisdiction but rather under the OSCC-ARMM, this reflects the identified problem of conflict between the IPRA and the Organic Act of Muslim Mindanao. It would seem that IPs, in general, and issuances of certificate of ancestral domain titles/certificate of ancestral land titles and CP/FPICs in particular, are not the priorities of the ARMM.

The socio-political level of the IP group may also be a factor in the issuance of certificates of compliance (or giving the consent to FPIC). Semi-nomadic or previously nomadic Negrito groups (e.g., Mamanwa, Agta, Ati, Ayta) are relatively more generous in giving their consent to outsiders compared to traditionally warrior societies (e.g., B'laan, Itneg, Kalinga, etc.).

Given its limited manpower and resources, the NCIP does not have a system in place for prioritizing projects that need processing. Moreover, the NCIP is criticized for prioritizing projects with more funds. For example, priority is given to FPIC applications by mining

corporations that are able to pay high field-based investigation and FPIC fees instead of social development projects by other proponents that do not have as much funds as these corporations. Such was the case in Zamboanga where there were accusations that the NCIP has been too busy attending to activities undertaken by the TVI (a mining corporation) to the detriment of other projects, such as the ARCDP2 of DAR.

FPIC's effectiveness on the ground remains unclear due to the presence of several data gaps within NCIP's information system. However, it appears that it had been effective in some areas while ineffective in others. For example, the Kankanaeys and Bagos of Bakun, Benguet, gave their consent to the operations of the Luzon Hydro Corporation to operate a small hydropower project in Barangay Kayapa. A memorandum of agreement had been forged between the IPs, as represented by the Bakun Indigenous Tribes Organization, and the private company with the NCIP acting as witness. The memorandum of agreement stipulated that priority hiring will be given to local residents and that a percentage share of the income derived from power generation will be given to the IPs.

On the other hand, there are cases where consent was already given to the project proponent by the IPs only to be withdrawn by the latter for various reasons. Such was the case for the coal mining project of MG Mining and Energy Corporation in South Cotabato. MG Mining had secured an FPIC from the T'bolis of Barangay Ned, Lake Sebu for their exploration activities in the area. However, there were protests coming mainly from church groups outside the mining claim area that forced the T'bolis to reconsider their decision and thus withdrew their consent. In other instances, a memorandum of agreement had already been forged between the project proponents and the IPs with the latter deciding later to back out from the agreement, as experienced by the Western Mining Project in Tampakan, South Cotabato (*Box 8*).

It can be said that the CP/FPIC has truly empowered IPs to freely exercise their rights to self-determination within their domain. However, the full effectiveness of the process and expected outcomes are compromised by: the ability of the NCIP to effectively and efficiently facilitate the process; the capacity of the IPs to assert their rights to meaningful participation and informed decision-making; charges of manipulative actions and corrupt practices by big corporations to secure the consent of the IPs; misrepresentation of some IP groups/organizations claiming to represent the IPs; the different interpretations of what constitutes consent; and the instability of the consent even after the memorandum of agreement has been signed.

Box 8. Stability of the FPIC Process.

In 1998, the B'laans of the Folu Bato Ancestral Domain in Tampakan, South Cotabato gave their free and prior informed consent to the Western Mining Corporation (WMC), an Australian-owned corporation, allowing the latter to explore the area for copper and gold deposits. Based on the implementing rules and regulations of the IPRA, a Memorandum of Agreement – referred to by the WMC as the “Principle Agreement” – was signed between the company and the B'laans on February 23, 1998. Among the salient points of this agreement was that the Tribal Council –

- Shall allow company personnel, vehicles and equipment access to the land and will not prevent, harass or hinder the company in carrying out its activities pursuant to the Financial and Technical Assistance Agreement (FTAA) and will not do anything to prejudice the FTAA;
- Will not obstruct, disturb or prevent the free travel by company personnel and contractors along the roads and within the land; and
- Will not take, support or promote any actions or conduct by any member of the community that may prevent or impede the company's operations, the renewal and continuance of the FTAA, or which may jeopardize or threaten financial arrangements made by WMC in relation to its mining operations, and will exercise all reasonable endeavors to discourage and prevent any member or members of the community from taking such action.

In exchange, the B'laans would receive the following financial commitments, benefits and privileges from the mining company: operations and administration fund; community development fund; community quota for rotational workers; financial assistance to student grantees and scholars; and emergency medical assistance.

In 2002, the WMC transferred its rights to explore and develop the area – through an FTAA with the Philippine government – to another corporation, namely Sagittarius Mines, Inc. (SMI). Thus, the Principle Agreement was amended to reflect SMI as a new party to the agreement with the B'laans in lieu of WMC. From 2002 to 2006, SMI claims that it had already spent P8.25 million in financial and non-financial benefits for Folu Bato.

In October 2007, however, the Folu Bato Tribal Council demanded a renegotiation of the Principle Agreement with SMI since it believed that a new agreement was long overdue. Among the demands of the Tribal Council was an increase in the royalties to be received from the revenues of the gold-copper mine. On the 16th of the said month, the Tribal Council initiated the establishment of roadblocks to prevent SMI personnel and their contractors from carrying out drilling activities within the area unless their demands to the company are met. SMI considered this move by the B'laans as a violation of the Principle Agreement and thus suspended the provision of financial benefits and other privileges that are due to the Tribal Council. Up to the present time, the situation has remained unresolved since neither party has given in to the other's demands.

** Compiled by the authors.*

5.3 Other Safeguard-Related Activities

The implementation of the CP/FPIC is among the many functions of the NCIP. It is also engaged in the accreditation of IP organizations, the issuance of certificate of ancestral domain titles and certificate of ancestral land titles⁶ the preparation of Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs), undertaking of cultural mapping and IP censuses, and the codification of customary laws. The status of these is as follows:

1. **Accreditation of IP organizations** – As of 2005, the NCIP has accredited 34 IP organizations, including municipal Councils of Elders, associations, cooperatives and foundations.

