

AN ANALYSIS OF INTERNATIONAL LAW, NATIONAL LEGISLATION, JUDGEMENTS, AND INSTITUTIONS AS THEY INTERRELATE WITH TERRITORIES AND AREAS CONSERVED BY INDIGENOUS PEOPLES AND LOCAL COMMUNITIES

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**Stockholm
University**

KALPAVRIKSH



*Environmental
Action Group*

NATURAL JUSTICE

**The ICCA
Consortium**

“Land is the foundation of the lives and cultures of Indigenous peoples all over the world... Without access to and respect for their rights over their lands, territories and natural resources, the survival of Indigenous peoples’ particular distinct cultures is threatened.”

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TABLE OF CONTENTS

Table of Contents	3
List of Acronyms	10
 PART 1: Country, Communities & ICCAs	12
1.1 Country (or subnational region)	12
1.2 Communities & Environmental Change	13
• Main Indigenous Peoples and Major Types of Local Communities	13
• Are certain communities considered to be indigenous peoples? If so, how is this identity defined or generally understood?	14
• What are the main drivers of biodiversity loss and land/resource appropriation?	16
• What are the main threats to cultural and linguistic diversity?	18
• Is there a history and/or ongoing initiatives by peoples/communities to conserve and sustainably use biodiversity?	19
1.3 Indigenous Peoples and Local Communities' Conserved Territories and Areas (ICCAs)	20
• What is the range, diversity, and extent of ICCAs in your country?	20
• How do indigenous peoples and local communities govern and manage ICCAs (including customs and rules, institutions for enforcing them, ecological or other measures taken for management, and other ways of governing the area)?	21
• What are the main threats to communities' local governance of territories, areas, and natural resources?	24
• What are the main initiatives being undertaken to address the threats to ICCAs?	25
 PART 2. Land, Freshwater and Marine Laws & Policies	25
• What is the legislation relevant to recognition (or lack thereof) of community territories? What are the forms of title or tenure?	25
• Does the legislation include rights of indigenous peoples and/or local communities over sub-soil resources?	28
• Which state agency is mandated to develop and implement land/freshwater/marine laws and policies that relate to territorial and tenure rights? What are the political and institutional dynamics w/ other agencies?	29
• Is collective, Native, or Aboriginal title recognized? If so, is it considered 'private' or 'public'? What are the issues surrounding this?	30
• To what extent, if any, does the statutory land/freshwater/marine law enable or allow customary laws and procedures to be used for local governance of	

ICCA's? Please describe any conditions or restrictions	31
• If there are no legal provisions for recognition or support of local governance, are there provisions for local management? If so, in what contexts and under what restrictions?	31
• Highlight any provisions in the various forms of tenure that requires a certain amount of or type of conservation. Conversely, highlight any provision that require a certain amount of or type of 'development' or conversion and indicate who/what body sets those terms	31
• Describe any specific aspects of the existing land /freshwater/marine tenure framework that undermine or hinder community conservation and governance of territories, areas, and natural resources. If applicable, comment on any specific aspects of previous (colonial, etc.) tenure frameworks that continue to have significant impacts on community governance in contemporary times	33
• Describe any specific processes or pressures that infringe upon de jure or de facto territorial tenure rights in your country; examples may include land grabbing, industrial resource exploration, etc. Explain if/how these processes are provided for in the legal and policy framework	33
• As a catch-all, please provide any outstanding comments about how the land.freshwater/marine tenure framework supports or hinders community governance of territories, areas, and natural resources	34
PART 3: Protected Areas, ICCAs and Sacred Natural Sites	34
3.1 Protected Areas	34
• What are the laws and policies that constitute the protected area framework?	34
• How is "protected area" defined in your country? Indicate to what extent it adheres to the definition of either the Convention on Biological Diversity (CBD) or International Union for Conservation of Nature (IUCN)	35
• Which state agency (or agencies) is mandated to develop and implement protected area laws and policies? Please comment on any relevant political and institutional dynamics with other agencies that are responsible for community rights and welfare (e.g. those listed in other sections of this review)	35
• In general, how well is Element 2 of the Programme of work on Protected Areas (PoWPA) implemented, especially in relation to indigenous and local communities? Are there any aspects of the country's existing protected area framework that run counter to Element 2's core principles of good governance, equity, full and effective participation and benefit-sharing?.....	35
• To what degree does the protected framework recognize ICCAs and/or does practice allow for devolution of governance to indigenous peoples or local communities? Comment on how communities are responding to this	36
• If applicable, describe the constituents and mandates of any-multi-stakeholder bodies involved in the governance and management of protected	

areas in your country	37
3.2 ICCAs Within Protected Area Systems	37
<ul style="list-style-type: none"> • Which if any, provisions explicitly recognize terrestrial, riparian or marine protected or conserved areas governed by indigenous peoples and/or local communities? As indicated in the introduction to this section, provisions may or may not reference the term “ICCA” or “indigenous and community conserved area” as such but may encapsulate the principles and characteristics contained therein • If there are measures that provide for indigenous peoples’ and or local community governance of territories, areas or natural resources, how are those in power selected (e.g. by election or traditional leadership from within the community, appointed by government, etc.)? Highlight any conditions or restrictions on the types of institutions that are recognized or (customary) laws that can be the basis for local decision-making • If there are no legal provisions in the protected area framework for community governance of territories, areas and natural resources, are there provisions for community management of the same? If so, in what contexts and under what conditions or restrictions? • If there is no legal recognition of either community governance or management of territories, areas and natural resources in the protected area framework, are there any current indications of intentions to move towards legally recognizing and supporting ICCAs (whether by that term or a country-specific term)? Discuss how they may be recognized in the protected area framework in locally appropriate ways. Comment on to what extent and why such recognition is or not desired by the indigenous peoples and/or local communities in your country • In general, how are protected areas that are ICCAs or contain ICCAs monitored and assessed? 	37 38 38 39 39
3.3 Sacred Natural Sites as a Specific Type of ICCA	40
<ul style="list-style-type: none"> • In addition to the above, is there any legislation (protected areas or otherwise) that contains specific provisions for Indigenous peoples’ and/or local community governance of sacred natural sites? • If so, how are those in power selected (e.g. by election or traditional leadership from within the community, appointed by government, etc.)? Highlight any conditions or restrictions on the types of institutions that are recognized or (customary) laws that can be the basis for local decision-making • If there are no legal provisions for community governance of sacred natural sites, are there provisions for community management of the same? If so, in what contexts and under what conditions or restrictions? • If there is no legal recognition of either community governance or management of sacred natural sites, are there any current indications of intentions to move towards legally recognizing and supporting them? How 	40 40 40

	might they be included in the legal framework in locally appropriate ways? Comment on to what extent and why such recognition is or is not desired by Indigenous peoples and/or local communities in your country	40
3.4	Other Protected Area-related Designations	41
	<ul style="list-style-type: none"> Does your country have any World Heritage Sites, Biosphere Reserves, or Ramsar Sites already designated or in the process of nomination that are ICCAs or contain ICCAs? Please comment on how the nomination process, management plan, and/or decision-making system has accounted for indigenous peoples' and local communities' rights to free, prior and informed consent, full and effective participation, benefit-sharing and capacity building, and respect for cultural and spiritual values 	41
3.5	Trends and Recommendations	41
	<ul style="list-style-type: none"> What direction (if any) are protected areas laws and policies moving vis-à-vis Indigenous peoples and local communities? In addition to what you indicated in 3.1-3.4 above, what are your main recommendations for how protected area laws and policies could be better implemented or perhaps reformed to more appropriately and effectively recognize and support ICCAs or potential ICCAs? 	41 42
PART 4: Natural Resources, Environmental and Cultural Laws & Policies		42
4.1	Natural Resources & Environment	42
	<ul style="list-style-type: none"> Thinking more broadly about a range of natural resource or environmental laws and policies (biodiversity, agriculture, fisheries, forests, sub-soil, climate/pollution, genetic resources, etc.), please describe whether and how any of them support or hinder Indigenous peoples' and local communities' ways of life and local governance and management of territories, areas and natural resources Which state agency (or agencies) is mandated to develop and implement these laws and policies? Please describe any relevant political and institutional dynamics with other agencies that are responsible for community rights and welfare? If there are provisions in any of these laws for Indigenous peoples' and/or local community governance of territories, areas or natural resources, how are those in power selected (e.g. by election or traditional leadership from within the community, appointed by government, etc.)? Comment on any conditions or restrictions on the types of institutions that are recognized or (customary) laws that can be the basis for local decision-making If there are no provisions in these legal frameworks for community governance of territories, areas or natural resources, are there provisions for local management of the same? If so, in what contexts and under what restrictions? 	42 44 45 46

<ul style="list-style-type: none"> • How these laws might be better implemented or perhaps reformed to better support communities who are closely connected to specific territories, areas, or resources and whose ways of life contribute to the conservation and sustainable use of biodiversity? 	46
4.2 Traditional Knowledge, Intangible Heritage & Culture	46
<ul style="list-style-type: none"> • Briefly comment on any laws and policies (e.g. access and benefit sharing, intellectual property, folklore) that focus on or contain provisions relating to traditional knowledge or communities' intangible heritage and culture, including language, that are relevant for ICCAs • To what extent do these provisions allow for self-determination, local and/or customary decision-making and governance systems, and access to or tenure over territories, areas, and natural resources? • Which state agency (or agencies) is mandated to develop and implement these laws and policies? Please describe any relevant political and institutional dynamics with other agencies that are responsible for community rights and welfare (e.g. those listed in other sections of this review) 	46 48 48
PART 5: Human Rights	49
<ul style="list-style-type: none"> • Describe any human rights laws or policies that support or hinder ICCAs such as, for example, those relating to Indigenous peoples' and/or local communities' self-determination, self-governance, connection with and governance of territories, areas or natural resources, freedom of culture and religion/belief, etc. This may include a wide range of procedural as well as substantive rights • Which state agency (or agencies) is mandated to develop and implement these laws and policies? Please describe any relevant political and institutional dynamics with other agencies that are responsible for community rights and welfare (e.g. those listed in other sections of this review) • Comment on the extent and effectiveness of implementation. Highlight key processes, dynamics, and pressures that affect the ways in which they are implemented 	50 50 51
PART 6: Judgments	52
<ul style="list-style-type: none"> • Describe any case law/judgements that either support or hinder ICCAs. Issues of relevance include, for example, Indigenous peoples and/or local communities' self-determination, self-governance, connection with and governance of territories, areas or natural resources, freedom of culture and religion/belief, etc. This may include a wide range of procedural as well as substantive rights 	52

- If applicable, discuss any major precedents set – either negative or positive in relation to ICCAs – and how they may be affecting or used by other communities as leverage in their own cases or movements57
- If applicable, highlight any important case law/jurisprudence from other national or regional courts that communities in your country have used as leverage in their own cases or movements57
- Comment on the impact of these judgments in government / other actors' behavior towards Indigenous peoples or local communities57

PART 7: Implementation58

- Identify and comment on key factors that contribute to or undermine effective implementation of supportive provisions58
- Provide specific recommendations to the relevant agencies and other actors such as Indigenous peoples and local communities about how to improve implementation of supporting laws and policies58

PART 8: Resistance and Engagement60

- How are Indigenous peoples and local communities engaging with or resisting laws and policies (including in their formulation and implementation) specifically to secure local governance and conservation of their territories, areas and/or natural resources?60
- If applicable, describe main conflicts between communities who are conserving and sustainably using territories, areas, and natural resources and the private sector, conservation groups, and/or government agencies. What are the types of disputes and how have they emerged? How are they being resolved (if at all)? Highlight in particular how and why communities may be actively using or avoiding certain legal and policy frameworks60
- Briefly describe any broad social movements or trends amongst Indigenous peoples and local communities in response to key laws or policies that affect them. Include reference to any literature such as press releases or photo essays that help illustrate61
- In general, to what extent are Indigenous peoples and local communities aware of and actively responding to laws and policies that affect them? Comment on influencing factors and dynamics (for example, differential access to information and mechanisms for participation)61
- Are there any legal empowerment and/or advocacy initiatives in your country, and how effective are they?62
- Are some Indigenous peoples or local communities 'managing' better than others? If so, why?62

PART 9: Legal and Policy Reform62

- What institutional, legal and/or policy reforms do you feel are required to better enable Indigenous peoples and local communities to govern their ICCAs?62

- Specifically, what changes could be made to the existing legal or policy frameworks to ensure appropriate legal recognition and support of ICCAs?.....63
- Who and how would these reforms be implemented?63

PART 10: Case Studies63

LIST OF ACRONYMS

ADB	Asian Development Bank
CADC	Certificate of Ancestral Domain Claim
CADT	Certificate of Ancestral Domain Title
CALC	Certificate of Ancestral Land Claim
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program Extension and Reform
CALT	Certificate of Ancestral Land Title
CBFM	Community-Based Forest Management
CBFMA	Community-Based Forest Management Agreement
CI	Conservation International
CLOA	Certificate of Land Ownership Award
CRMF	Community Resource Management Framework Plan
CRMP	Community Resource Management Plan
DA	Department of Agriculture
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
EO	Executive Order
EP	Emancipation Patent
FMB	Forest Management Bureau
ICC	Indigenous Cultural Communities
ICCA	Indigenous Peoples' and Communities Conserved Areas
IPAS	Integrated Protected Areas System
IPRA	Indigenous Peoples' Rights Act
IUCN	International Union for the Conservation of Nature
JAO	Joint Administrative Order
LRA	Land Registration Authority
NCIP	National Commission on Indigenous Peoples
NIPAS	National Integrated Protected Areas System
NSCB	National Statistics Coordinating Board
NSO	National Statistics Office
OHCHR	Office of the High Commissioner on Human Rights
PACBRMA	Protected Area Community-Based Resource Management Agreement
PAFID	Philippine Association for Intercultural Development
PAMB	Protected Area Management Board
PAWB	Protected Areas and Wildlife Bureau
RA	Republic Act
SAPA	Special Agreement in Protected Areas
SIL	Summer Institute of Linguistics
UNEP	United Nations Environment Programme
WCMC	World Conservation Monitoring Center
WWF	Worldwide Fund for Nature

INTRODUCTION

Across the world, areas with high or important biodiversity are often located within Indigenous peoples' and local communities' conserved territories and areas (ICCAs). Traditional and contemporary systems of stewardship embedded within cultural practices enable the conservation, restoration and connectivity of ecosystems, habitats, and specific species in accordance with indigenous and local worldviews. In spite of the benefits ICCAs have for maintaining the integrity of ecosystems, cultures and human wellbeing, they are under increasing threat. These threats are compounded because very few states adequately and appropriately value, support or recognize ICCAs and the crucial contribution of Indigenous peoples and local communities to their stewardship, governance and maintenance.

In this context, the ICCA Consortium conducted two studies from 2011-2012. The first (the *Legal Review*) analyses the interaction between ICCAs and international and national laws, judgements, and institutional frameworks. The second (the *Recognition Study*) considers various legal, administrative, social, and other ways of recognizing and supporting ICCAs. Both also explored the ways in which Indigenous peoples and local communities are working within international and national legal frameworks to secure their rights and maintain the resilience of their ICCAs. The box below sets out the full body of work.

1. Legal Review

- An analysis of international law and jurisprudence relevant to ICCAs
- Regional overviews and 15 country level reports:
 - *Africa*: Kenya, Namibia and Senegal
 - *Americas*: Bolivia, Canada, Chile, Panama, and Suriname
 - *Asia*: India, Iran, Malaysia, the Philippines, and Taiwan
 - *Pacific*: Australia and Fiji

2. Recognition Study

- An analysis of the legal and non-legal forms of recognizing and supporting ICCAs
- 19 country level reports:
 - *Africa*: Kenya, Namibia and Senegal
 - *Americas*: Bolivia, Canada, Chile, Costa Rica, Panama, and Suriname
 - *Asia*: India, Iran, the Philippines, and Russia
 - *Europe*: Croatia, Italy, Spain, and United Kingdom (England)
 - *Pacific*: Australia and Fiji

The *Legal Review* and *Recognition Study*, including research methodology, international analysis, and regional and country reports, are available at: www.iccaconsortium.org.

This report is part of the legal review and focuses on the Philippines. It is authored by Samson B. Pedragosa.

PART 1: COUNTRY, COMMUNITIES & ICCAS

1.1 Country (or subnational region)

The Philippines is an archipelago composed of more than 7,100 islands with a total land area of approximately 300,000 km². This archipelagic nature allowed for the evolution of many unique and restricted range forms, which explains the great species diversity and high endemism in the country. With its exceptionally high biodiversity of more than 52,177 described species, the Philippines is one of the 17 biologically richest and megadiverse countries in the world. More than half of the biodiversity is endemic (DENR 1997 cited in Ong et al. 2002).



Ironically, the Philippines is also considered as one of the 25 biodiversity hotspots in the world (Myers et al. 2000) and presumed as “global biodiversity disaster area” (Terborgh 1999 and Linden 1998 cited in Ong et al. 2002). The country has lost more than 75% of its original forest cover (Ong 2004). Approximately 50% of coral reefs and 466 described species have been identified as ‘threatened’ (Sampang, 2008 and Ferrari, 2006). This disaster is attributed to poverty, social inequity, and environmental degradation due to major social, economic, and political changes in the past two centuries (WWF-Philippines, 2007).

The National Statistics Office (NSO) estimates the country’s population for 2010 at 94,013,200 based on the 2007 Census of Population (NSCB 2011)¹. The majority of the people in the country (about 95%) are of Austronesian descent made up of various ethnic groups that descended and settled in the Philippines about 6,000 years ago. The population is basically of Malay stock with a sprinkling of Chinese, American, Spanish, and Arab blood, among others, and it is hard to distinguish accurately the lines between stocks.²

The economy of the Philippines is the 46th largest in the world, with an estimated 2010 gross domestic product (nominal) of \$189 billion. A newly industrialized country, the Philippine economy has been transitioning from one based on agriculture to one based more on services and manufacturing. The service sector has come to dominate the economy. It contributes more than half of overall Philippine economic output, followed by industry (about a third), and agriculture (less than

¹<http://www.nscb.gov.ph/> Retrieved on 11 November 2011

²http://en.wikipedia.org/wiki/Filipino_people Retrieved on 11 November 2011.

20%). Important industries include food processing; textiles and garments; electronics and automobile parts; and business process outsourcing.³

1.2 Communities & Environmental Change

1.2.1 Briefly describe the main Indigenous peoples and major types of local communities or community-level livelihood strategies in your country

The NCIP estimates the population of indigenous peoples in the Philippines between 12 and 15 million distributed into approximately 110 different ethnolinguistic groups or 'cultural communities.' But this is based on unofficial count because prior to the 2007 census, the population data did not include information on ethnicity. Some anthropologists believe that it is possible that the actual indigenous population is much bigger and might even exceed 20% of the national total. It is expected that more exact figures would be generated with the inclusion of ethnicity in the succeeding censuses of population.



Indigenous peoples in the Philippines belong to at least 110 ethnolinguistic groups. Their population is estimated to be at least 14 million. Their traditional territories are found in the uplands and the coastal areas of the country.

De Vera (2007) estimated that indigenous peoples comprise nearly 15 percent of the country's total population or roughly 15 million. A vast majority of these indigenous peoples dwell in the uplands which they claim as part of their traditional territories. They depend mostly on traditional swidden agriculture utilizing available upland sites and fallow areas.

The NCIP estimates that majority (61%) of the indigenous peoples are in Mindanao while a third (33%) resides in Luzon. The remainder (6%) are scattered among the Visayan group of islands.

The indigenous peoples in Luzon include the Negrito peoples in northeastern, central and southern parts of the island. They are variously called *Aeta*, *Agay*, *Agtá*,

³<http://www.nscb.gov.ph/> Retrieved on 11 November 2011

Dumagat, Itom, and Remontado. The Cordillera and Caraballo mountain ranges in Northern Luzon are home to the *Ifugao, Kankana-ey, Ibaloi, Kalanguya, Tinggian, Itneg*, and other highland tribes. The *Ilonggot* calls the junction of the Caraballo and Sierra Madre mountain ranges its home.

Indigenous peoples also inhabit the outlying islands of Luzon and the Visayas group of islands. The island of Mindoro is home to seven Mangyan tribes – *Hanunuo, Buhid, Tadyawan, Iraya, Gubatnon, Alangan, and Tau-Buhid*. Romblon is home to the *Mangyan Tagabukid*. Palawan is the traditional territory of the *Pal'wan, Batak, Tagbanua* and *Molbog*. In the island of Panay, the indigenous communities include the *Tumandok, Sulodnon*, and the Negrito group, *Ati*, among others.

Mindanao and its outlying islands are home to the Lumad, the *un-Islamized* and *un-Christianized* Austronesian peoples.⁴ These are the *Erumanen ne Menuvu, Matidsalug Manobo, Agusanon Manobo, Dulangan Manobo, Dabaw Manobo, Ata Manobo, B'laan, Kaulo, Banwaon, Teduray, Lambangian, Subanen, Higaunon, Dibabawon, Mangguwangan, Mansaka, Mandaya, K'lagan, T'boli, Mamanuwa, Talaandig, Tagabawa, Ubu, Tinenanen, Kuwemanen, K'lata* and *Diyangan*.

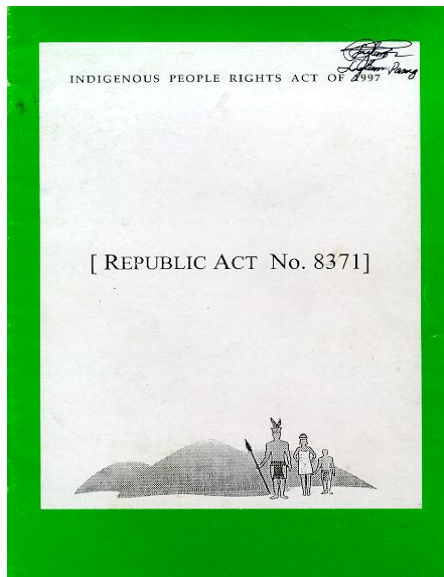
These indigenous peoples are mainly forest-dependent. The principal sources of livelihood include foraging, hunting, and cultivating crops. Some seafaring groups like the *Tagbanua, Molbog, Dumagat, Mamanwa* and *Ati* spend a significant amount of their time on water for their livelihood, in addition to being dependent on the forests.

1.2.2 Are certain communities considered to be indigenous peoples? If so, how is this identity defined or generally understood?

In general, all Filipinos, with the exception of a few who traces their roots back to some other foreign lands such as China and others, are considered indigenous to this archipelago. The distinction between indigenous and non-indigenous peoples is just a creation of history and a tragedy of colonization. Malayan (2001) asserted that the tragedy of colonization in the Philippines is that it created a country and splintered a people.

Colonization divided the Filipino people into two groups, those who assimilated and acculturated with colonization and those who resisted it and in the process generally successful in keeping their cultures intact in the face of colonization but were economically and politically marginalized, and become historically differentiated from the majority Filipinos. This latter group was variously referred to as '*indigenous peoples, 'indigenous communities, 'cultural communities, 'cultural minorities, 'natives, 'non-Christians, 'un-Christianized and/or un-Islamized,*' among others.

⁴Those groups that converted to non-indigenous religions and cultures such as Islam and Christianity, as per IPRA, are no longer considered as indigenous peoples. It must be noted though that many of the groups considered as indigenous have also converted to other sects, mainly under Christianity.



The enactment of Republic Act No. 8371 or the Indigenous Peoples Rights Act (IPRA) in 1997 provided a legal definition for the purpose of making a distinction and formally referred to this group as *'indigenous cultural communities and/or indigenous peoples.'* The IPRA defined *'indigenous peoples'* as *"a group of people or homogenous societies, identified by self ascription and ascription by others, who have continuously lived as organized communities, or in communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories sharing common bond 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, become historically differentiated from the majority Filipinos."

The IPRA also mandated that ICCs/IPs shall likewise include *"peoples who are regarded as indigenous on account of their descent from the populations which 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 own 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."*

The distinction that IPRA made divided the Philippine population. The "indigenous peoples" were separated from the rest of the population to form a minority. This division however is considered, to a large extent, a creation of history. The tragedy of colonization in the Philippines is that it created a country but splintered a people. It unified a scattering of self-ruling communities into a single state but divided its citizens into those who acquired power from colonization and those who lost power because they avoided colonization (Duhaylungsod 1996; Lynch 1984 as cited in Malayang 2001).

With IPRA, what was referred to before as "cultural communities" owing to their comparatively significant adherence to their traditional knowledge, systems and practices are now referred to as indigenous peoples. The controversy lies on what to call the majority of the population that have assimilated their culture with those introduced and imposed by colonization but are no less indigenous to this archipelago which comprises the majority who converted to Islam and Christianity.

1.2.3 What are the main drivers of biodiversity loss and land/resource appropriation?

Deforestation is considered as the major driver of biodiversity loss in the Philippines. It is inextricably linked with habitat destruction which is recognized as the most notorious of all the environmental processes leading to biodiversity loss (Primm and Raven, 2000).

From an archipelago covered with lush tropical forests at the start of Spanish colonization in 1521, the country only has about three (3) percent of the original forest cover in 2003. When the Spanish colonizers entered the archipelago in 1521, about 27 million hectares or 90 percent of the country was covered with lush tropical forests (Lasco, et al. 2001). This decline in forest cover is considered as the most rapid and severe in the world (Heaney et. al., 1998).



Barely half a million hectares of forests are left in the country. As the forest cover dwindles along with it goes an integral part of the culture of indigenous peoples.

This is significant because the country's tropical forests are home to a diverse species of plants and animals many of which are endemic or cannot be found anywhere else in the world. Reports show that in the Philippines there are 9,250 vascular plant species with 65.8% endemism (Brimoh et. al 2010) and 180 native terrestrial mammal species, about 61% of which are endemic and 47 species are threatened (WWF 2012).

Logging and forest land conversion (land-use change) has been identified as the major drivers of deforestation in the Philippines. The remaining forests continue to be under threat from population pressure, agriculture and urbanization, illegal logging and forest fire. The sustained forest loss further threatens the country's rich biodiversity.

The country's diminishing coastal, freshwater and marine biodiversity is attributed to overexploitation and coastal zone development. Over-fishing causes the rapidly dwindling catch in many areas. The ADB reported that there has been a drop of 90%

in the quantity of marine organisms that can be trawled in some traditional fishing areas of the Philippines (WWF 2012).

The excavation, dredging, and conversion of coastal areas to other uses has been particularly damaging to the marine environment of the country. Coral reefs, mangroves and seagrasses are destroyed. Aquaculture development alone is reported to have reduced the country's mangrove stands to only 36% of 1900 levels (WWF 2012) and replaced more than 60 percent of the original mangrove forest in the country (DENR 2001).

Pollution is another significant contributor to biodiversity loss. Water pollution due to the combination of poor waste treatment and high population growth contaminates the country's groundwater, rivers, lakes, and coastal areas. Only about 10% of sewage in the Philippines is treated or disposed of in an environmentally sound manner. The rest goes back to nature – usually the sea (WWF 2012). Aquaculture development also generates substances that are detrimental to water quality and natural fisheries because of its use of fertilizer, feeds, and chemicals.

Mining is increasingly becoming a major driver of biodiversity loss. Open pit mining entails deforestation and uses industrial materials and chemicals that pollute the environment and water bodies. In the Philippines, mineral resources are found often in areas rich in biodiversity, and populated by indigenous peoples. In 1997, mining activities covered more than half of the remaining forests (CI, 2009).



Mining is currently the biggest threat to the traditional territories of indigenous peoples in the Philippines.

1.2.4 What are the main threats to cultural and linguistic diversity?

The single biggest threat to cultural and linguistic diversity is the erosion of the

relationship between indigenous peoples and their environment because of dispossession or forced removal from their traditional lands and sacred sites. It must be noted that indigenous peoples account for most of the country's cultural diversity. Their distinct and varied ways of life are the manifestations of an ancient and continuing relationship between them and their territories.

Indigenous peoples share a spiritual, cultural and economic relationship with their traditional lands. Their cultures, economies, and identities are inextricably tied to their traditional lands and resources (IUCN/UNEP/WWF 1991). These unique relationships are passed on through generations. Dispossession or forced removal severe the link between the culture and environment of indigenous peoples. Removing the people from the land breaks the generation to generation cycle of empirical study that maintains the richness and detail of traditional knowledge of ecosystems that is learned and updated through direct observations on the land as a classroom and laboratory (UNEP-WCMC 2001).

The destruction and exploitation of these traditional and sacred sites, mostly in the name of development, and the intrusion of large commercial extractive industries immensely contributes to the rapid decline of cultural and linguistic diversity. These development projects cause environmental damage to water and natural resources. Mining and logging activities damage large areas of land inhabited by indigenous peoples. These include many sites which are of spiritual and cultural significance, and ecological reserves that have been developed, conserved and managed by indigenous peoples through their traditional knowledge, systems and practices (Bengwayan 2003).

The UNEP (2001) warned that as a result of the growing globalization, the secrets of nature locked away in the songs, stories, art and handicrafts of indigenous peoples may be lost forever. It urged that development and economic growth should not be at the expense of the thousands of indigenous cultures and traditions.

Globalization also threatens the existence of native languages. The expansion of markets, communications, and other aspects of globalization promote dominant languages at the expense of the native ones (WWF-Terralingua 2000). In many indigenous communities, the children and the young are increasingly unable to speak the language of their forbears; the language is no longer transmitted to the next generation.

This is unfortunate because the Philippines is the 8th most multiethnic nation in the world (Yeoh 2001) with about 160 ethnic groups speaking a multitude of languages.⁵ It is also ranked as the 10th country with the most languages spoken with 153 (UNEP 2001). The Summer Institute of Linguistics (SIL) estimated that there are 171 different languages in the Philippines. Of these, 168 are living languages and 3 are extinct. The same numbers also represent the different cultural entities that speak

⁵<http://www.buzzle.com/articles/list-of-different-ethnic-groups-in-the-philippines.html>

these languages.⁶

Languages are the storehouses of peoples' intellectual heritages and frameworks for each society's unique understanding of life. They are considered one of the major indicators of cultural diversity; yet given the rate of language extinction, cultural diversity is threatened on an unprecedented scale (WWF-Terralingua 2000).

The OHCHR of the United Nations noted that there is a marked correlation between areas of high biological diversity and areas of high cultural diversity. Its report revealed the 17 megadiverse nations that are home to more than two-thirds of the Earth's biological resources, are also the traditional territories of most of the world's indigenous peoples.⁷ The Philippines is one of these nations.

1.2.5 Is there a history of and/or ongoing initiatives by peoples/communities to conserve and sustainably use biodiversity?

The history of indigenous peoples in the Philippines has been a continuing struggle to preserve their ways of life. From the onset of colonization until the present dispensation, indigenous peoples have been asserting their rights to their land and resources. They know full well that their survival depends on the protection of these lands and resources. Philippine history is replete with the accounts of these struggles for self-determination and cultural integrity.