⁶ The NCIP issues two types of documents for land ownership. The first is the certificate of ancestral land title, which is issued to a specific individual or a clan. Land covered by this may be sold but only to members of the tribe to which the present title-holder belongs. The other is the certificate of ancestral domain title which is issued to a particular IP community. The said property cannot be sold to anyone and any transaction involving it cannot put the ownership of the property at risk. (Source: Ed Sumangil, NCIP).

2. ***Delineation and issuance of certificate of ancestral domain titles*** – The NCIP has issued or approved 29 certificate of ancestral domain titles from 2002 to 2004, with a total land area of 604,143 hectares and involving 150,099 beneficiaries. In 2003 to 2004, there were 56 certificate of ancestral domain title applications involving 1,091,151 hectares. As of January 10, 2005, only one of these same applications has been approved while the rest were still being processed under the Provincial Delineation Action Plan. There were 32 other certificates of ancestral domain title applications under the category “Other certificate of ancestral domain title Target Areas for CY 2004” involving 379,186 hectares. As of January 14, 2005, only three of these applications have been approved. For 2005, the NCIP listed a total of 71 priority ancestral domain areas for titling, covering a total land area of 1,404,376 hectares (NCIP 2006). This accomplishment of the NCIP with respect to the issuance of ancestral domain titles is quite small considering the number of ancestral domain claims in the country. The NCIP was bogged down with a lot of problems that delayed the issuance of certificate of ancestral domain titles. Among these problems were: (i) the lack of technical expertise in boundary delineation; (ii) the lack of financial and logistical resources in this endeavor; (iii) ancestral domain boundary disputes between IPs and non-IPs and among different IP groups; (iv) absence of prioritization with to ancestral domain delineation; and v) being reactive instead of pro-active in identifying ancestral domain claims.
3. ***Preparation of Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs)*** – In 2004, the NCIP was able to issue an ADSDPP Primer containing the guidelines for the formulation of ADSDPPs. The ADSDPP is supposed to facilitate the conduct of the FPIC process by exempting non-extractive projects from the CP/FPIC process. As of 2005, only six ADSDPPs have been officially recognized by the NCIP (*Table 7*). There are many other known ADSDPPs that have been initiated and formulated by IPs themselves but have not yet been officially recognized by the NCIP. Some IP advocates question the soundness of NCIP Administrative Order No. 3, s. 2002, which mandated that the NCIP should assist the IPs in the formulation of ADSDPPs in cases where there are pending applications for CP/FPIC in the ancestral domain. According to them, this is tantamount to violating the right to self-determination of the IPs as it is up to the latter whether they want ADSDPPs or not and at what pace they want to develop it if they so desire.

Table 7. Formulated and Officially Recognized ADSDPPs.

Location	Area	Individual Beneficiaries	Year ADSDPP Approved	CADT/CALT Date Approved
Bucloc, Abra	*	*	*	*
Tubo, Abra	*	*	*	*
Malibcong, Abra	*	*	*	*
Bakun, Benguet	29,444.3449	17,218	*	07/18/2002
Kalanguya-Kalahan	30,758.5822	10,442	*	04/21/2006
Ocampo, Bicol	5,099.3430	5,622	*	03/25/2003

Source: NCIP Annual Accomplishment Report 2006.

RECOMMENDATIONS

6.

Based on the review, the following recommendations are hereby presented to improve the implementation of the IPRA:

6.1 Harmonizing the IPRA with other laws

The IPRA needs to be harmonized with other laws that impact on IPs including the Philippine Mining Act, the NIPAS Act, the National Museum Act, the EIS System and the Organic Act of Muslim Mindanao. The same is true with the implementing rules and regulations of the IPRA and other laws and their procedural guidelines, ordinances and other issuances. Through its Legal Affairs Office, the NCIP should “review and assess the conditions of IPs/ ICCs including existing laws and policies pertinent thereto and to propose relevant laws and policies to address their role in national development (IPRA implementing rules and regulations, Rule VII, Part III, Section 1a).”

The NCIP should follow up on its previous coordination with concerned institutions and agencies in harmonizing the IPRA with other laws. The Project Management Office of the Conservation of Priority Protected Areas Project had already initiated talks with the NCIP in 1999 to harmonize perceived conflicts between the IPRA and the NIPAS Act. Inter-agency discussions have also taken place concerning conflicts between the IPRA and the Philippine EIS System as well as the legalities of ancestral domain-public domain issues. The outcome of these talks, however, needs to be followed up. From here, the NCIP can expand its harmonization efforts to other concerned agencies.

The NCIP’s Environmental and Socio-cultural Impact Statement can be integrated into the overall Philippine EIS System. Integrating the review of this document within the EIS review process with an authorized NCIP representative as a resource person may be a better proposition. Aside from avoiding the duplication of the review activity, it can also benefit from the interdisciplinary expertise of the Environmental Impact Assessment Review Committee, thus enhancing its review.

6.2 Organizing and accrediting IP organizations

With traditional leadership and political systems already disappearing or, in some cases, replaced by the barangay system, project proponents are sometimes faced with no legitimate organizations to negotiate with. On the other hand, hastily organized groups or those that were organized for speculative purposes are also taking place. In these situations, the consents are often challenged by rival groups claiming to be legitimate “tribal organizations.” The proponents will thus have to put up with the uncertainty of the outcome of the FPIC process and the political uncertainty of the issued CP/FPIC.