From the day Lapu-Lapu resisted and fought the forces of Magellan on the shores of Mactan Island in 1521 to the enactment of the Indigenous Peoples' Rights Act in 1997, the indigenous peoples never ceased to assert their rights to their lands and resources. They bravely and fiercely fought a succession of colonizers and invaders in defense of their lands. To a certain extent they were able to at least preserve some of their lands and the socio-political institutions that controlled their indigenous knowledge and systems of resource management.

It is not merely coincidental that most of the remaining forests and key biodiversity areas in the country are within the ancestral domains of indigenous peoples. It is a testament to their indigenous knowledge, systems and practices. For instance, the more than a thousand-year old Banaue rice terraces are a living monument to the sustainability of the traditional resource management systems of the Ifugao. The uniqueness and ingenuity of the rice terraces demonstrates their valuable knowledge and systems of forest management, the fertility of their soil, the diversity of their plant and animal species, and the richness of life in their ancestral domain.

1.3 Indigenous Peoples' and Local Communities' Conserved Territories and Areas

1.3.1 What is the range, diversity, and extent of ICCAs in your country?

⁶<http://www.sil.org/asia/philippines>

⁷www.ohchr.org/Documents/Publications/GuideIPleaflet10en.pdf

ICCAs in the Philippines include sacred sites and natural features, indigenous territories, cultural landscapes and seascapes. They are found in both terrestrial and marine ecosystems in the country. The ICCA sites also represent different biogeographic regions. They can be found from the mountain ridges to the coral reefs. They provide habitats to a high diversity of flora and fauna.

Based on the IUCN definition of ICCAs,⁸ at the very least, there could be as many ICCAs as there are indigenous cultural communities in the Philippines. There could even be more because ICCAs are not limited and exclusive to areas conserved by indigenous peoples but include other areas conserved by other local communities.

The extent of the area that ICCAs cover in the Philippines is still to be determined. But the number and coverage of approved Certificate of Ancestral Domain Title (CADT) would be a good indicator. The approval of CADT depends on the ability of the claimant community to prove that “they traditionally had access to it for their subsistence and traditional activities” practiced in observance of their customary laws (IPRA Sec. 3a).

As of 30 September 2010, the NCIP has approved 156 Certificate of Ancestral Domain Titles (CADT) having a total area of 4,249,331.544 hectares of land and water.⁹ These areas are part of the 6 to 7 million hectares of land and water that the NCIP estimates could still be recovered as ancestral domains.

These ancestral domains as a whole, or parts of it, contain ecologically valuable areas that have been sustainably managed since time immemorial by the local indigenous peoples (Novellino, 2008) and therefore would qualify as ICCAs. The ICCAs form some of the most important sections of the ancestral domain and often define their landscape and geography. Such is the case of the sacred lakes and coral reefs of the Calamian-Tagbanua of Coron Island and the Molbog of Balabac Island, both in Palawan.

PAFID (2011) estimates that between 60 and 65 percent (or roughly 4.5 million hectares) of the Philippines’ 6,838,822 hectares (DENR-FMB 2003) of remaining natural forests are within these ancestral domains. The organization believes that this could be attributed directly to the conservation efforts of indigenous peoples.

As of 2004, there are ninety-nine (99) protected areas in the Philippines covering 3,180,918.39 hectares declared under the NIPAS Act (DENR-PAWB 2004). At least 69 of these protected areas overlap with 86 ancestral domains and ICCAs of indigenous peoples. The aggregate area of overlap is almost a million hectares (PAFID 2011). Most certainly, the number of CADTs overlapping with protected areas would be

⁸ The IUCN defines ICCAs as “natural and/or modified ecosystems containing significant biodiversity values, ecological services and cultural values, voluntarily conserved by indigenous peoples and local communities through customary laws or other effective means.”

⁹ See <http://www.ncip.gov.ph/CentralOffice/AncestralDomainsOffice>

greater had not the DENR and NCIP resorted to forcibly excluding protected areas from ancestral domains. This is further evidence that a significant portion of the country's remaining biological resources are within ancestral domains.

Among the notable examples are the ancestral domain of the Calamian-Tagbanua in Coron Island and its surrounding waters; the *Igmale'ng'en* sacred forests of the Talaandig community in Portulin, Pangantucan, Bukidnon; the ancestral domains of the Mangyan Tagabukid in Sibuyan Island, Romblon; and the Manobo ancestral domain in Sote, Bislig City, Surigao del Sur.

ICCAs in the Philippines range from less than a hectare of forest patch used as a burial ground of revered tribal leaders in the island of Mindoro, or to a whole ancestral domain representing the areas that mobile or nomadic communities have traditionally roamed such as the 136,000-hectare Ilonggot ancestral domain in the island of Luzon which is by far the biggest CADT approved in the Philippines.

The ICCAs in the Philippines are also of many kinds. They include indigenous peoples' territories managed for sustainable use, cultural values, or explicit conservation objectives like the 58,000-hectare Ikalahan ancestral domain in Nueva Vizcaya and Pangasinan. This ancestral domain exemplifies resource catchment areas, from which communities derive their livelihoods or key ecosystem benefits, managed such that these benefits are sustained over time.

There are also sacred spaces, ranging from tiny forest groves and wetlands, to entire landscapes and seascapes. These include, among others, the sacred lakes in Coron Island; the sacred forests of the Talaandig and Manobo peoples on Mt. Kalatungan, and the sacred site of the Higaonon community on Mt. Kimangkil, both in Bukidnon Province.

ICCAs in the Philippines also include nesting or roosting sites, or other critical habitats of wild animals. These include the nesting place of the swift birds in Coron Island, and the critical habitats of the Philippine Eagle in Sote (Surigao del Sur) and Kalatungan (Bukidnon).

1.3.2 How do Indigenous peoples and local communities govern and manage ICCAs?

Governance and management of ICCAs varies among the different indigenous peoples in the Philippines. These variations are usually determined by the nature and type of their physical environment, including climate and vegetation, which also influences the evolution of customs and rules, the institutions for enforcing them, and the measures taken for management.

While there may be variations, governance and management of ICCAs is rooted in the common concept that indigenous peoples and other local communities are the stewards or caretakers of these areas and view them as an important part of their lives. They look at governance and management of ICCAs as part of their daily life

and essential to their own well-being and survival because it includes the management of available resources in their habitat.



Indigenous knowledge systems and practices enabled indigenous peoples to govern their traditional territories and conserve the resources therein.

Indigenous peoples and other local communities have developed and practice systems of governance and management that nurture their ICCAs for centuries. The centuries of practice and experience helped them accumulate a wealth of knowledge that is embedded in their cultures. ICCAs play an important role not only in the economic aspect of their life, but also in the development of their culture and socio-political systems. Religious and traditional beliefs, practices and rituals have evolved out of their relationship with them.

Many indigenous peoples and local communities regard the biological, economic and social objectives of conservation as intimately related. Hence, their traditional activities include conserving a variety of natural environments and species for a variety of purposes, economic as well as cultural, spiritual and aesthetic. Indigenous peoples and local communities engage with the environment for a combination of utilitarian, spiritual, cultural and aesthetic purposes.

For the indigenous peoples of the Cordillera (Luzon), the ICCAs include land, forests, rivers and other natural resources held in common by the community. They are the sources of their food and wealth, it is the playground and training ground of their children, it is their home. They must nurture the land and the forests to keep them capable of nurturing them in turn.

The Ikalahan of Nueva Vizcaya is known for their environmentally sustainable 'indigenous knowledge practice systems,' transferred for generation after generation. These practices are the *day-og* and *gengen*, which are ancient composting techniques on level and sloping land respectively to restore fertility of the soil in the period of three months; the *pang-omis*, a method of expediting the fallow; and the *balkah* which is a contour line of deep rooted plants which trap eroded topsoil at the belt line. These methods helped preserved and protect thousands of hectares of forestlands from further land conversion (Rice 2000).

The traditional management practices of the Calamian-Tagbanua in their ancestral domain are being carried out in the context of sacred and restricted areas like fish sanctuaries. Observance of customary laws and the role of elders in implementing traditional laws are means of discipline. The avoidance of sacred and restricted areas and the existing taboos form part of the management measures in the domain. These constraints may have played a role in the conservation of natural resources, species and ecosystems in the island and may have helped sustain the lives of these people for centuries (Sampang 2007).

The *Batak* of Tanabag (Palawan) consider their entire territory, with all its features, as endowed with 'sacredness' and thus need to be well-managed and conserved. Members of the community use the plant and animal resources available in the area for domestic consumption. Decisions on all matters related to exploitation of particular resources (e.g. commercial gathering of rattan) are dealt with by the community as a whole and implemented through the chieftain (*Kapitan*). Generally, the assistance of shamans as managers of natural resources is sought only during community rituals for specific purposes (Novellino 2008).

The customary religious authority of the Talaandig community in Portulin is exercised by a *Bailan* (Shaman) in each clan. The *Bailan* works in association with the customary head of the clan called the *Datu* (Chieftain) who enforces the rules with assistance from local forest guards called the *Bantay Lasang* whose members are nominated by the community. The community elders help the *Datu* in decision-making through community meetings (De Vera and Guina 2008).

In general, despite the variations in the governance and management of the ICCAs, some common characteristics are observed. Indigenous peoples and other local communities derived their management structure and policy from experiences gained through the centuries and adapted to the local culture and environment. The methods of management are orally transmitted to succeeding generations which build on what is passed on to them. The resources are collectively owned and governed under local collective authority that promotes communal values. Management is based on self-determination, utilitarian and very practical in nature. Decisions are made on the basis of current locally relevant issues and the existing body of traditional knowledge.

1.3.3 What are the main threats to communities' local governance of territories,

areas, and natural resources?

The main threats to ICCAs in the Philippines emanate from lack of recognition. Many of the communities governing them have no legal status and are not formally acknowledge for conserving biological diversity. They receive no assistance, protection or support from the State.

Despite the enactment of IPRA, the Philippine government has been undermining the rights and authority of the indigenous peoples over their ancestral domains thus effectively reducing their ability to control and manage their ICCAs. Most of which are under threat from industrial development, infrastructures, urbanization and the market that push extractive industries and monocultures into even the most remote areas.

Unabated extractive activities continue to chip away the integrity of ICCAs. But mining is the single biggest threat to ICCAs in the Philippines. It has been largely detrimental to the indigenous peoples and other local communities. The encroachment of other “development aggression” projects into ancestral domains without the free, prior, and informed consent of indigenous peoples also adversely impacts the ICCAs. These include logging, plantation establishment, construction of huge dams and energy exploration, among others.

Several ICCAs are under threat from externally imposed institutions and rules, including their declaration as protected areas. The ICCA in Sote (Surigao del Sur) is typical of this problem. The CADT application of the local Manobo community is held hostage by the local government unit on the condition that the Tinuy-an Waterfalls and its environs should be excluded from it. The city government wants to have exclusive jurisdiction over the site because of its potential as a prime tourist destination.

Many ICCAs have been subsumed within government protected areas without acknowledgement of their pre-existence as independently-governed ICCAs. This is exemplified by the continuing struggle between the Calamian-Tagbanua and the PAMB for jurisdiction over Coron Island (Palawan) which was declared as protected area. The Talaandig and Manobo share the same burden as Mt. Kalatungan (Bukidnon) was also declared as a protected area.

In the coastal and marine ecosystems, increasing human population and their activities impact negatively on the ICCAs and threaten its biodiversity. The threats include overfishing, habitat damage and alteration, pollution, alien species, among others (Norse et al 2005). Intrusion of large commercial fishing operations destroys the reefs and the growing tourist industry drastically increases the volume of solid waste and garbage, and its disposal is proving a problem on small islands like Coron (Palawan) and Apo (Negros Oriental).

1.3.4 What are the main initiatives being undertaken to address the threats to ICCAs?

Many of the initiatives being undertaken to address the threats to ICCAs are focused on obtaining secured tenure over ancestral domains and the resources therein. Through the years, lobbying and advocacy aimed to seek legal recognition and formal acknowledgement of the indigenous peoples' role in conserving biological diversity. Corollary to this, the indigenous peoples and their support groups seeks assistance, protection and support from the State to protect their lands and resources.

To support these advocacies, a number of indigenous peoples' organizations, non-governmental organizations, alternative law groups and other support institutions from civil society conduct research and documentation activities to gather data, evidences and proofs to back up their legal claims on ancestral domains. An equal amount of efforts are exerted to document traditional and indigenous knowledge, systems and practices to demonstrate the capabilities of indigenous communities in managing their environment and natural resources.

2. LAND, FRESHWATER AND MARINE LAWS & POLICIES

This section seeks information about the tenure system in your country, with particular focus on recognition of rights over territories, as well as the role of related provisions and processes that hinder community governance of territories, areas, and natural resources.

2.1 What is the legislation relevant to recognition (or lack thereof) of community territories? What are the forms of title or tenure?

There are a number of laws relevant to the recognition of territories of indigenous peoples and other local communities. These include the Indigenous Peoples' Rights Act of 1997 (Republic Act No. 8371), the National Integrated Protected Areas System (NIPAS) Act of 1992 (Republic Act No. 7586), and the Executive Order No. 263 (Adopting Community-Based Forest Management as the National Strategy to Ensure the Sustainable Development of the Country's Forest Lands Resources).¹⁰

Pursuant to the 1987 Philippine Constitution mandate that "the State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development" (Article II, Sec. 22), the Philippine government enacted the Indigenous People Rights Act (IPRA) of 1997 to enable this constitutional mandate.

¹⁰In the hierarchy of Philippine Laws, an Executive Order issued by the President ranks third after the Philippine Constitution and the republic acts legislated by the Philippine Congress. It has the force of law unless superseded by a republic act or declared as unconstitutional by the Judiciary. The CBFM as a strategy is also being adopted under the proposed new forestry code pending in the Philippine Congress.

The IPRA recognizes the “ownership” rights of indigenous peoples over their traditional territories as ancestral domains which include land, bodies of water and all other natural resources therein. It provides for a process of titling of lands through the issuance of Certificates of Ancestral Domain Titles (CADT) and/or Certificates of Ancestral Land Title (CALT).

The law includes "Self Delineation" as the guiding principle in the identification of ancestral domain claims. This means that indigenous peoples are granted (through the NCIP) full authority to determine the extent and boundaries of their ancestral domains and to utilize and dispose of the resources therein.



In addition to the indigenous peoples’ right to their ancestral domain, the IPRA recognizes their right to self-governance and empowerment which includes respect for their traditional resource management practices. The IPRA provides that “the State shall protect the rights of ICCs/IPs to their ancestral domains to ensure their economic, social, and cultural well being and shall recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain” (Chapter 1, Section 2b).

The IPRA further provides that indigenous peoples “have the right to manifest, practice, develop, and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access to their religious and cultural sites” (Section 33). The law also grants them full participation in the maintenance, management, and development of “ancestral domains or portions thereof, which are found necessary for critical watershed, mangroves, wildlife sanctuaries, wilderness, protected areas, forest cover, or reforestation” (Section 58).

The NIPAS Act of 1992 provides the legal framework for the establishment and management of protected areas in the Philippines to conserve the country’s biodiversity. It is the very first national statute under the 1987 Philippine Constitution that acknowledged the rights of indigenous peoples to their ancestral lands and the crucial role of communities in the management of protected areas. The law explicitly defines indigenous cultural community/indigenous peoples (Section 4d) and provides that their ancestral lands and customary rights and interest shall be accorded due recognition (Section 13).