This is a big challenge on the part of the NCIP as there are more than 100 IP groups identified in the country and it has only accredited 34 IP organizations. Although some

represent traditional bodies of IPs, a number of these organizations are special-purpose modern organizations, such as cooperatives and foundations. This is a carry-over from the practice of the previous ONCC and OSCC of organizing “tribal councils” even in situations when the community has no traditional concept of a “tribal council,” like in the case of former hunting-gathering bands. These introduced organizations eventually cause more problems than solutions because the practice of assigning leadership to a new elite body runs counter to the egalitarian traditions of the community.⁷

While it is important to organize IP communities so that they can effectively respond to pressures from external forces, the NCIP needs to respect and recognize the customary socio-political structures that exist, or have previously existed, among particular communities. The tendency for the NCIP to install Cordillera-type organizations all over the country, as reflected in the proliferation of introduced “tribal councils,” should be checked.

6.3 Identifying and profiling of IPs, delineating their territories, and documenting their customary laws and decision-making process

The implementation of the FPIC depends on the existence of legitimate and functioning IP organizations representing their community, their customary laws and known decision-making, and clearly defined ancestral domain boundaries. Whenever these conditions are not present, the screening of projects for the FPIC requirement is going to be difficult as the FPIC process will be long, its outcome difficult to predict, and its legitimacy prone to be questioned. The varying opinions on what makes up “consent” are due to the lack of written parameters. The decision-making process in each IP group must be identified and written down (e.g., some IP groups depend on their elders, some on a council, some on the whole assembly) and should be made clear at the start to the proponent and the NCIP. Otherwise, consultations and negotiations can be an endless process. An example was the attempt of Caltex in the 1970s and by the Department of Energy (DOE) in the 1990s to discuss with the IPs the geothermal prospects in a site in the Cordillera. Every time the proponent and the government go back to the area, they meet with varying tribal councils and personalities.



Source: Nestor Castro.

⁷ Castro (2000) has documented one such case among the Bukidnons of Mt. Kanlaon in Negros Island. The OSCC organized the Codcod Tribal Council in the community. When the said council refused to apply for a certificate of ancestral domain title, the NCIP organized a rival organization – the Iliranan Tribal Council. The Bukidnons now have to contend with two rival sets of leadership.

Given that these activities are basic building blocks to effectively and efficiently implement the IPRA, the NCIP should therefore prioritize these over other activities. A step in this direction is for the NCIP to link up with the National Statistics Office and the Philippine anthropological community in fine-tuning a mechanism and criteria for the proper identification and profiling of IP groups. At present, ethnicity is not yet a variable in the conduct of Philippine censuses. Language and religion remain as the proxy indicators in identifying ethnicity although these criteria may not be true for all occasions. For example, the Sama and Badjao of Tawi-Tawi both speak the Sinama language although the former is a Muslim group, while the latter is basically animist.

The NCIP should coordinate with various institutions and agencies in the delineation of IP territories. The NCIP has an ongoing pilot project with the National Mapping and Resource Information Authority (NAMRIA) for the mapping of ancestral domains but these efforts should further be expanded in coordination with other academic and private entities.⁸

With regard to the codification of customary laws, the NCIP is currently undertaking an International Labour Organization-United Nations Development Programme (ILO-UNDP) study on the documentation of the customary laws of the Kalingas of Lubuagan. Aside from this initiative, the NCIP should link up with other similar initiatives such as the Indigenous Law Project of the University of the Philippines College of Law. This project had already initiated the documentation of many customary laws such as those of the Ifugaos and the Kankanaeys. However, codification efforts should only be undertaken if the IP communities deem it necessary. There are two schools of thought among IP communities related to this endeavor. One point of view is that the codification of customary laws will assist the IP communities in the management of their ancestral domains. Thus, it will be beneficial if migrant populations are aware of these customary laws so that these laws can be followed and obeyed. On the other hand, some IP communities do not want their customary laws to be codified because they fear that they will be more vulnerable from outside forces as these groups may manipulate their laws for self-serving purposes. For example, private companies can easily afford to pay fines of carabaos or stoneware jars when they violate customary laws unlike ordinary IP citizens who are burdened by such fines. For the acculturated ethnic communities, however, it is no longer necessary to resurrect the customary laws that are no longer practiced. Instead, the mainstream political processes (i.e., the *barangay* system) should prevail in these communities since these are actually the ones that are followed and implemented at present.

The Office of Policy, Planning and Research of the NCIP should take the lead in undertaking these research activities related to the profiling of IPs, their traditional territories, and their customary laws.

⁸ The seven pilot areas of the NCIP-NAMRIA mapping project are the ancestral domains of the Ifugao in Kiangnan; the Bugkalot of Kasibu, Nueva Vizcaya, the Agta-Itom of Iriga City; the Ati of Dumarao, Capiz; the Kamigin of Mambajao and Sagay, Camiguin; the Manobo of Lapaz, Agusan del Sur; and the Manobo of Arakan, Cotabato.

6.4 Pre-screening of municipalities, cities, provinces and/or areas not subject to CP/FPIC

The NCIP requires all projects, plans, programs and business investments to undergo the CP/FPIC process even in areas that are clearly outside any known IP territory. This unnecessarily contributes to bureaucratic red tape and contributed to the inefficient use of the NCIP's meager resources. The NCIP needs to pre-screen areas, in terms of whole provinces, municipalities, cities, or barangays that no longer need to undergo the CP/FPIC process. Areas that clearly do not overlap with ancestral domains need to be automatically excluded from the CP/FPIC process.

The NCIP has recognized the need for this pre-screening of municipalities, cities, provinces and/or other areas when it introduced the concept of certificate of non-overlap in the 2006 FPIC Guidelines. The guidelines specifically mention that overlaps or non-overlapping areas will be determined based on "the duly approved master list of Ancestral Domain Areas" (Administrative Order 1, s. 2006, Section 15i). The current master list, however, duly approved by the NCIP only contains the certificate of ancestral domain titles, certificate of ancestral domain claim areas, and the list of *barangays* with IPs according to existing records. There is a need, therefore, to further improve and complete the master list to conform to the requirements of the FPIC.