The revised implementing rules and regulations of this law (DENR Administrative Order No. 26, Series of 2008 dated 24 December 2008) provide for the identification, delineation, and recognition of the claims of indigenous peoples to their ancestral

domain/land within protected areas following the provisions of the IPRA. This order further provides that the rights and traditional practices of indigenous peoples shall be recognized and respected.

The NIPAS Act also provides that tenured migrants communities within protected areas which have actually and continuously occupied such areas for five (5) years before the designation of the same as protected areas under this law and are solely dependent therein for subsistence (Section 4I) shall also be recognized. The revised implementing rules and regulations provide that a Certificate of Recognition shall be issued to them and the government (thru the DENR) shall enter into a Protected Area Community-Based Resource Management Agreement (PACBRMA) or SAPA (Special Agreement in Protected Area) with them.

The PACBRMA is entered into by the Department of the Environment and Natural Resources (DENR) representing the government and organized tenured migrant communities or interested indigenous peoples in protected areas and buffer zones. It has a term of 25 years and renewable for another 25 years. It provides opportunities to organized tenured migrant communities and indigenous peoples to manage, develop, utilize, conserve and protect the resources within the protected areas and buffer zones. The PACBRMA holders are required to prepare a Community Resource Management Plan (CRMP).

The Special Agreement in Protected Areas (SAPA) is a binding instrument between the DENR and other parties such as indigenous peoples, tenured migrants, local government units, and other stakeholders. The objectives of SAPA include, among others, the provision of access and economic opportunities to indigenous peoples, tenured migrant communities and other stakeholders to optimize the use of protected areas consistent with the principles of sustainable development and biodiversity conservation.

On 19 July 1995, the President of the Republic of the Philippines issued Executive Order No. 263 officially “adopting community-based forest management as the national strategy to ensure the sustainable development of the country's forestland resources.” This strategy integrated all the various community-based projects of the DENR into a comprehensive program to address the overlaps in their implementation. More importantly, all tenure instruments issued under these different projects have been replaced by the CBFMA (Community-Based Forest Management Agreement).¹¹

¹¹ The CBFMA replaced the following: Certificate of Community Forest Stewardship (CFSa) issued to community organizations under the Integrated Social Forestry Program (SFP); Mangrove Stewardship Agreements issued to community organizations under the Coastal Environment Program (CEP); the Community Forest Management Agreements issued under the Community Forestry Program (CFP), Rainfed Resource Management Program (RRMP), and Integrated Resource Management Program (IRMP); and the Forest Land Management Agreements (FLMA) issued under the FLMP. The CBFMA is the tenure instrument to be issued to POs in allowable zones within protected areas.

The CBFMA is a tenure instrument that grants use rights over tracts of forests to organized communities. It is a production-sharing agreement, limited to a period of 25 years and renewable for another 25 years, between an organized community and the government, to develop, utilize, manage and conserve specific portions of forest land consistent with the principles of sustainable development and pursuant to an approved Community Resource Management Framework Plan (CRMF). The CRMF defines the terms and procedures for access, use and protection of natural resources within CBFMA area.

The other legislations relevant to the recognition (or the lack thereof) of community territories include Republic Act No. 6657 (Comprehensive Agrarian Reform Law or CARL, as amended by RA 9700), the Philippine Mining Act of 1995 (RA 7942).

While the CARL was originally intended as a social justice measure to correct the historical injustice that the peasantry has suffered under the hands of landlords and plantation owners, it is increasingly abused to deprive indigenous peoples of their lands. In many cases, poor farmers are being used against indigenous peoples to foment land conflicts that often results in violence, and the land ending up eventually back with the landowners or their corporations.

The greatest threat to the recognition of the right of indigenous peoples and other local communities to their territories is the Philippine Mining Act of 1995. While the law provides that the rights of indigenous peoples to their ancestral lands as provided for by the Philippine Constitution, recent and existing mining activities have displaced many indigenous communities and destroyed their cultural and sacred sites.

2.2 Does the legislation include rights of Indigenous peoples and/or local communities over sub-soil resources?

The IPRA explicitly provides that indigenous peoples have the right to ancestral domains and this includes the right of ownership and possession, and the right to develop lands and natural resources (Chapter III, Sections 7a and 7b). Furthermore, the IPRA defines ancestral domains as “all areas generally belonging to ICCs/IPs comprising land, inland water, coastal areas, and natural resources therein, including mineral resources” (Chapter II, Section 3a).

This right of ownership is further clarified when taken in the context of the Civil Code of the Philippines (Republic Act No. 386 enacted on 18 June 1949). This law provides that the owner of a parcel of land is the owner of its surface and of everything under it (Book II, Title II, Chapter 1).

From the foregoing provisions of law, it follows that indigenous peoples have the right over sub-soil resources. However, the Philippine Mining Act of 1995 contradicts the IPRA and explicitly declares 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).¹²

2.3 Which state agency (or agencies) is mandated to develop and implement land/freshwater/marine laws and policies that relate to territorial and tenure rights? What are the political and institutional dynamics with other agencies?

The Department of Environment and Natural Resources (DENR) is the primary agency mandated to develop and implement laws and policies that relate to territorial and tenure rights involving land, freshwater bodies, coastal and marine ecosystems in the Philippines. It has exclusive jurisdiction over all lands of the public domain which include agricultural, forest or timber, mineral lands and national parks. The DENR is the executive department responsible for governing and supervising the exploration, development, utilization, and conservation of the country's natural resources. This mandate includes the coastal and marine environments.

The other agencies include the Department of Agriculture (DA), Department of Agrarian Reform (DAR), the Department of Agriculture (DA), the National Commission on Indigenous Peoples (NCIP), and the Land Registration Authority (LRA), among others.

The Department of Agriculture (DA) is the principal agency of the Philippine government responsible for the promotion of agricultural and fisheries development and growth. It provides support services necessary to make agriculture and fisheries, and agri-based enterprises profitable and to help spread the benefits of development to the poor, particularly those in the rural areas.

The Department of Agrarian Reform (DAR) is the executive department of the Philippine Government responsible for all land reform programs in the country. It is the lead implementing agency of the Comprehensive Agrarian Reform Program (CARP) under the CARL.

The NCIP (National Commission on Indigenous Peoples) is 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 indigenous peoples and the recognition of their ancestral domains as well as their rights thereto.

The Land Registration Authority (LRA) is the guardian of the Torrens System in land registration in the country. It is mandated to provide direct assistance to the DAR and DENR, particularly in the registration of land titles, such as Emancipation Patents (EPs), Certificates of Landownership Award (CLOAs), and Free Patents and Homestead Patents. The CADT and CALT issued by the NCIP are also required to be registered with the LRA.

¹² As per Section 3(ay) of the Philippine Mining Act of 1995, the "State" means the Republic of the Philippines.

The numerous agencies mandated to develop and implement laws on land, freshwater, and marine ecosystems that relate to territorial and tenure rights has resulted to a cacophony of policies that often require harmonization. The overlapping and conflicting jurisdictions often lead to turf wars among the agencies involved. In most instances, the hapless communities are caught in between these feuds.

These feuds between the agencies are normally settled with the harmonization of their policies usually coursed through the issuance of a Joint Administrative Order (JAO) of the agencies concerned. Unfortunately, in instances like this, the provisions of the IPRA are often subjugated to other laws such as CARL, the NIPAS Act, and the Philippine Mining Act, to the detriment of indigenous peoples. Such is the case of JAO No. 1 Series of 2012 between the DAR, DENR, LRA, and the NCIP.

2.4 Is collective, Native or Aboriginal title recognized? If so, is it considered 'private' or 'public'? What are the issues surrounding this?

The IPRA refers to Native Title as “pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish conquest [Chapter II, Section 3(I)]. Further, the IPRA mandates that the rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected (Chapter III, Section 11).

This particular provision of the IPRA is based on what is now known as the Doctrine of Native Title (also known as Cariño Doctrine) which emanated from the landmark decision of the US Supreme Court penned by the then US chief Justice Oliver Wendell Homes in 1909. The decision in the celebrated case of Mateo Cariño vs. the Insular Government, the court recognized the right of indigenous peoples to their land by virtue of Native Title.

In this particular case, the US Supreme Court ruled that lands held since time immemorial by indigenous cultural communities in the concept of an owner has been private in character and had never been part of the public domain. The decision issued by the US Supreme Court on Feb. 23, 1909, came to be known as the Cariño doctrine in the legal circle. This is an exception to the Regalian Doctrine (or jura regalia) under which all land is deemed to belong to the state. Indigenous peoples' rights advocates argue that the Cariño doctrine is incorporated in the IPRA.

2.5 To what extent, if any, does statutory land/freshwater/marine law enable

or allow customary laws and procedures to be used for local governance¹³ of ICCAs?

The IPRA is very explicit. Among others, indigenous peoples have the right to self-governance and empowerment (Chapter IV) and the right to own and manage their ancestral domains in accordance with their customary laws, traditional knowledge, systems and practices. Provided, that these are compatible with the fundamental rights defined in the Constitution of the Republic of the Philippines and other internationally recognized human rights.

In addition, the IPRA provides that indigenous peoples living in contiguous areas or communities may form or constitute their own local government unit in accordance with the Philippine Local Government Code (Section 18) and maintain and develop their own indigenous political structures (Section 16).

2.6 If there are no legal provisions for recognition or support of local governance, are there provisions for local management? If so, in what contexts and under what restrictions?

The legal provisions for the recognition or support of local governance are not a problem for indigenous peoples in the Philippines. The IPRA has more than enough provisions on this matter that explicitly recognize or support their rights to self-governance and empowerment in accordance with their customary laws and indigenous knowledge, systems and practices.

In the case of the other local communities, or tenured migrants communities in NIPAS Act parlance, the provisions for recognition and support is practically limited to co-management schemes. For instance, the various tenure instruments issued by the DENR under the different community-based programs were merely lease or usufructory contracts that grant user privileges in exchange for some responsibility in the management of the territories covered. The communities participate in the management, and to some extent local governance, but then they remain as just one of the many stakeholders and decision-makers.

2.7 Highlight any provisions in the various forms of tenure that require a certain amount of or type of conservation. Conversely, highlight any provisions that require a certain amount of or type of “development” or conversion and indicate who/what body sets those terms.

There are three (3) tenure options currently available for local communities. These are the CADT for indigenous peoples under IPRA; PACBRMA for tenured migrant communities in protected areas under the NIPAS Act; and CBFMA for communities within the public forestlands as per EO 263.

¹³Broadly, governance is about who makes decisions and how. Management is about how decisions are implemented in practice. Governance by the community is one of the three typical characteristics of an ICCA – see pages 5-6 and required reading for more guidance.

Section 9 of the IPRA requires that the indigenous peoples whose ancestral domains have been delineated and issued with a CADT shall be responsible for maintaining ecological balance in the domain by protecting the flora and fauna, watershed areas and other reserves. They are also responsible for restoring denuded areas, and undertake other development programs and projects. These responsibilities form part of their Ancestral Domain Sustainable Development and Protection Plan (ADSDPP).

The revised implementing rules and regulations of the NIPAS Act of 1992 provides for the issuance of Protected Area Community-Based Resource Management Agreement (PACBRMA). Rule 15.4 of the DENR Administrative Order No 26, Series of 2008 stipulates that upon the recommendation of the PAMB, the DENR shall enter into a Protected Area Community-Based Resource Management Agreement (PACBRMA) with duly organized tenured migrant communities in protected areas.

The PACBRMA tenure holders are required to prepare a Community Resource Management Plan (CRMP). The CRMP specifies the activities pertinent to the management, development, utilization, conservation and protection of the resources in the area covered by the agreement.

Executive Order 263 (dated 19 July 1995) adopted community-based forest management as the country's national strategy for sustainable forest management. This order identifies forest communities, both upland migrant communities and indigenous peoples, as legitimate resource managers of the nation's forests.

The provisions of DENR Department Administrative Order 96-29, Series of 1996 (The Implementing Rules and Regulation of EO 263) provide for the granting of resource use rights to communities through the issuance of the Community-Based Forest Management Agreement (CBFMA) to upland migrant communities and the Certificate of Ancestral Domain Claim (CADC) for indigenous peoples.¹⁴

The CBFMA is a production-sharing agreement entered into by an organized community and the government, to develop, utilize, manage and conserve specific portions of forest land consistent with the principles of sustainable development and pursuant to an approved Community Resource Management Framework Plan (CRMF) prepared in accordance with DAO 96-29.

2.8 Describe any specific aspects of the existing land/freshwater/marine tenure

¹⁴ The enactment of the IPRA in 1997 further strengthened the rights of indigenous peoples. The IPRA paved the way for the titling and private (individual or communal ownership of ancestral domains in forestlands through the issuance of CADT/CALT. The enactment of the IPRA also ended the program of the DENR under DAO No. 2 Series of 1993 for the delineation of ancestral domains/land and the registration of the claims of indigenous peoples over them. By the time the program ended on 06 June 1998, the DENR had awarded 181 CADCs covering an area of 2,546,035 hectares for 74,408 claimants and 128 CALCs with a combined area 10,038 hectares.

framework that undermine or hinder community conservation and governance of territories, areas, and natural resources. If applicable, comment on any specific aspects of previous (colonial, etc.) tenure frameworks that continue to have significant impacts on community governance in contemporary times.

The most fundamental tenure framework that undermines or hinders community conservation and governance is the Philippine republic's claim of ascendant rights based mainly on the regalian doctrine and its ascendant coercive capacities to exercise dominion. The regalian doctrine of state authority prescribes that the authority of the Philippine republic extends throughout its territory, such that all lands and natural resources found in the territory are under the power of the state. The state alone may dispose of lands and resources in the country, and unless they have been so disposed of by the state they shall remain the property of the state. Only the state may alienate and dispose of the lands and resources in the public domain and assign the same for private use and consumption (Malayang 2001).

While the CADT is supposed to bestow private ownership of ancestral domains to indigenous peoples, the State retains its authority and sovereignty over the disposition of resources found in these lands. It retains control over their disposition to purportedly serve the interests of the other citizens of the republic.

It is for this reason that all the various tenure instruments -- past and present -- granted by the Philippine government in the past and at present merely bestows usufructory rights to the communities and by nature are considered as production-sharing at the very least and at best, co-management agreements. Governance remains with the State and its instrumentalities and only management responsibilities are shared with the communities. This is the case of CBFMA and PACBRMA, and all the other tenure instruments issued in the past.

2.9 Describe any specific processes or pressures that infringe upon *de jure* or *de facto* territorial or tenure rights in your country; examples may include land grabbing, industrial resource exploration/exploitation, etc. Explain if/how these processes are provided for in the legal and policy framework.

The Philippine Republic's ascendant authority and sovereignty, by virtue of the Regalian Doctrine, over the national territory and the disposition of its resources is the greatest infringement on the rights of indigenous peoples to their ancestral domains and traditional territories. Much of the country's remaining natural wealth is within these territories. Malayang (2001) estimated that ancestral domains cover about 65 percent of the total land area of the country, and it is in these areas that the remaining reserves of the nation's natural resources are to be found (forests, minerals, watersheds, wildlife, remaining unappropriated lands).

The Philippine government declaration of ownership of these resources and exclusive authority to grant utilization and exploration permits runs directly counter to the claims of indigenous peoples and local communities. The granting of logging concessions and mining permits have displaced many indigenous communities. The expropriation of lands for industrial commercial and other purposes deprived many

communities of their territories and resources.

2.10 Outstanding comments

The 1987 Philippine Constitution mandates that within the framework of national unity and development, the Philippine Government is mandated to address social justice and equity issues affecting the farmers, fishers, and indigenous peoples who constitute the vast majority of the poor in the country. For this purpose, the Philippine government enacted reform legislations such as the CARL, IPRA, UDHA, AFMA, among others. These laws are considered land mark legislations because they provide opportunities for the indigenous peoples and other local communities to have control over basic assets and natural resources for their sustenance and survival.

For the indigenous peoples, the IPRA recognizes and promotes ownership of their ancestral domains and ancestral lands and their right to control, manage, develop these areas and the resources therein. For the other local farming communities, the CARL provides them an opportunity to own the land they cultivate. The AFMA provides opportunities and protection to the livelihood of municipal fishers. The UDHA provides opportunities decent housing and work for the urban poor. For the upland poor communities, EO 263 provides them with the opportunity to participate in the management of the country's forestlands.

3. PROTECTED AREAS, ICCAS AND SACRED NATURAL SITES

This section seeks information about the (sub-)national protected area system, with particular focus on recognition of ICCAs and sacred natural sites. Please note that "ICCA" is an internationally recognized term, but may not be used as such within your country. Each country may have its own unique term, which is what we are seeking in this section. Please ensure that the country-specific term adheres to the minimum characteristics set out at pages 5-6 and/or contact your regional focal point to ensure clarity about what constitutes an ICCA.

3.1 Protected Areas

3.1.1 What are the laws and policies that constitute the protected area framework?

The National Integrated Protected Areas System (NIPAS) Act of 1992 provides the legal framework for the establishment and management of protected areas in the Philippines to conserve the country's biodiversity. The DENR Administrative Order (DAO) No. 26, Series of 2008 provides the revised implementing rules and regulations, amending DAO No. 25, Series of 1992 which was the original implementing rules and regulations of the NIPAS act.

The revised implementing rules and regulations incorporated and integrated all the existing regulations resulting from the legislation of relevant laws after the

enactment of the NIPAS Act in 1992. These include the IPRA (RA 8371 enacted in 1997), Wildlife Resources Conservation and Protection Act (RA 9147 enacted in 2001), National Caves and Cave Resources Management and Protection Act (RA 9072 enacted in 2002), Philippine Mining Act of 1995 (R.A. No. 7942), and other laws establishing the specific components of the NIPAS.

3.1.2 How is “protected area” defined in your country? Indicate to what extent it adheres to the definition of either the Convention on Biological Diversity (CBD) or International Union for Conservation of Nature (IUCN).¹⁵

Section 4 (b) of the NIPAS Act defines protected area as “identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.

Taken in context with the accompanying provisions detailing the management objectives and methodologies for establishment of protected areas, this definition adheres fairly well to the CBD and IUCN definitions.

3.1.3 Which state agency (or agencies) is mandated to develop and implement protected area laws and policies? Please comment on any relevant political and institutional dynamics with other agencies that are responsible for community rights and welfare (e.g. those listed in other sections of this review).

The Department of Environment and Natural Resources (DENR) is the primary agency mandated to develop and implement laws and policies land, freshwater bodies, coastal and marine ecosystems in the Philippines. Within the DENR, the PAWB or the Protected Areas and Wildlife Bureau is the agency directly mandated to conserve the country’s biological diversity through the establishment, management, development of the NIPAS. The bureau is also responsible for the conservation of wildlife resources and the conduct of nature conservation information and education activities.

3.1.4 In general, how well is Element 2 of the Programme of Work on Protected Areas (PoWPA)¹⁶ implemented, especially in relation to Indigenous peoples and local communities? Are there any aspects of the country’s existing protected area framework that run counter to Element 2’s core principles of good governance, equity, full and effective participation, and benefit-sharing?

¹⁵ A protected area is defined by Article 2 of the Convention on Biological Diversity as “a geographically defined area, which is designated or regulated and managed to achieve specific conservation objectives”. A protected area is defined by IUCN as “a clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature with associated ecosystem services and cultural values”.

¹⁶ The text of PoWPA can be viewed on the CBD website:
<http://www.cbd.int/protected/pow/learnmore/intro/>

Policy-wise, the country's existing protected area framework integrates very well the core principles of Element 2 of the PoWPA. The NIPAS Act and its implementing rules and regulations contain provisions that incorporate these principles in the overall scheme of protected area management. Implementation, however, is a different story.

The NIPAS Act is the very first national statute under the 1987 Philippine Constitution that acknowledged the rights of indigenous peoples to their ancestral lands and the crucial role of communities in the management of protected areas. The law explicitly provides that the ancestral lands, customary rights and interests of indigenous peoples shall be accorded due recognition (Section 13).

The revised implementing rules and regulations of this law (DENR Administrative Order No. 26, Series of 2008 dated 24 December 2008) provide for the identification, delineation, and recognition of the claims of indigenous peoples to their ancestral domain/land within protected areas following the provisions of the IPRA. This order further provides that the rights and traditional practices of indigenous peoples shall be recognized and respected.

The NIPAS Act also provides that tenured migrants communities within protected areas which have actually and continuously occupied such areas for five (5) years before the designation of the same as protected areas under this law and are solely dependent therein for subsistence (Section 4I) shall also be recognized. The revised implementing rules and regulations provide that a Certificate of Recognition shall be issued to them and the government (thru the DENR) shall enter into a Protected Area Community-Based Resource Management Agreement (PACBRMA) or SAPA (Special Agreement in Protected Area) with them.

In practice, however, the establishment of protected areas has been inimical to the interests of the indigenous peoples. This led many of them to reject the system. At the core of the issue is the creation of a multi-sectoral Protected Area Management Board (PAMB) which supplants and replaces the traditional management and leadership structures in many ancestral domains subsumed into the protected areas. The PAMB, which is often controlled by local politicians and petty bureaucrats, negates and disregards the indigenous peoples and local communities.

3.1.5 To what degree does the protected area framework recognize ICCAs and/or does practice allow for devolution of governance to Indigenous peoples or local communities? Comment on how communities are responding to this.

The existing and current protected area scheme under the NIPAS Act and its implementing regulations provides that the ancestral domains/lands of indigenous peoples within protected areas shall be identified, delineated, and recognized following the provisions of IPRA and their rights and traditional practices shall be recognized and respected.

In reality, many indigenous communities in protected areas are at odds with the

DENR and the PAMB. In Coron, the Tagbanua kicked out the PAMB and rejected the NIPAS. Conflicts also exist with the Talaandig in Mt. Kitanglad, the Menuvu, Higaonon, and Talaandig in Mt. Kalatungan and the Manobo in Surigao del Sur, among other communities.

3.1.6 If applicable, describe the constituents and mandates of any multi-stakeholder bodies involved in the governance and management of protected areas in your country.

Section 11 of the NIPAS Act provides for the creation of a Protected Area Management Board (PAMB) for each established protected area. The PAMB shall be composed of the DENR Regional Executive Director under whose jurisdiction the protected area is located; one (1) representative from the autonomous regional government, if applicable; the Provincial Development Officer; one (1) representative from the municipal government; one (1) representative from each barangay (village) covering the protected area; one (1) representative from each tribal community, if applicable; and at least three (3) representatives from non-government organizations/local community organizations, and if necessary, one (1) representative from other departments or national government agencies involved in protected area management,

3.2 ICCAs Within Protected Areas Systems

3.2.1 Which if any, provisions explicitly recognize terrestrial, riparian or marine protected or conserved areas governed by Indigenous peoples and/or local communities? As indicated in the introduction to this section, provisions may or may not reference the term “ICCA” or “Indigenous and community conserved area” as such but may encapsulate the principles and characteristics contained therein.

Section 13 of the NIPAS Act (Ra 7586) provides that the ancestral lands and customary rights and interest of indigenous peoples shall be accorded due recognition.

Rule 14 of the DAO 26, Series of 2008 stipulates that the DENR in collaboration with the PAMB shall assist the NCIP in the identification, delineation and recognition of the claims of ICCs/IPs to their ancestral domain/land within protected areas following the provisions of RA 8371 or the IPRA.

Rule 14.1 mandates that in the establishment of protected areas, the DENR shall ensure the full participation of the concerned ICCs/IPs in accordance with NIPAS Act and the IPRA. The ancestral domain within a protected area shall be managed in accordance with a plan harmonized with the Protected Area Management Plan. Unless the ICC/IP submits a written notice of its intent to manage the protected area, the DENR and PAMB shall manage the protected area. In any case, the ICC/IP shall enjoy full and effective assistance of the concerned PAMB. The

customary rights and traditional practices of ICCs/IPs shall be recognized and respected.

Rule 14.2 provides that interested ICCs/IPs may participate in community-based programs in protected areas.

Rule 15.2 provides that a Certificate of Recognition shall be issued to qualified tenured migrants.

Rule 15.4 mandates that the DENR, upon the recommendation of the PAMB shall enter into Protected Area Community-based Resource Management Agreement (PACBRMA) with the tenured migrant communities in protected areas.

3.2.2 If there are measures that provide for Indigenous peoples' and/or local community governance of territories, areas or natural resources, how are those in power selected (e.g. by election or traditional leadership from within the community, appointed by government, etc.)? Highlight any conditions or restrictions on the types of institutions that are recognized or (customary) laws that can be the basis for local decision-making.

The NIPAS Act (RA 7586) provides that the ancestral lands and customary rights and interest of indigenous peoples shall be accorded due recognition. Its revised implementing rules and regulations (DAO 26, S. of 2008) provide that such recognition shall follow the provisions of the IPRA. The IPRA explicitly provides that indigenous peoples have the right of ownership and control of their ancestral domains and to self-governance and empowerment in accordance with their customary laws and traditional practices.

For tenured migrant communities, Rule 15.4 of DAO 26, Series of 2008 mandates the DENR to integrate individual tenured migrants in protected areas into communities and enter into Protected Area Community-based Resource Management Agreement (PACBRMA) with the tenured migrant communities.

3.2.3 If there are no legal provisions in the protected area framework for community governance of territories, areas and natural resources, are there provisions for community management of the same? If so, in what contexts and under what conditions or restrictions?

The NIPAS Act does not have legal provisions for community governance of territories, areas and natural resources. It provides however for community management of certain portions or management zones of protected areas for indigenous peoples and tenured migrant communities. Section 9 stipulates that the management planning strategy for protected areas shall also provide guidelines for the protection of indigenous cultural communities and other tenured migrant communities. The law provides opportunities to organized tenured migrant communities and indigenous peoples to manage, develop, utilize, conserve and protect the resources within the protected areas and buffer zones.

The law provides that ancestral domains of indigenous peoples shall be identified, delineated and recognized along with their right to govern and manage such territories according to their customary law and traditional knowledge, following the provisions of the IPRA. It stipulates that the DENR shall enter into a Protected Area Community-Based Resource Management Agreement (PACBRMA) or SAPA (Special Agreement in Protected Area) with tenured migrants in protected areas.

3.2.4 If there is no legal recognition of either community governance or management of territories, areas or natural resources in the protected area framework, are there any current indications of intentions to move towards legally recognizing and supporting ICCAs (whether by that term or a country-specific term)? Discuss how they may be recognized in the protected area framework in locally appropriate ways. Comment on to what extent and why such recognition is or is not desired by Indigenous peoples and/or local communities in your country.

Just recently, with support from the UNDP, the DENR-PAWB has launched the New Conservation Areas in the Philippines Project (NewCAPP) seeking to expand and diversify the terrestrial protected areas in the Philippines. The project is considering the inclusion of other modalities of conservation such as the ICCA.

Discussions are underway to come up with the next steps towards legally recognizing and supporting ICCAs. The recent sub-national conferences on ICCAs jointly organized by the PAWB with PAFID and KASAPI (National Coalition of IP Organizations) resulted to the drafting of the guiding principles in the discussion and involvement of the government, non-government organizations and indigenous communities in recognizing and supporting ICCAs. Respect for customary laws and traditional knowledge is the foremost consideration that was highlighted.

3.2.5 In general, how are protected areas that are ICCAs or contain ICCAs monitored and assessed?

Historically, from the perspective of the DENR, all protected areas are the same and should be managed by the PAMB under its jurisdiction. The communities within the protected areas -- whether indigenous peoples or migrants -- are merely allowed to participate in the management of certain portions, subject to the rules and procedures of the law, via co-management and production-sharing agreements. Their compliance with the terms of the agreement shall be monitored and assessed regularly by the PAMB.

Assessment and monitoring are based on the Protected Area Management Plan (PAMP) approved by the PAMB. In protected areas that are part of ancestral domains or contain ancestral domains, the ADSDPP of the indigenous peoples shall be harmonized with the PAMP. Monitoring and assessment shall be based on the harmonized plan.

3.3 Sacred Natural Sites as a Specific Type of ICCA

This section seeks information about sacred natural sites that are also ICCAs, i.e. sacred natural sites that are governed (*de jure* or *de facto*) by a people or a community.

3.3.1 In addition to the above, is there any legislation (protected areas or otherwise) that contains specific provisions for Indigenous peoples' and/or local community governance of sacred natural sites?

Outside of the IPRA and the NIPAS Act, there is no other significant legislation that contains specific provisions for indigenous peoples' and/or local community governance of sacred natural sites.

Section 7(a) of the IPRA provides that indigenous peoples have the right of ownership over sacred places, among other lands and bodies of water they have traditionally and actually occupied.

The NIPAS Act provides that indigenous peoples' rights to their ancestral lands shall be recognized (Section 13).

3.3.2 If so, how are those in power selected (e.g. by election or traditional leadership from within the community, appointed by government, etc.)? Highlight any conditions or restrictions on the types of institutions that are recognized or (customary) laws that can be the basis for local decision-making.

The IPRA explicitly stipulates that management of ancestral domains, including sacred sites shall be in accordance with the customary laws and traditional practices of indigenous peoples.

For tenured migrant communities, there is no instance thus far of them claiming sacred natural sites in the areas they settled in.

3.3.3 If there are no legal provisions for community governance of sacred natural sites, are there provisions for community management of the same? If so, in what contexts and under what conditions or restrictions?

The IPRA clearly provides for governance of sacred natural sites of indigenous peoples. These sites constitute an integral part of their ancestral domains and in fact considered among the strong proofs and evidence of their claims.

3.3.4 If there is no legal recognition of either community governance or management of sacred natural sites, are there any current indications of intentions to move towards legally recognizing and supporting them? How might they be included in the legal framework in locally appropriate ways? Comment on to what extent and why such recognition is or is not desired by Indigenous peoples and/or local communities in your country.

The provisions of IPRA clearly provide legal recognition and support to community governance or management of sacred natural sites. These provisions, however, have yet to be fully enforced. Even with IPRA, the destruction of many natural sites sacred to the indigenous peoples continues.

The recent implementation of NewCAPP is seen as an opportunity to push the concept of ICCA for government recognition and support. This is expected to bolster the claims of indigenous peoples over their ancestral domains and provide additional layer of security and protection. Many indigenous communities look at the ICCA as the positive affirmation of their historical role in conservation. ICCA is better appreciated than the PA system which is seen as an imposition from the State designed to take them out from their traditional territories.

3.4 Other Protected Area-related Designations

The Ifugao Rice Terraces inscribed in the UNESCO World Heritage List is acknowledged as an ICCA of the Ifugao people. Under the tentative list, at least 10 are claimed by indigenous peoples as part of their ancestral domains. One site (Apo Reef Natural Park) is listed in the ICCA Registry.

The two sites listed as biosphere reserves in the Philippines (Palawan and Puerto Galera in Mindoro) are the traditional territories of indigenous peoples. These include the Palawan, Tagbanua, Batak and Molbog peoples for Palawan and the Mangyan of Mindoro).