6.5 Enhancing NCIP's organizational and technical capacity

Although its role in the safeguard process is largely facilitative, the NCIP also needs expertise to strengthen its capacity in the recognition and analyses of social and cultural issues associated with development projects and/or investments in ancestral domains and present these for the consideration of



Source: Philippine National Oil Company Energy Development Corporation.

the IPs. There are many provisions of the IPRA that are designed to protect and preserve the integrity of the IP cultures as well as the environmental and natural resources within the ancestral domains. These concerns should be the bases for the decision to grant consent or to reject a policy, program or project.

One area where the NCIP urgently needs to be enhanced is in the realm of improving the organization's cultural competence and the cultural sensitivity of its staff. Cultural competence refers to the process by which individuals and systems respond effectively and efficiently to people of all cultures, languages, classes, races, sexes, ethnic backgrounds, religions, sexual orientations, abilities, and other diversity factors in a manner that recognizes, affirms and values the worth of individuals, families, and communities, and

protects and preserves the dignity of each. Culturally competent organizations should be able to integrate and transform knowledge about diverse groups of people into specific standards, policies, practices, and attributes used in appropriate cultural settings to increase the quality of services producing better outcomes.

The present organizational structure of the NCIP is already sufficient. It is only a matter of balancing the responsibilities of each NCIP office. The ADO is saddled with too many responsibilities while other offices, both at the national and sub-national levels, are underutilized. In terms of manpower, the NCIP should have trained anthropologists among its regular personnel to reinforce the organization's capability in undertaking ethnographic research and in being able to analyze and respond to cross-cultural problems. The previous NCIP En Banc Commission recommended the creation of anthropologist positions in the organization's plantilla but this plan has never been implemented. At present, most of NCIP's trained field personnel come from the health and education professions because delivery of health and education services was the thrust of the defunct ONCC and OSCC.

The NCIP budget needs to be augmented for it to effectively perform its tasks. A regular budgetary allotment for undertaking field-based investigation activities is recommended. The expenses incurred during these regular activities should be borne by the NCIP and not by the project proponents. In such manner, the integrity of the process will be protected against cooptation and free from external manipulation.

The NCIP should prioritize its scarce financial and human resources with regard to the projects and areas that it selects for the FPIC process. Examples of these are mining projects where benefit-sharing arrangements would be a critical issue.

6.6 Improving the efficiency of the FPIC process and strengthening its credibility

The NCIP faces a dilemma of streamlining the processing of the FPIC and improving its political acceptability. The NCIP has already provided ways to facilitate projects within the ancestral domain areas by helping the IPs prepare their own Ancestral Domain Sustainable Development and Protection Plans. The projects that are included in the ADSDPP should no longer be subject to the FPIC process. The projects that are solicited by the IPs themselves must no longer go through the same process. The FPIC process includes elaborate safeguards so that the IPs' decisions are free from external manipulation and interference. However, there are still cases where the FPICs obtained by large corporations were reportedly secured through manipulation by special interest groups claiming to represent the interests of the IPs (*Box 9*). Much as the proponents are subject to stringent rules, these groups must also be subject to clear procedures on how and when they present their side to the IPs.

The 2006 FPIC Guidelines is already a substantial improvement from the two previous guidelines. Within a year, the new guidelines should be assessed so that it can again be improved. Among the areas that need to be re-examined in the guidelines is the requirement for project proponents to pay field-based investigation fees. Moreover, the provincial offices of the NCIP and its service centers should be given a greater role in the implementation

Box 9. Gifts and Hospitality, Bribery and Coercion.

Despite strong denials by TVI Pacific of Canada, there are reports that the company has offered money in return for support. The Christian Aid and PipLinks Report documented a case in which a village captain submitted a sworn affidavit that TVI's chief of security offered him money in return for supporting a motion promoting TVI. Likewise, members of the Council of Elders reported being offered PhP5,000 (\$90) to support the pro-TV resolution at the meeting in Zamboanga in October 2002. The Council of Elders are paid PhP6,000 (\$105) a month by TVI as an honorarium for attending meetings. TVI defends these payments on the grounds that it is offered to supporters and critics alike. However, the only people who attend Council of Elder meetings now that payments are offered are pro-TV members. In Subanon culture, taking money implies acceptance of and an obligation towards the giver.

Sources:

Molintas, JM 2004. "The Philippine Indigenous Peoples' Struggle for Land And Life: Challenging Legal Texts." *Arizona Journal of International and Comparative Law* Vol 21, No. 1. 2004.
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of the FPIC process. The NCIP should also be assisted in terms of developing practical methodologies for conducting the FPIC process. Specific methodologies and approaches should be developed for IP communities that no longer practice customary laws. These methodologies and approaches should be distinct from those designed for IP communities that still utilize such laws.

6.7 Assessing the long-term impact of the IPRA

There is a need to undertake a systematic, careful, and long-term impact assessment of how the IPRA has actually worked on the ground in terms of achieving its overall objectives. Through this long-term impact assessment, we may be able to know whether the IPRA really made a

positive difference for the indigenous peoples of the Philippines. Presently, however, it is difficult to assess the IPRA's overall impact at the grassroots level because of the several data gaps within NCIP's reporting system. This long-term impact assessment will require a systematic monitoring of how the IPRA has transformed or failed to transform, the lives of its intended beneficiaries.

To be able to implement the aforementioned recommendations, an Action Plan is hereby proposed that will take into consideration the achievement of the said recommendations over the short, medium, and long-term period (*Table 8*).

6.8 Action Plan

Table 8. SHORT-TERM ACTION PLAN. (Within 1 to 2 Years)			
<i>Recommendations</i>	<i>Targets</i>	<i>Performance Indicators</i>	<i>Lead Agency</i>
Harmonization of the IPRA with other laws	Identification of conflict areas between the IPRA and other laws and ordinances.	Revitalization of joint task forces between NCIP and other line agencies on harmonization of conflicting laws.	National Commission on Indigenous Peoples (NCIP), Department of Environment and Natural Resources (DENR), Department of Agrarian Reform (DAR), Autonomous Region in Muslim Mindanao (ARMM), National Museum
Organizing/accrediting IP communities	Development of criteria for organizing and accrediting IP communities.	Administrative order on accreditation of IP organizations issued.	NCIP
Identification and profiling of IP communities, delineation of their communities, and codification of their customary laws	Validation and finalization of existing list of IP groups.	Masterlist of IP groups and their locations approved by NCIP En Banc.	NCIP
	Collection of all available literature on IP customary laws.	Databank on customary laws available at NCIP central office.	NCIP, Academe
Pre-screening of municipalities, cities, provinces, and/or areas not subject to CP/FPIC	Development of a list of areas that are without IPs.	Masterlist of provinces without IPs prepared by ADO.	NCIP, League of Provinces
	Development of practical methodologies for conducting FPIC.	Different approaches for securing IPs with functional customary laws and for those of acculturated groups identified.	NCIP, Academe
Enhancing NCIP's organizational and technical capacity	Prioritization of NCIP's scarce financial and human resources.	NCIP project prioritization plan developed.	NCIP
Ensuring representation of non-IPs within ancestral domains	Development of criteria for non-IP representation.	Administrative order on representation of non-IPs in ancestral domains issued.	NCIP
Assessing the long-term impacts of the IPRA	Monitoring impacts of the IPRA at ground level.	Development of impact indicators.	NCIP

MEDIUM-TERM ACTION PLAN. (Within 3 to 5 Years)			
<i>Recommendations</i>	<i>Targets</i>	<i>Performance Indicators</i>	<i>Lead Agency</i>
Harmonization of the IPRA with other laws	Drafting of bills aimed at amending certain laws that conflict with the IPRA.	Draft bills ready for filing.	NCIP, Congress
Organizing/accrediting IP communities	Inventory and classification of different IP organizations and political structures.	Different typologies of IP organizations and political structures identified.	NCIP, Academe
Identification and profiling of IP communities, delineation of their communities, and codification of their customary laws	Delineation of ancestral domains.	CADTs issued.	
Pre-screening of municipalities, cities, provinces, and/or areas not subject to CP/FPIC	Development of a list of areas that are without IPs.	Masterlist of cities without IPs developed by ADO.	NCIP, League of Cities
Enhancing NCIP's organizational and technical capacity	Conduct of cultural sensitivity trainings for NCIP staff.	Training reports.	NCIP, Academe
Ensuring representation of non-IPs within ancestral domains	Non-IP representation in ancestral domains in place.	Status report on representation of non-IPs available.	NCIP
Assessing the long-term impacts of the IPRA	Development of a regular impact monitoring system.	NCIP Management Information System in place and functional.	NCIP

LONG-TERM ACTION PLAN. (More than 5 Years)			
<i>Recommendations</i>	<i>Targets</i>	<i>Performance Indicators</i>	<i>Lead Agency</i>
Harmonization of the IPRA with other laws	Passing of bills amending the IPRA or laws that conflict with the IPRA.	Bills passed into law.	Congress
Organizing/accrediting IP communities	Empowerment of IP organizations.	IP organizations are functional.	NCIP
Identification and profiling of IP communities, delineation of their communities, and codification of their customary laws	Delineation of ancestral lands.	CALTs issued.	NCIP, Land Registration Authority
	Codification of customary laws.	Customary laws published in the Gazette.	NCIP, Department of Justice
Pre-screening of municipalities, cities, provinces, and/or areas not subject to CP/FPIC	Development of a list of areas that are without IPs.	Masterlist of municipalities without IPs developed by ADO.	NCIP, League of Municipalities
Enhancing NCIP's organizational and technical capacity	Professionalization of NCIP.	Fulltime anthropologists within NCIP regional offices.	NCIP
Ensuring representation of non-IPs within ancestral domains	Resolution of conflicts between IPs and non-IPs in ancestral domains.	Documented case studies on conflict resolution in ancestral domains.	NCIP
Assessing the long-term impacts of the IPRA	Identification of the positive benefits and negative impacts of the IPRA at the grassroots level.	Socio-cultural impact statement on the IPRA.	NCIP, Academe

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PHILIPPINE LAWS CONCERNING THE INDIGENOUS PEOPLES

1. *Indigenous Peoples Rights Act and NCIP administrative issuances:*

- RA 8371 (Indigenous Peoples Rights Act of 1997)
- NCIP Administrative Order No. 1 (Rules and Regulations Implementing Republic Act No. 8371)
- NCIP AO 3, s. 1998 (Supplemental Guidelines in the Issuance of NCIP Certification precondition and FPIC)
- NCIP AO 1, s. 2002 (Guidelines for the Review and Verification of CADTs and CALTs)
- NCIP AO 2, s. 2002 (Revised Guidelines for the Conversion of Certificate of Ancestral Domain/Land Claims to Certificate of Ancestral Domain/Land Titles);
- NCIP AO 3, s. 2002 (Revised FPIC Guidelines)
- NCIP Administrative Circular No. 1, s. 2003 (Rules on Pleadings, Practice and Procedure before the NCIP)
- NCIP AO 3, s. 2003 (Guidelines for the Constitution and Operationalization of the Consultative Body)
- NCIP AO 1, s. 2004 (Formulation of the Ancestral Domain Sustainable Development and Protection Plan)
- NCIP AO 1, s. 2006 (The FPIC Guidelines of 2006)
- Medium-Term Philippine Development Plan for Indigenous Peoples, 2004-2008