Currently, there are four (4) recognized Ramsar Sites in the Philippines. These are the Agusan Marsh Wildlife Sanctuary, the Naujan Lake National Park, the Olango Island Wildlife Sanctuary, and the Tubbataha Reefs Natural Park. Two (2) of these sites, Agusan Marsh and Naujan Lake are claimed as part of the ancestral domains of the Manobo and Mangyan peoples, respectively.

Unfortunately, many, if not all, of these sites have been declared as such sans the free and prior informed consent of the indigenous peoples concerned. The recent push for the ICCA as an alternative option has given the indigenous peoples in these sites renewed enthusiasm to pursue their claims given that the processing of their application for CADT over these territories is barely moving, if at all.

3.5 Trends and Recommendations

3.5.1 What direction (if any) are protected areas laws and policies moving vis-à-vis Indigenous peoples and local communities?

It looks like finally the DENR-PAWB is finally giving the concept of ICCA a serious look and considers it as one of the modalities under the NewCAPP. This could be attributed to the efforts of PAFID, KASAPI and their partner indigenous communities.

It must be said though, that prior to the engagement of PAFID and KASAPI with the DENR-PAWB in the NewCAPP, the concept of ICCA has never figured in the discussions and implementation of the project. It was actually limited and confined to the protected-area-biodiversity-corridor approach espoused by many of its partner conservation organizations. This approach has in fact alienated many of the indigenous communities in those areas targeted for the expansion of the terrestrial protected areas system.

Recent developments indicate that the ICCA concept is on the way to becoming an integral part of biodiversity conservation efforts in the country. Much still needs to be done though. It is expected that the conflicting perspective of IP ownership rights and native title against the Regalian Doctrine will once again come to the fore as the discussions proceed.

3.5.2 In addition to what you indicated in 3.1-3.4 above, what are your main recommendations for how protected area laws and policies could be better implemented or perhaps reformed to more appropriately and effectively recognize and support ICCAs or potential ICCAs?

Conservation of biodiversity which is the ultimate objective of the protected area laws and policies could be best served by recognizing and supporting indigenous peoples' rights over their ancestral domains. Protected area policies would be more effective if formulated and implemented in the context of IPRA rather than subsuming and watering down its provisions to yield to the other laws that are often inimical to the indigenous peoples.

In the Philippine experience, every time there is an ensuing policy conflict between the IPRA and some other laws, harmonization often results to the subjugation of the IPRA provisions and with it the rights of indigenous peoples. This is the case with the IPRA against the CARL as amended by the CARPER and the IPRA against the NIPAS and the Philippine Mining Act. The provisions are there but when harmonization in implementation sets in, the indigenous peoples are always on the losing end.

4. NATURAL RESOURCES, ENVIRONMENTAL AND CULTURAL LAWS & POLICIES

This section seeks information about legal recognition of Indigenous peoples' and local communities' ways of life and governance of territories, areas and natural resources in a variety of frameworks, including natural resources and the environment, traditional knowledge, and intangible culture and heritage.

4.1 Natural Resources & Environment

4.1.1 Thinking more broadly about a range of natural resource or environmental laws and policies (biodiversity, agriculture, fisheries, forests, sub-soil, climate/pollution, genetic resources, etc.), please describe whether and how any of them support or hinder Indigenous peoples' and local communities' ways of life

and local governance and management of territories, areas and natural resources.

The IPRA contains several provisions that support the indigenous peoples' ways of life and local governance and management of territories, areas and natural resources. These include the right to practice and revitalize their own cultural traditions and customs (Sec. 32); the right to manifest, practice, develop, teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access to their religious and cultural sites; the right to use and control of ceremonial object; and the right to the repatriation of human remains (Sec 33).

Indigenous peoples are also entitled to the recognition of the full ownership and control and protection of their cultural and intellectual rights. They shall have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, including derivatives of these resources, traditional medicines and health practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, knowledge of the properties of fauna and flora, oral traditions, literature, designs, and visual and performing arts (Sec 34).

They also have access to biological and genetic resources and to indigenous knowledge related to the conservation, utilization and enhancement of these resources, shall be allowed within ancestral lands and domains of the ICCs/IPs only with a free and prior informed consent of such communities, obtained in accordance with customary laws of the concerned community. (Sec 35).

Section 6 of the IPRA describes the composition of ancestral lands and domains as referred under Section 3, items (a) and (b) of the law to include lands, inland waters, coastal areas, forests, pasture, residential, agricultural, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources and lands. The IPRA further provides that indigenous peoples have, among others, the right of ownership over ancestral domains (Section 7a) and to develop lands and natural resources (Section 7b). Furthermore, the law provides that indigenous peoples have the right to self-governance and self-determination (Section 13) and decide their development priorities (Section 17).

Section 52 of Presidential Decree PD 705 otherwise known as the Revised Forestry Code, prohibits persons, including cultural minorities (indigenous peoples) from entering forest lands and cultivate the same without permit from the government. Section 53 provides that those who violate will be ejected or relocated, and if warranted, prosecuted criminally. PD 705 remains the governing law for forest management but subsequent amendments and legislations (e.g. NIPAS Act) and policy issuances (EO 263) have made the law less harsh and friendly to indigenous peoples and local communities.

The NIPAS Act is the first national statute that acknowledged the crucial role of communities in the management of protected areas and the rights of indigenous

peoples to their ancestral lands. Section 9 requires that the management planning strategy for protected areas shall provide guidelines for the protection of indigenous cultural communities and other tenured migrant communities. Section 13 stipulates that the ancestral lands, customary rights and interests of indigenous peoples shall be accorded due recognition.

Section 4 of the Philippine Mining Act of 1995 declares that mineral resources are owned by the State and the exploration; development, utilization, and processing thereof shall be under its full control and supervision. It said further that the State shall recognize and protect the rights of the indigenous cultural communities to their ancestral lands.

The contradictory provisions in the IPRA and the Philippine Mining Act of 1995 regarding the ownership of the mineral resources are in the vortex of the raging debate on mining. The requirement to seek the free, prior and informed consent of the indigenous peoples and providing them their share in the benefits did not deter the conflicts.

Republic 9072 or the National Caves and Cave Resources Management and Protection Act is also increasingly proving to be a hindrance to the indigenous peoples' way of life and local governance. While the objective of the law is laudable, some indigenous communities' access to their sacred natural sites and livelihood are hampered. The Tabon Cave in Palawan has been declared off-limits to the Palawan Tribe which has a long-standing claim to the cave and its surrounding areas as their ancestral land. Some other indigenous groups are also prohibited from their centuries-old practice of collecting birds' nest from their caves.

4.1.2 Which state agency (or agencies) is mandated to develop and implement these laws and policies? Please describe any relevant political and institutional dynamics with other agencies that are responsible for community rights and welfare?

The Department of Environment and Natural Resources (DENR) is the primary agency mandated to develop and implement laws and policies that relate to territorial and tenure rights involving land, freshwater bodies, coastal and marine ecosystems in the Philippines. It has exclusive jurisdiction over all lands of the public domain which include agricultural, forest or timber, mineral lands and national parks. The DENR is the executive department responsible for governing and supervising the exploration, development, utilization, and conservation of the country's natural resources. This mandate includes the coastal and marine environments.

The other agencies include the Department of Agrarian Reform (DAR), the Department of Agriculture (DA), the National Commission on Indigenous Peoples (NCIP), and the Land Registration Authority (LRA), among others.

The Department of Agrarian Reform (DAR) is the executive department of

the Philippine Government responsible for all land reform programs in the country. It is the lead implementing agency of the Comprehensive Agrarian Reform Program (CARP) under the CARL.

The Department of Agriculture (DA) is the principal agency of the Philippine government responsible for the promotion of agricultural and fisheries development and growth. It provides support services necessary to make agriculture and fisheries, and agri-based enterprises profitable and to help spread the benefits of development to the poor, particularly those in the rural areas.

The NCIP (National Commission on Indigenous Peoples) is 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 indigenous peoples and the recognition of their ancestral domains as well as their rights thereto.

The Land Registration Authority (LRA) is the guardian of the Torrens System in land registration in the country. It is mandated to provide direct assistance to the DAR and DENR, particularly in the registration of land titles, such as Emancipation Patents (EPs), Certificates of Landownership Award (CLOAs), and Free Patents and Homestead Patents. The CADT and CALT issued by the NCIP are also required to be registered with the LRA.

The numerous agencies mandated to develop and implement laws on land, freshwater, and marine ecosystems that relate to territorial and tenure rights has resulted to a cacophony of policies that often require harmonization. The overlapping and conflicting jurisdictions often lead to turf wars among the agencies involved. In most instances, the hapless communities are caught in between these feuds.

These feuds between the agencies are normally settled with the harmonization of their policies usually coursed through the issuance of a Joint Administrative Order (JAO) of the agencies concerned. Unfortunately, in instances like this, the provisions of the IPRA are often subjugated to other laws such as CARL, the NIPAS Act, and the Philippine Mining Act, to the detriment of indigenous peoples. Such is the case of JAO No. 1 Series of 2012 between the DAR, DENR, LRA, and the NCIP.

4.1.3 If there are provisions in any of these laws for Indigenous peoples' and/or local community governance of territories, areas or natural resources, how are those in power selected (e.g. by election or traditional leadership from within the community, appointed by government, etc.)? Comment on any conditions or restrictions on the types of institutions that are recognized or (customary) laws that can be the basis for local decision-making.

The IPRA is very clear. Its provisions stipulates that indigenous peoples have the right to self-governance and empowerment (Chapter IV) and they have the right of ownership and control over their ancestral domains and the resources therein (Chapter III) which may be managed in accordance with their customary laws and

traditional practices (Section15).

For other local communities, the various management tenure accorded to them are in the nature of co-management and production sharing agreements which requires them as communities to get organized. Such community organizations must be registered in order to have juridical personalities to enter into such agreement with the government. This process is governed by the Corporation Code of the Philippines (Batas PambansaBlg. 68) and the Philippine Cooperative Code of 2008 (Republic Act 9520) and other related legislations.

4.1.4 If there are no provisions in these legal frameworks for community governance of territories, areas or natural resources, are there provisions for local management of the same? If so, in what contexts and under what restrictions?

For other local communities, the various management tenure accorded to them are in the nature of co-management and production sharing agreements which requires them as communities to get organized in order to have juridical personalities to enter into such agreement with the government. This process is governed by the Corporation Code of the Philippines (Batas PambansaBlg. 68).

Unlike titles (e.g. CADT), the co-management and production-sharing agreements entered into by other local communities usually have a term of 25 years renewable for another 25 years. These agreements may also be revoked by the government for cause, such as the communities non-compliance with the conditions, or if the government, for the sake of national interest, needs to.

4.1.5 How these laws might be better implemented or perhaps reformed to better support communities who are closely connected to specific territories, areas, or resources and whose ways of life contribute to the conservation and sustainable use of biodiversity?

As correctly observed, the problems in the Philippines are not about policy but implementation. The implementation of IPRA and other laws that promotes the rights and welfare of the basic sectors of society has always been met with resistance from the ruling elite which also control politics and business in the country. Improving implementation requires no less than an overhaul of the country's bureaucracy which has long been a captive of the industries they are supposed to regulate.

A weak state like the Philippines has a long way to go to liberate itself from the bondage of the oligarchs. The asset reforms introduced under the CARL and IPRA are a good start. The resistance and obstacles that these two laws are being subjected indicate that such objectives will not be realized too soon.

4.2 Traditional Knowledge, Intangible Heritage & Culture

4.2.1 Briefly comment on any laws and policies (e.g. access and benefit sharing,

intellectual property, folklore) that focus on or contain provisions relating to traditional knowledge or communities' intangible heritage and culture, including language, that are relevant for ICCAs.

Section 29 of the IPRA mandates that the State shall respect, recognize and protect the right of the indigenous peoples to preserve and protect their culture, traditions and institutions.

Section 32 of the IPRA protects the intellectual rights of indigenous peoples. It provides that the State shall preserve, protect, and develop the past, present and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their consent.

Indigenous peoples also have rights to Religious, Cultural Sites and Ceremonies. They have the right to manifest, practice, develop teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access to their religious and cultural sites; the right to use and control of ceremonial object; and the right to the repatriation of human remains (Sec 33).

They are also entitled to the recognition of the full ownership and control and protection of their cultural and intellectual rights. They shall have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, including derivatives of these resources, traditional medicines and health practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, knowledge of the properties of fauna and flora, oral traditions, literature, designs, and visual and performing arts (Sec 34).

Indigenous peoples also have access to biological and genetic resources and to indigenous knowledge related to the conservation, utilization and enhancement of these resources, shall be allowed within ancestral lands and domains of the ICCs/IPs only with a free and prior informed consent of such communities, obtained in accordance with customary laws of the concerned community (Sec 35).

Section 7 of Republic Act no. 9147 known as the Wildlife Resources Conservation and Protection Act provides that indigenous peoples may be allowed to collect wildlife for traditional use and not primarily for trade. Section 14 of the same law requires that prior informed consent from the indigenous peoples shall be obtained for bioprospecting activities.

Section 75 of Republic Act No. 9168 known as the Philippine Plant Variety Protection Act of 2002 stipulates that the law does not negate the effectivity and application of the IPRA. Section 32 of the IPRA protects the community intellectual rights of indigenous peoples. It provides that the State shall preserve, protect, and develop the past, present and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their consent. These manifestations include native varieties of plants and their

derivatives protected under RA 9168.

4.2.2 To what extent do these provisions allow for self-determination, local and/or customary decision-making and governance systems, and access to or tenure over territories, areas, and natural resources?

The IPRA provides indigenous peoples with a bundle rights. These include the right to ancestral domains and lands; right to self-governance and empowerment; right to social justice and human rights; and the right to cultural integrity (Sections 4 to 37). This bundle of rights allow for self-determination, local and/or customary decision-making and governance systems, and access to or tenure over territories, area, and natural resources.

For other local communities, the NIPAS Act and various policy issuances such as EO 263 provide several land tenure options, co-management and production-sharing agreements under the community-based forest management scheme.

4.2.3 Which state agency (or agencies) is mandated to develop and implement these laws and policies? Please describe any relevant political and institutional dynamics with other agencies that are responsible for community rights and welfare (e.g. those listed in other sections of this review).

The Department of Environment and Natural Resources (DENR) is the primary agency mandated to develop and implement laws and policies that relate to territorial and tenure rights involving land, freshwater bodies, coastal and marine ecosystems in the Philippines. It has exclusive jurisdiction over all lands of the public domain which include agricultural, forest or timber, mineral lands and national parks. The DENR is the executive department responsible for governing and supervising the exploration, development, utilization, and conservation of the country's natural resources. This mandate includes the coastal and marine environments.

The other agencies include the Department of Agrarian Reform (DAR), the Department of Agriculture (DA), the National Commission on Indigenous Peoples (NCIP), and the Land Registration Authority (LRA), among others.

The Department of Agrarian Reform (DAR) is the executive department of the Philippine Government responsible for all land reform programs in the country. It is the lead implementing agency of the Comprehensive Agrarian Reform Program (CARP) under the CARL.

The Department of Agriculture (DA) is the principal agency of the Philippine government responsible for the promotion of agricultural and fisheries development and growth. It provides support services necessary to make agriculture and fisheries, and agri-based enterprises profitable and to help spread the benefits of development to the poor, particularly those in the rural areas.

The NCIP (National Commission on Indigenous Peoples) is 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 indigenous peoples and the recognition of their ancestral domains as well as their rights thereto.