2. *Land Laws:*

- Commonwealth Act No. 141 (Public Land Act)
- Commonwealth Act No. 2874 (Homestead Act)
- PD 512 (Rules and Procedures in the Acquisition and Use of Surface Rights)
- DAO 2, s. 1993 (Rules and Regulations for the Identification and Delineation of Ancestral Land and Domain Claims)
- DAO 34, s. 1996 (Guidelines on the Management of Certified Ancestral Domain Claims)
- Memo Circular No. 23, s. 1993 (Revised Procedures on the Transfer of Certificate of Stewardship to the Next-of-Kin of the Holders Thereof)
- RA 6657 (Comprehensive Agrarian Reform Law)

3. *Forestry Laws:*

- RA 7161 (Forestry Code of the Philippines)
- PD 705 (Revised Forestry Reform Code)
- DAO 4, s. 1989 (Revised Regulations Governing Rattan Resources)
- DAO 4-A, s. 1989 (Special Provisions for the Processing of Rattan Applications within Areas Reserved/Occupied by Cultural Communities)
- DAO 59, s. 1990 (Guidelines in the Confiscation, Forfeiture and Disposition of Conveyances Used in the Commission of Offenses Penalized Under Section 68, PD 705)

- DAO 4, s. 1991 (Revised Regulations Governing the Integrated Social Forestry Program)
- DAO 24, s. 1991 (Shift in Logging from the Old Growth Forest to the Second Growth Forest)
- Memo Circular No. 17, s. 1992 (Delineation of Functions and Implementation of the ISFP after the Devolution of Functions to the LGUs)
- DAO 22, s. 1993 (Revised Guidelines for Community Forestry Program)
- DAO 23, s. 1993 (Forest Land Management Program)
- DAO 54, s. 1993 (Amending DAO 59, s. 1990)
- DAO 7, s. 1994 (Revised Guidelines Governing the Issuance of Certificate of Origin for Logs, Timber, Lumber and Non-timber Forest Products)
- DAO 30, s. 1994 (Implementing Guidelines for Non-government Organization Assisted Community-Based Mangrove Forest Management) for the DENR
- DAO 15, s. 1995 (Revised General Guidelines in the Implementation of the Sub-classification of Forestlands and Other Inalienable Lands of the Public Domain)
- DAO 17, s. 1995 (Institutionalization of the Multi-sectoral Forest Protection Communities within the DENR System)
- Memorandum Order 4, s. 1995 (Creation and Constitution of the National Federation of Multisectoral Forest Protection Committees)
- DAO 24, s. 1996 (Rules and Regulation Governing the Socialized Industrial Forest Management Program)
- DAO 4, s. 1997 (Rules and Regulation Governing the Socialized Industrial Forest Management Program)
- Executive Ordinance No. 263 (Adopting Community-Based Forest Management as the National Strategy to Ensure the Sustainable Development of the Country's Forestlands Resources and Providing Mechanisms for its Implementation)
- DAO 29, s. 1996 (Rules and Regulations for the Implementation of EO 263)

4. *Agriculture and Fisheries Laws:*

- RA 8435 (Agriculture and Fisheries Modernization Act)
- RA 8550 (Fisheries Code)

5. *Laws on Mining:*

- RA 7076 (People's Small Scale Mining Act of 1991)
- DAO 34, s. 1992 (IRR of RA 7076)
- RA 7942 (Philippine Mining Act of 1995)
- DAO 40, s. 1996 (Revised IRR of Mining Act)
- PD 512 (Declaring Prospecting and Other Mining Operations of Public Use and Benefit)
- PD 1818 (Prohibiting Courts from Issuing Restraining Orders and Preliminary Injunctions in Natural Resource Development Projects by the Government)

6. *Laws on Environmental Conservation and Protection:*

- RA 7586 (National Integrated Protected Areas System Act)
- DAO 25, s. 1992 (IRR of NIPAS Act)
- RA 9072 (National Caves and Cave Resources Management and Protection Act)
- RA 9147 (Wildlife Conservation Act)

7. *Laws on the Environmental Impact Statement (EIS) System:*

- PD 1151 (Philippine Environment Policy)
- PD 1152 (Philippine Environment Code)
- PD 1586 (Philippine Environmental Impact Statement System)
- DAO 21, s. 1992 (Amending the IRR of the National Environmental Protection Council)
- DAO 37, s. 1996 (Revising DAO 21, s. 1992, to Further Strengthen the Implementation of the EIS)
- DAO 30, s. 2003 (Philippine EIS System Implementation Guidelines and Procedures)

8. *Laws on Genetic and Biological Resources:*

- RA 8423 (Traditional and Alternative Medicine Act)
- EO 247 (Prescribing Guidelines and Establishing a Regulatory Framework for the Prospecting of Biological and Genetic Resources, Their By-Products and Derivatives, for Scientific and Commercial Purposes; and Other Purposes)
- DAO 20, s. 1996 (IRR on the Prospecting of Biological and Genetic Resources)

9. *Laws on Cultural Properties:*

- RA 4846 (Cultural Properties Preservation and Protection Act)
- PD 374 (Amending Certain Sections of RA 4846)
- RA 8492 (National Museum Act of 1998)

10. *Laws on Local Governance and Autonomy:*

- RA 6734 (Organic Act for the Autonomous Region in Muslim Mindanao)
- RA 6766 (Organic Act for the Cordillera Autonomous Region)
- RA 7160 (Local Government Code of 1991)
- DAO 30, s. 1992 (Guidelines for the Transfer and Implementation of DENR Functions Devolved to the Local Government Units)
- RA 7611 (Strategic Environmental Plan for Palawan Act)
- RA 9054 (Amending RA 6734)

11. *Laws on the NCIP:*

- EO 1 (Creating the Office of the Presidential Adviser for Indigenous Peoples' Affairs)
- EO 364 (Subsuming the NCIP under the Department of Land Reform)
- EO 379 (Amending EO 364)