The Land Registration Authority (LRA) is the guardian of the Torrens System in land registration in the country. It is mandated to provide direct assistance to the DAR and DENR, particularly in the registration of land titles, such as Emancipation Patents (EPs), Certificates of Landownership Award (CLOAs), and Free Patents and Homestead Patents. The CADT and CALT issued by the NCIP are also required to be registered with the LRA.

The numerous agencies mandated to develop and implement laws on land, freshwater, and marine ecosystems that relate to territorial and tenure rights has resulted to a cacophony of policies that often require harmonization. The overlapping and conflicting jurisdictions often lead to turf wars among the agencies involved. In most instances, the hapless communities are caught in between these feuds.

These feuds between the agencies are normally settled with the harmonization of their policies usually coursed through the issuance of a Joint Administrative Order (JAO) of the agencies concerned. Unfortunately, in instances like this, the provisions of the IPRA are often subjugated to other laws such as CARL, the NIPAS Act, and the Philippine Mining Act, to the detriment of indigenous peoples. Such is the case of JAO No. 1 Series of 2012 between the DAR, DENR, LRA, and the NCIP.

Section 4 of the Wildlife Resources Conservation and Protection Act provides that the DENR shall have jurisdiction over all terrestrial plant and animal species, all turtles and tortoises and wetland species, including but not limited to crocodiles, water birds and all amphibians and dugong. The Department of Agriculture (DA) shall have jurisdiction over all declared aquatic critical habitats, all aquatic resources including but not limited to all fishes, aquatic plants, invertebrates and all marine mammals, except dugong. In Palawan the jurisdiction is vested to the Palawan Council for Sustainable Development pursuant to Republic Act No. 7611.

Section 19 provides that for the implementation of agreements on international trade in endangered species of wild fauna and flora, the management authorities for terrestrial and aquatic resources shall be the Protected Areas and Wildlife Bureau (PAWB) of the DENR and the Bureau of Fisheries and Aquatic Resources (BFAR) of the DA, respectively. In the Province of Palawan the implementation vested to the Palawan Council for Sustainable Development pursuant to Republic Act No. 7611.

5. HUMAN RIGHTS

This section seeks information about provisions in the national human rights framework that relate to Indigenous peoples' and local communities' ways of life and governance of territories, areas and natural resources.

5.1 Describe any human rights laws or policies that support or hinder ICCAs such as, for example, those relating to Indigenous peoples' and/or local communities' self-determination, self-governance, connection with and governance of territories, areas or natural resources, freedom of culture and religion/belief, etc. This may include a wide range of procedural as well as substantive rights¹⁷.

The 1987 Constitution of the Republic of the Philippines guarantees full respect for the dignity and human rights of every person (Article II, Section 11). It recognizes and promotes the rights of indigenous cultural communities (Article II, Section 22). The constitution guarantees the protection of the indigenous peoples' rights to their ancestral lands (Article XII, Section 5). It recognizes the right of the people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making (Section 16).

For this purpose, the constitution mandates that the Philippine Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good (Article 13, Section 1). Consistent with this mandate, the Philippine government enacted several laws that seek to address social justice and asset reforms. These include the IPRA and the CARL, among others.



The rights of indigenous peoples are enshrined in the 1987 Philippine Constitution.

The IPRA provides indigenous peoples with a bundle of rights. These include the right to ancestral domains and lands; right to self-governance and empowerment, social justice and human rights, and cultural integrity (Sections 4 to 37). This bundle of rights allow for self-determination, local and/or customary decision-making and governance systems, and access to or tenure over territories, area, and natural resources.

5.2 Which state agency (or agencies) is mandated to develop and implement these laws and policies? Please describe any relevant political and institutional

¹⁷ Procedural rights include, for example, rights to participation and access to justice. Substantive rights include, for example, rights to self-determination, healthy environment, and culturally appropriate education.

dynamics with other agencies that are responsible for community rights and welfare (e.g. those listed in other sections of this review).

The Philippine government, its agencies, and all its instrumentalities are mandated to obey the constitution.

The 1987 Constitution created the Commission on Human Rights (Article XIII, Section 17) and mandates it investigate all forms of human right violations and provide appropriate legal measures for the protection of human rights of all persons and provide preventive measures and legal aid services to those whose human rights have been violated or need protection (Section 18).

The DENR, DAR and DA, among other agencies involved in the natural resources management, rural development, agrarian reform, urban land reform and housing, among others, are obliged to provide substantive and procedural opportunities for people participation in their respective programs and activities.

The NCIP is 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 indigenous peoples as well as the recognition of their ancestral domains and their rights thereto (Section 38). It is mandated to protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions (Section 39).

5.3 Comment on the extent and effectiveness of implementation. Highlight key processes, dynamics, and pressures that affect the ways in which they are implemented.

Implementation of laws and policies in the Philippine has always been problematic. While the country is considered progressive in terms of crafting laws that support and uphold human rights and social justice, the rampant case of human rights violations (often too violent) attest to the failure of the implementing agencies to perform their tasks and enforce their mandates.

Mining leads the cast in terms of violating the indigenous peoples' rights to their ancestral lands. The requirement for free and prior informed consent has been brazenly abused and violated. The NCIP has neither the competence nor the commitment to enforce its IPRA and protect the indigenous peoples. On the contrary, the agency has practically abdicated its authority to delineate ancestral domains and process the applications for CADT to the DAR, DENR and LRA.

When the DENR questioned the authority of the NCIP to approve the surveys, instead of asserting its power under IPRA, the agency meekly submitted. It upheld the claim of the DENR that it is the only competent authority to approve surveys and required that survey plan for ancestral domains should first be approved by the DENR violating the IPRA provision that the delineation of ancestral domains should be based on the principle of self-delineation.

The DENR also control the Mines and Geosciences Bureau (MGB) the primary agency for licensing and regulation of mining in the Philippines. The Mining Act of 1995 is in direct contradiction of IPRA of 1997. The MGB had announced that about 12.2 million hectares are available for medium to large-scale mining companies which had already applied for mining rights. The MGB had laid out plans to make way for 24 priority mining projects meant to raise a total investment of over \$8 billion in 2013 covering at least 40.65 percent of the country's total land area. Out of the 24 identified priority projects of the government for large-scale mining, 18 come from indigenous territories.

When the Land Registration Authority (LRA under the Department of Agrarian Reform) questioned how the NCIP can register ancestral lands and ancestral waters citing the lack of appropriate reference book since there is no reference to Ancestral Domain and Ancestral Land in the existing land registration statutes, the NCIP agreed that approved CADTs should first be registered before being awarded. This made the LRA the bottleneck in the process where many adverse claims against the traditional territories of indigenous peoples are entertained and the agency requires that surveys should be conducted again to segregate such adverse claims otherwise the CADTs would not be registered.

The capitulation of the NCIP to the DENR, DAR and LRA has rendered it inutile and violates the very law that created it. The IPRA has already prescribed the process and procedures for delineating ancestral domains and processing the CADTs. For NCIP to allow these agencies to rewrite the rules is pure simple subjugation of the IP rights.

This is highly questionable because the NCIP is rolled into quasi-legislative, quasi-judicial and administrative/executive body. Owing to its quasi-judicial powers, the NCIP's decisions can only be challenged before the Supreme Court of the Philippines. For it to allow the DENR, DAR and LRA to undermine it, is really sad. Obviously, the NCIP has failed to meet the expectations of the indigenous peoples. It is all set to fail further as its independence and impartiality will has been further eroded by the DAR, DENR and LRA under the agencies' Joint Administrative Order No. 1, Series of 2012.

6. JUDGEMENTS

This section seeks information about (sub-) national case law (including those concerning human rights and the environment) that relates to Indigenous peoples' and local communities' ways of life and governance of territories, areas and natural resources.

6.1 Describe any case law/judgements that either support or hinder ICCAs. Issues of relevance include, for example, Indigenous peoples and/or local communities' self-determination, self-governance, connection with and governance of territories, areas or natural resources, freedom of culture and religion/belief, etc. This may include a wide range of procedural as well as substantive rights.

In 1998, shortly after the enactment of the Indigenous Peoples' Rights Act of 1997, retired Supreme Court Justice Isagani Cruz¹⁸ and lawyer Cesar Europa, filed a petition with the Philippine Supreme Court for prohibition and mandamus as citizens and taxpayers, assailing the constitutionality of certain provisions of RA 8371, otherwise known as the Indigenous Peoples Rights Act of 1997 (IPRA) and its Implementing Rules and Regulations. The case was docketed as **Cruz vs. DENR, G.R. No. 135385**.

Supreme Court records show the following:

- a. Petitioners Isagani Cruz and Cesar Europa brought this suit for prohibition and mandamus as citizens and taxpayers, assailing the constitutionality of certain provisions of Republic Act No. 8371 (R.A. 8371), otherwise known as the Indigenous Peoples Rights Act of 1997 (IPRA), and its Implementing Rules and Regulations (Implementing Rules).
- b. In its resolution of September 29, 1998, the Court required respondents to comment. In compliance, respondents Chairperson and Commissioners of the National Commission on Indigenous Peoples (NCIP), the government agency created under the IPRA to implement its provisions, filed on October 13, 1998 their Comment to the Petition, in which they defend the constitutionality of the IPRA and pray that the petition be dismissed for lack of merit.
- c. On October 19, 1998, respondents Secretary of the Department of Environment and Natural Resources (DENR) and Secretary of the Department of Budget and Management (DBM) filed through the Solicitor General a consolidated Comment. The Solicitor General is of the view that the IPRA is partly unconstitutional on the ground that it grants ownership over natural resources to indigenous peoples and prays that the petition be granted in part.
- d. On November 10, 1998, a group of interveners, composed of Sen. Juan Flavio Velasco, one of the authors of the IPRA, Mr. Ponciano Benaon, a member of the 1986 Constitutional Commission, and the leaders and members of 112 groups of indigenous peoples (Velasco, et. al), filed their Motion for Leave to Intervene. They join the NCIP in defending the constitutionality of IPRA and praying for the dismissal of the petition.
- e. On March 22, 1999, the Commission on Human Rights (CHR) likewise filed a Motion to Intervene and/or to Appear as Amicus Curiae. The CHR asserts that IPRA is an expression of the principle of *parens patriae* and that the State has the responsibility to protect and guarantee the rights of those who are at a serious disadvantage like indigenous peoples. For this reason it prays that the petition be dismissed.

¹⁸Mr. Cruz is a retired justice of the Supreme Court.

- f. On March 23, 1999, another group, composed of the Ikalahan Indigenous People and the Haribon Foundation for the Conservation of Natural Resources, Inc. (Haribon, et al.), filed a motion to Intervene with attached Comment-in-Intervention. They agree with the NCIP and Flavio, et al. that IPRA is consistent with the Constitution and pray that the petition for prohibition and mandamus be dismissed. The motions for intervention of the aforesaid groups and organizations were granted.
- g. Oral arguments were heard on April 13, 1999. Thereafter, the parties and interveners filed their respective memoranda in which they reiterate the arguments adduced in their earlier pleadings and during the hearing.
- h. Petitioners assail the constitutionality of the following provisions of the IPRA and its Implementing Rules on the ground that they amount to an unlawful deprivation of the State's ownership over lands of the public domain as well as minerals and other natural resources therein, in violation of the Regalian Doctrine embodied in Section 2, Article XII of the Constitution:
 1. Section 3(a) which defines the extent and coverage of ancestral domains, and Section 3(b) which, in turn, defines ancestral lands;
 2. Section 5, in relation to section 3(a), which provides that ancestral domains including inalienable public lands, bodies of water, mineral and other resources found within ancestral domains are private but community property of the indigenous peoples;
 3. Section 6 in relation to section 3(a) and 3(b) which defines the composition of ancestral domains and ancestral lands;
 4. Section 7 which recognizes and enumerates the rights of the indigenous peoples over the ancestral domains;
 5. Section 8 which recognizes and enumerates the rights of the indigenous peoples over the ancestral lands;
 6. Section 57 which provides for priority rights of the indigenous peoples in the harvesting, extraction, development or exploration of minerals and other natural resources within the areas claimed to be their ancestral domains, and the right to enter into agreements with non-indigenous peoples for the development and utilization of natural resources therein for a period not exceeding 25 years, renewable for not more than 25 years; and
 7. Section 58 which gives the indigenous peoples the responsibility to maintain, develop, protect and conserve the ancestral domains and portions thereof which are found to be necessary for critical watersheds,

mangroves, wildlife sanctuaries, wilderness, protected areas, forest cover or reforestation.”

- i. Petitioners also content that, by providing for an all-encompassing definition of “ancestral domains” and “ancestral lands” which might even include private lands found within said areas, Sections 3(a) and 3(b) violate the rights of private landowners.
- j. In addition, petitioners question the provisions of the IPRA defining the powers and jurisdiction of the NCIP and making customary law applicable to the settlement of disputes involving ancestral domains and ancestral lands on the ground that these provisions violate the due process clause of the Constitution. These provisions are:
 - 1. Sections 51 to 53 and 59 which detail the process of delineation and recognition of ancestral domains and which vest on the NCIP the sole authority to delineate ancestral domains and ancestral lands;
 - 2. Section 52[i] which provides that upon certification by the NCIP that a particular area is an ancestral domain and upon notification to the following officials, namely, the Secretary of Environment and Natural Resources, Secretary of Interior and Local Governments, Secretary of Justice and Commissioner of the National Development Corporation, the jurisdiction of said officials over said area terminates;
 - 3. Section 63 which provides the customary law, traditions and practices of indigenous peoples shall be applied first with respect to property rights, claims of ownership, hereditary succession and settlement of land disputes, and that any doubt or ambiguity in the interpretation thereof shall be resolved in favor of the indigenous peoples;
 - 4. Section 65 which states that customary laws and practices shall be used to resolve disputes involving indigenous peoples; and
 - 5. Section 66 which vests on the NCIP the jurisdiction over all claims and disputes involving rights of the indigenous peoples.”
- k. Finally, petitioners assail the validity of Rule VII, Part II, Section 1 of the NCIP Administrative Order No. 1, series of 1998, which provides that “the administrative relationship of the NCIP to the Office of the President is characterized as a lateral but autonomous relationship for purposes of policy and program coordination.” They contend that said Rule infringes upon the President’s power of control over executive departments under Section 17, Article VII of the Constitution. Petitioners pray for the following:

1. A declaration that Sections 3, 5, 6, 7, 8, 52[I], 57, 58, 59, 63, 65 and 66 and other related provisions of R.A. 8371 are unconstitutional and invalid;
 2. The issuance of a writ of prohibition directing the Chairperson and Commissioners of the NCIP to cease and desist from implementing the assailed provisions of R.A. 8371 and its Implementing Rules;
 3. The issuance of a writ of prohibition directing the Secretary of the Department of Environment and Natural Resources to cease and desist from implementing Department of Environment and Natural Resources Circular No. 2, series of 1998;
 4. The issuance of a writ of prohibition directing the Secretary of Budget and Management to cease and desist from disbursing public funds for the implementation of the assailed provisions of R.A. 8371; and
 5. The issuance of a writ of mandamus commanding the Secretary of Environment and Natural Resources to comply with his duty of carrying out the State's constitutional mandate to control and supervise the exploration, development, utilization and conservation of Philippine natural resources."
- I. After due deliberation on the petition, the members of the Court voted as follows:
1. Seven (7) voted to dismiss the petition. Justice Kapunan filed an opinion, which the Chief Justice and Justices Bellosillo, Quisumbing, and Santiago join, sustaining the validity of the challenged provisions of R.A. 8371. Justice Puno also filed a separate opinion sustaining all challenged provisions of the law with the exception of Section 1, Part II, Rule III of NCIP Administrative Order No. 1, series of 1998, the Rules and Regulations Implementing the IPRA, and Section 57 of the IPRA which he contends should be interpreted as dealing with the large-scale exploitation of natural resources and should be read in conjunction with Section 2, Article XII of the 1987 Constitution. On the other hand, Justice Mendoza voted to dismiss the petition solely on the ground that it does not raise a justiciable controversy and petitioners do not have standing to question the constitutionality of R.A. 8371.
 2. Seven (7) other members of the Court voted to grant the petition. Justice Panganiban filed a separate opinion expressing the view that Sections 3 (a)(b), 5, 6, 7 (a)(b), 8, and related provisions of R.A. 8371 are unconstitutional. He reserves judgment on the constitutionality of Sections 58, 59, 65, and 66 of the law, which he believes must await the filing of specific cases by those whose rights may have been violated by the IPRA. Justice Vitug also filed a separate opinion expressing the view that Sections 3(a), 7, and 57 of R.A. 8371 are unconstitutional. Justices Melo,

Pardo, Buena, Gonzaga-Reyes, and De Leon join in the separate opinions of Justices Panganiban and Vitug.