NCIP REGIONAL AND PROVINCIAL OFFICES

REGIONAL OFFICE	PROVINCIAL OFFICE	ADDRESS
<u>Cordillera Administrative Region (CAR)</u> 2/F Hillside Square, Km. 4, La Trinidad, Benguet	Abra	Abra Tingguian Center, Bangued, Abra
	Apayao	Eva Garden, Calanasan, Apayao
	Baguio City	Rm. 410, Centrum Comp., 358 Magsaysay Ave., Baguio City
	Benguet	Benguet Provincial Capitol, La Trinidad, Benguet
	Ifugao	Abul St., Poblacion South, Lagawe, Ifugao
	Kalinga	KSDA Compound, Bulanao, Tabuk, Kalinga
	Mt. Province	Bontoc, Mountain Province
Region I 2/F Martinez Bldg., Quezon Ave., San Fernando, La Union	Ilocos Norte	3/F Ilocano Heroes Hill, Laoag City
	Ilocos Sur	Provincial Capitol, Vigan City, Ilocos Sur
	La Union	Tourism Bldg., Sudipen, La Union
	Pangasinan	2/F Malong Bldg., Lingayen, Pangasinan
Region II No. 3 Rajah Soliman St., San Gabriel Village, Tuguegarao, Cagayan	Batanes	Basco, Batanes
	Cagayan	Lasam Service Center, Peru, Lasam, Cagayan
	Isabela	People's Coliseum, Santiago City, Isabela
	Nueva Vizcaya	Quirino Stadium, Bayombong, Nueva Vizcaya
	Quirino	Engineering Compound, Cabarroguis, Quirino

REGIONAL OFFICE	PROVINCIAL OFFICE	ADDRESS
Region III K&L Bldg., Consunji St., San Fernando, Pampanga	Aurora	Brgy. Reserva, Baler, Aurora
	Bataan	Balanga, Bataan
	Bulacan	Hilltop, Norzagaray, Bulacan
	Nueva Ecija	Cabanatuan City, Nueva Ecija
	Pampanga	Floridablanca, Pampanga
	Tarlac	Tarlac City
	Zambales	Iba, Zambales
Region IV 2/F A.B. Sandoval Bldg., Shaw Blvd. cor. Oranbo Ave., Pasig City	Mindoro Occidental	91 San Jose St., Payompon, Mamburao, Occidental Mindoro
	Mindoro Oriental	2/F OMPSTA Bldg., A. Ignacio St., Camilmil, Calapan City
	Palawan	Banua Ka't Katutubo, Provincial Capitol Compd., Puerto Princesa
	Quezon	168 Gomez St., Infanta, Quezon
	Rizal	J.P. Rizal St., Brgy. Sampaloc, Tanay, Rizal
	Romblon	2/F Old BPI Bldg., Odigiongan, Romblon
Region V City Hall Annex, San Fernando, Iriga City	Albay	Sangguniang Bayan Bldg., Centro Occidental, Polangui, Albay
	Camarines Norte	1 Rafer Bldg., Daet, Camarines Norte
	Camarines Sur	Municipal Hall Compound, San Juan, Pili, Camarines Sur
	Sorsogon/Masbate	Araceli D. Bote Bldg., Sorsogon City

REGIONAL OFFICE	PROVINCIAL OFFICE	ADDRESS
Region VI and VII 2/F UCPB Bldg., Plaza Rizal St., Jaro, Iloilo City	Antique/Aklan	Biniraya Hills, San Jose, Antique
	Bohol	Rm. 203, Calatrava Bldg., 48 Belderol St., Cogon District, Tagbilaran City
	Capiz Cebu	Poblacion, Tapaz, Capiz Rm. 206, Teodora Bldg., Cor. Osmeña Blvd., Jacosalen, Cebu City
	Guimaras	Capitol Bldg., San Miguel, Jordan, Guimaras
	Negros Occidental	Multi-Purpose Activity Center, Aguinaldo St., Bacolod City
	Negros Oriental	2/F MFS Bldg., National Highway, Bayawan City, Negros Oriental
Region IX P.L. Urro St., Pagadian City	Basilan	2/F Carlos Stand Tan Bldg., N. Valderosa St., Isabela City, Basilan
	Zamboanga del Norte	Provincial Capitol Bldg., Dipolog City
	Zamboanga del Sur	P.L. Urro St., Pagadian City
Region X 3-4/F Halasan Bldg., Cor. Tiano & del Pilar Sts., Cagayan de Oro City	Bukidnon	Sumpong, Malaybalay, Bukidnon
	Camiguin	Camiguin Service Center, Poblacion, Sagay, Camiguin
	Lanao del Norte	3/F Iglupas Bldg., Quezon Ave., Iligan City
	Misamis Occidental	Capitol Site, Oroquieta City, Misamis Occidental
	Misamis Oriental	2/F Halasan Bldg., Cor. Tiano & del Pilar Sts., Cagayan de Oro City

REGIONAL OFFICE	PROVINCIAL OFFICE	ADDRESS
Region XI E. Valenoso Bldg., Sandawa Plaza, New Matina, Davao City	Compostela Valley	CES Bldg., Nabunturan, Compostela Valley
	Davao City	Toril District Hall, Toril, Davao City
	Davao del Norte	Tagum Capitol Bldg., Mangkilam, Tagum City
	Davao del Sur	Capitol Compound, Matanao, Digos, Davao del Sur
	Davao Oriental	Franco Bldg., Rizal St., Mati, Davao Oriental
Region XII Bautista Bldg., Osmeña St., Koronadal City	North Cotabato	Masonic Center, National Highway, Kidapawan City
	Saranggani	Maasim, South Cotabato
	South Cotabato	Lapu-lapu St., General Santos City
	Sultan Kudarat	Monico Gonzalo Bldg., Cor. Peneza & Valencia Sts., Kalawag II, Isulan, Sultan Kudarat
Region XIII Capitol Ave., Butuan City	Agusan del Norte	T&S Bldg., Curato St., Cabadbaran, Agusan del Norte
	Agusan del Sur	Government Center, Patin-ay, Prosperidad, Agusan del Sur
	Surigao del Norte	Provincial Grandstand, Rizal St., Surigao City
	Surigao del Sur	Capitol Hills, Tandag, Surigao del Sur

COMPARISON OF LISTS OF INDIGENOUS PEOPLES IN THE PHILIPPINES

NCIP (2006)*	ESSC (1998)**	PEDCA (2003)***
Abaknon	Abelling/Aborlin	Aburlin
Adasen	Adassen Tinggian	
Aeta	Ayta	Ayta
Aeta-Abiyan	Abiyan Agta	
	Agay	
Agta	Agta	Agta
Agutaynen	Agutaynon	
Aklanon	Aklanon	
Alangan Mangyan	Alangan	Alangan Mangyan
Amduntug-Antipulu Ifugao		
Applai		
Arumanen		
Ata/Matigsalog	Ata	Ata
Ati	Ati	Ati
Ati/Bantoanon	Bantoanon	
Batak		
B'laan	Blaan	B'laan
Badjao	Bajau	Badjao
Bago		Bago
Bagobo		Bagobo
Bagobo-Guiangan/Clata	Bagobo-Giangan	Jangan Bagobo
Bagobo-Tagabawa	Manobo-Tagabawa	Tagabawa
Balangao	Balangao	Balangao
Balatoc		
Baluga		
Banac	Banao Kalinga	
Bangon	Bangon Mangyan	
Bantoanon		
	Banwaon	
Batak	Batak	

NCIP (2006)*	ESSC (1998)**	PEDCA (2003)***
Batangan Mangyan	Batangan	Batangan Mangyan
Binongan	Binongan Tinggian	
Bontok	Bontok	Bontok
Bugkalot	Ilongot	Ilongot
Buhid	Buhid Mangyan	
Bukidnon	Bukidnon (in Negros)	Bukidnon (in Negros)
Bukidnon (in Mindanao)	Bukidnon (in Mindanao)	
Butuanon	Butuanon	
Cimarron		
Cuyonon	Kuyonen	Cuyonon
Danao		
Dibabawon Manobo	Dibabawon	
Dumagat	Casiguran/Umiray Dumagat	Dumagat
Eskaya	Eskaya	
Gaddang	Gaddang	Gaddang
Gubang		
	Gubatnon Mangyan	
Hanglulo		
Hanunoo	Hanunoo	Hanunoo Mangyan
Higaonon	Higaonon Manobo	Higaonon
Ibaloi	Ibaloy	Ibaloy
Ibanag	Ibanag	Ibanag
Ifugao	Ayangan Ifugao	Ifugao
Ikalahan	Ikalahan/Kallahan	Kalanguya
Ikaluna		
Ilianen	Ilianen Manobo	
Inlaud	Inlaod Tinggian	
Ilanun	Iranun	
Iraya	Iraya	Iraya Mangyan
Isarog	Isarog Agta	
Isinai	Isinay	Isinay
Isnag	Apayao (Isnag)	Isnag
Itawes	Itawes	Itawes
Itbayat	Itbayat	
Ivatan	Ivatan	Ivatan
Iwak	I-wak	I'wak
Jama Mapun	Jama Mapun	Jama Mapun
Kagayanen		
Kalagan	Kalagan	Kalagan
Kalamianen		
Kalibugan	Kolibugan	

NCIP (2006)*	ESSC (1998)**	PEDCA (2003)***
	Kalingá (in Isabela)	
Kalinga	Tinglayan Kalinga	Kalingga (in Kalinga)
Kamayo	Kamayo	
Kamigin	Camiguin	
Kankanaey	Kankanai	Kankanaey
Karaga		
Karao		Karao
Karolanos		
Kasiguranin	Kasiguranin	
	Katagoan	
	Ke-ney	
Kiniray-a	Kiray-a	
Kiyangan Ifugao		
Lubuagan Kalinga		
Mabaca	Mabaka Kalinga	
Maeng		
Magahat	Magahat	Magahat
Malaueg	Malaweg	Malaweg
Mamanwa	Mamanwa	
Mandaya	Mandaya	Mandaya
	Mandek-ey	
Manguangan	Manguangan Manobo	Manguangan
Mangyan	Tadyawan	Tadyawan Mangyan
Mansaka	Mansaka	
Manobo Blit	Manobo Blit	
Manobo/Ubo	Manuvu/Obo	Manobo
Masadiit	Masadiit Tinggian	
Masbateño		
Matigsalug	Matigsalug Manobo	Matigsalug
Molbog	Molbog	Molbog
Palananum	Paranan	Paranan
Palawanon	Palawan	Pala'wan
Ratagnon	Ratagnon	Ratagnon Mangyan
Remontado		Remontado
Romblonanon		
Sama	Sama	Sama
Samal	Isamal	
Sambal	Sambal	
Sangil	Sangil/Sangir	
Subanon	Subanun	Subanun
Sulod	Sulod	Sulodnon

NCIP (2006)*	ESSC (1998)**	PEDCA (2003)***
	Surigaonon	
Tasaday Manobo		
T'boli	Tiboli	T'boli
Tabangnon		
Taboy		
Tagakaolo	Tagakaolo (Kalagan)	Tagakaulo
Tagbanua	Tagbanwa	Tagbanua
	Talaandig	
	Taubuid Mangyan	
Tau't Batu		Tao't Bato
Tigwahanon	Tigwa Manobo	
Tingguian	Luba Tinggian	Tinguian
Tiruray	Tiruray	Teduray
Tuwali	Banaue Ifugao	
	Ubo	
Umayamnen	Umayamnon Manobo	
Yakan	Yakan	Yakan
Yogad	Yogad	Yogad

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