3. As the votes were equally divided (7 to 7) and the necessary majority was not obtained, the case was again deliberated upon. However, after second deliberation, the voting remained the same. Accordingly, pursuant to Rule 56, Section 7 of the Rules of Civil Procedure, the petition is DISMISSED.

6.2 If applicable, discuss any major precedents set – either negative or positive in relation to ICCAs – and how they may be affecting or used by other communities as leverage in their own cases or movements.

While the case was dismissed and the IPRA was upheld, it was merely a potent of things to come. The very close decision (in fact, it was a tie) rendered the IPRA open to more contradictions and implementation has become more difficult. The case was considered the greatest challenge to IPRA, but far greater challenges now hamper its full implementation.

The basic issues raised against the law, that it violates the constitutional principle that all natural resources belong to the State (Regalian Doctrine) and it deprives the State control over the exploration of natural resources, remain at the heart of the conflict between the Philippine government and the indigenous peoples. This is clearly manifested in the ongoing fight against the onslaught of mining, logging, plantation establishment, and other large commercial and extractive activities abetted by the government to promote investments.

These issues strike at the core of the requirement for a free and prior informed consent which the NCIP and other agencies of government continuously ignore and abuse. These issues remain the driving force behind the efforts of the DENR, DAR, LRA and other instrumentalities of the State, to continue to undermine the principle of self-delineation of ancestral domains, among other rights. These issues are the very reasons why the integrity of the indigenous peoples' territories and local conservation areas are not respected.

6.3 If applicable, highlight any important case law/jurisprudence from other national or regional courts that communities in your country have used as leverage in their own cases or movements.

The decision of the Philippine Supreme Court to dismiss the petition against the IPRA paved the way for its implementation, although difficult and strewn with obstacles, at least it created a positive mood to move on. Many were of the opinion that, sans the constitutionality questions, the IPRA should be given the chance to prove itself and realize its objectives as a social justice and asset reform legislation.

6.4 Comment on the impact of these judgments in government / other actors' behavior towards Indigenous peoples or local communities.

The decision reinforced the gap between the people of the Philippines and affirmed the tragedy of its colonization that created a country but divided its people. Even now, distrust and doubts simmer between those considered as indigenous peoples and the rest of the indigenous population of the country. The uneasy truce is further shaken by the increasingly stiff competition for the country's remaining natural wealth.

A significant portion of the rest of the country's population are in fact having misgivings about the country's resources being sequestered by the indigenous peoples for themselves to the detriment of the common good and the country's national interest. To them it is alright for the government to take control of these resources so it could be used for the country's development and equitably distribute the benefits to the whole population rather than limited to the indigenous peoples. This has created animosities between indigenous peoples and other local communities.

7. IMPLEMENTATION

This section looks beyond laws and policies to focus on their implementation. It seeks information about the extent to which and how relevant provisions are put into effect. This will require an understanding of both specific and broader institutional and political dynamics, as well as understanding of how legal frameworks are operationalized at the community level. In addition to what you have stated above about implementation:

7.1 Identify and comment on key factors that contribute to or undermine effective implementation of supportive provisions

The key to effective implementation of laws and policies is the competence and commitment of the government agencies tasked to do it. In this instance, the NCIP has neither one nor the other.

Many of its people were absorbed from the previous agencies that were created to serve the needs and welfare of indigenous peoples under different paradigms that often treat indigenous people condescendingly as noble savages that need to be tamed, educated and civilized. Still many, just want to have jobs without doing diligent work. A few are willing to serve but clearly lacks the skills and capacity to do worthy tasks.

The appointed Commissioners of the NCIP also badly need capacity building on their own to be able to dispense justice to every indigenous person. It is a stark reality that several commissions after, the Philippine government is finding it difficult to select and appoint capable commissioners from the ranks of the indigenous peoples. The bench is too shallow and there is urgent need to train and develop the next generation of IP leaders to prepare them for the tasks.

7.2 Provide specific recommendations to the relevant agencies and other actors

such as Indigenous peoples and local communities about how to improve implementation of supporting laws and policies

Indigenous peoples insist that, in general, they are not greedy and selfish. In fact sharing benefits has been the hallmark of many of their traditional and cultural practices. While there may be some who would want to take advantage of the IPRA for their own selfish ends, they are very few and not ascendant. All they want is respect and recognition and their just share in the country's development. All they are saying is for the government to allow them to participate meaningful in the discourse on national development.

In general, the Philippine government, and all its agencies and instrumentalities should respect the traditional rights and customary laws of the indigenous peoples by allowing IPRA to be implemented without any obstacles. These agencies should be the first to comply faithfully with the FPIC requirement and not undermine it.

The DENR, for instance, should sit down and discuss with the NCIP how to best go about the FPIC requirement for its natural resources management functions. It should deal directly with indigenous communities as partners, not as overlords. It should be open to sharing governance and management responsibilities with them. It would in fact, lessen their burden in protecting the environment if they recognize and support the communities in the governance and management of their conservation areas.

The DAR should refrain from encroaching and including the traditional IP territories in its agrarian reform program. It should prioritize distributing the big landholdings of a few lucky families. It should not foment conflicts between IP communities and other local communities. Agrarian reform should defer to the IPRA in the public domain.

The LRA should confine itself to its function, which is merely clerical. It should register without questions the titles that the NCIP approved because it is well within its quasi-legislative and quasi-judicial powers. Such are beyond the authority of the LRA to question.

The NCIP should strictly implement the IPRA. It should not allow other agencies to undermine its functions. They have more than enough authority and power to insist on resolving policy disputes with other agencies in favor of indigenous peoples as a positive approach social justice and reform. The Commission should hold on to its quasi-judicial and legislative powers to provide indigenous peoples enough room to maneuver in the labyrinth of overlapping and often conflicting government policies and priorities.

If the NCIP is to be able to fully perform its multi-role as a quasi-legislative, quasi-judicial, and administrative/executive body and fulfill its constitutional mandate, the organization needs to be reformed and strengthened. A more inclusive process involving local community leaders must be put in place in the selection and

vetting of its top officials. Further, a dynamic and responsive human resource development system must be institutionalized to enable the NCIP to gain the necessary skills and tools to respond to the complex challenges it faces.

8. RESISTANCE AND ENGAGEMENT

This section seeks information about how communities are responding to legal and policy frameworks. Responses can range greatly from staunch resistance to constructive engagement to “working around” the law; discussion of influencing factors and dynamics is particularly important.

8.1 How are Indigenous peoples and local communities engaging with or resisting laws and policies (including in their formulation and implementation) specifically to secure local governance and conservation of their territories, areas and/or natural resources?

Indigenous communities continue to engage with government agencies and other external institutions. But with or without them, they go on with their lives and implement their customary laws in the governance and management of their community conserved areas and other part of their territories.

Problems only arise when the government uses the State security apparatus such as the police and the military to enforce its will. This usually occurs when mining and other large commercial and extractive industries are involved. Incidence of human rights violations and killings drastically rise. In this case, the indigenous communities suffer the brutality with silent dignity, with the occasional support from human rights organizations denouncing the atrocities. But nothing usually happens after that. The spilled blood and dead could not be brought back to life.

8.2 If applicable, describe main conflicts between communities who are conserving and sustainably using territories, areas, and natural resources and the private sector, conservation groups, and/or government agencies. What are the types of disputes and how have they emerged? How are they being resolved (if at all)? Highlight in particular how and why communities may be actively using or avoiding certain legal and policy frameworks.

The main conflicts are rooted on who has the right to control the management of the natural resources. This emanates from the contradictory provisions of the constitution and the various governing laws on natural resources management, on one side, and the IPRA on the other.

The government agencies, such as the DENR, and the private sector investors that it authorizes to explore and utilize the natural resources like minerals and trees, insist on their authority and they have the power to back it up and enforced it. They usually run roughshod over the FPIC requirement if they could not get it through peaceful means and deceit.

It is usually a lopsided dispute. The communities do not have the forces, the firepower, and resources to engage with the usual combined forces of the police, military and private security groups hired to protect the mining and logging concessions. Many communities tried to match them before but they were just massacred.

In terms of some legal and policy framework, an increasing number of indigenous communities are avoiding and resisting the establishment of protected areas in their territories. The PA usually dilutes their authority and control over the territories with the creation of the PAMB where they are intentionally outnumbered, outvoted, and misrepresented.

Other communities also refrain from submitting their territories under the agrarian reform program. In many instances, indigenous communities lost more territories to the government program than outright land grabbing from other adverse parties. The DAR has been gobbling lands suited to agriculture in the so-called public domain and distributed them to absentee claimants, an evil offshoot of the radical change in agrarian philosophy from land to the tillers to land to the landless. Many landless peasants are encouraged to do “land occupation,” a euphemism for land grabbing by peasants which usually ends up victimizing indigenous peoples.

8.3 Briefly describe any broad social movements or trends amongst Indigenous peoples and local communities in response to key laws or policies that affect them. Include reference to any literature such as press releases or photo essays that help illustrate.

The IPRA is a result of the long struggle of indigenous peoples’ movement and their support groups. The continuing resistance against the onslaught of mining galvanizes the various indigenous peoples groups and movement to prevent the destruction of their territories. They are also actively engaged in legislative advocacy to ensure that the proposed laws should not in any way water down the provisions of the IPRA. Such proposed legislations include the alternative mining bill, the proposed new forestry code, and the proposed national land use policy.

8.4 In general, to what extent are Indigenous peoples and local communities aware of and actively responding to laws and policies that affect them? Comment on influencing factors and dynamics (for example, differential access to information and mechanisms for participation).

The long struggle for the recognition and support of their rights is a living testimony to the indigenous people and other local communities’ awareness and active response to laws and policies that affect them. The agrarian reform law and the IPRA, to cite a few, are the more tangible outputs of these responses.

The prevailing democratic space, which provides some semblance of transparency and offers mechanism for participation in the country, has allowed them to be aware and respond accordingly. But then again, the democratic space enjoyed in the

Philippines today is by itself also a result of the long and arduous blood-stained history of struggles for the respect of human rights.

8.5 Are there any legal empowerment and/or advocacy initiatives in your country, and how effective are they?

There is a vibrant legal empowerment and advocacy initiatives in the Philippines. The sheer number of alternative law groups supporting indigenous peoples and other local communities in their engagement with the government is overwhelming. This is the reason why the Philippines in recent years, has had the most progressive legislations enacted in Asia, and even worldwide. The struggles in fact have shifted to how these laws are being implemented by the Philippine government. This new arena, however, is proving more difficult than having the legislations enacted.

8.6 Are some Indigenous peoples or local communities 'managing' better than others? If so, why?

Some indigenous peoples and local communities are definitely 'managing' better than the others. In fact, generally speaking, other local communities get better treatment than indigenous peoples. Indigenous peoples comprise the most marginalized among the poor in the country.

Some communities are more capable than the others. For instance, the Cordillera peoples, owing to their more democratic culture and higher educational attainment attuned to the mainstream society, are more capable of securing their territories and communities compared with the other indigenous communities in the country. The worse are the still nomadic tribes who have no clear sense of the rest of the world and its 'modern' ways of doing things.

9. LEGAL AND POLICY REFORM

In addition to specific reforms you have proposed above:

9.1 What institutional, legal and/or policy reforms do you feel are required to better enable Indigenous peoples and local communities to govern their ICCAs?

1. The enactment of the proposed National Land Use Management Act (NALUMA) would rationalize land use and resolve the conflicting and overlapping policies is extremely urgent. This law would provide the national framework for land use planning in the country and the inclusion of ancestral domain and ICCA as a land use would certainly be beneficial to indigenous peoples and other local communities.
2. The passage of proposed Mineral Resources Management Act to replace and repeal the current Philippine Mining Act of 1995 would spare many communities from the unbridled greed and rapacity of the miners and their cohorts and accomplices in the government.

3. The enactment of the new forestry code, the Sustainable Forest Management Act (SFMA) would institutionalize the role of the indigenous peoples and other local communities in the management, conservation, and development of the country's natural resources.

9.2 Specifically, what changes could be made to the existing legal or policy frameworks to ensure appropriate legal recognition and support of ICCAs?

Under the proposed national land use policy, ICCA and ancestral domains would constitute a specific land use whose governance and management are lodged with the indigenous communities.

The proposed sustainable forest management act would institutionalize community-based forest management and strengthen the rights of indigenous peoples to their territories and community conservation areas.

The mineral resources management bill pending in the legislature would adopt more stringent safeguards to protect the ancestral domains of indigenous peoples. It would also reinforce the FPIC requirement.

9.3 Who and how would these reforms be implemented?

The DENR, NCIP and other government agencies mandated to implement the laws and policies on land and natural resources management would have greatly diminished roles and authorities. On the other hand, Indigenous peoples and other local communities would have greater roles in the governance and management of their territories.

10. CASE STUDIES

With reference to parts I-IX, please develop two or more case studies that illustrate the dynamics you describe above at the local level. The aim is to get a sense of how the legislative and policy framework is operating in reality, the role and influence of institutional dynamics, and how communities are responding to and engaging with these frameworks. Please provide links and/or references to any relevant case studies or literature that may have already been developed. If possible, comment on trends over time or significant changes that may have occurred since these studies.

The case studies included here were presented during the First National Conference on ICCA held on 26 – 30 March 2012 at the University of the Philippines - National College of Public Administration and Governance (UP-NCPAG).

10.1 The Traditional Management of Sea and Lake of the Tagbanwa People¹⁹

The traditional territories of the Calamian Tagbanwa are the islands and islets of the Calamianes Group of Islands just across the northern tip of the main island of Palawan in the Philippines. They are referred to as Calamian Tagbanwa to distinguish them from the Tagbanwa in the main island of Palawan.

This case study is about the Calamian Tagbanwa in Coron Island, one of the bigger islands and settlements. There are two settlements in this island, BanwangDaan and Cabugao. The two settlements have a combined population of 430 families. Their sources of living are fishing, farming and bird's nest gathering (*panuot ta luray*).

The Calamian Tagbanwa considers their whole ancestral domain which covers a total 15,124 hectares of land and water, as their community conserved area. This includes Coron Island, and the ancestral waters surrounding it.

Coron Island has a total land area of 7,160 hectares. Its rugged terrain features several characteristics that greatly shaped the Tagbanwa culture. The predominantly Karsts limestone island has a very limited areas suited for farming. The existing *kuma* or *kaingin* (swidden) farm sites are owned by the clans farming them. Opening a new *kaingin* site is not allowed anymore.

There are also many caves dotting the cliffs of the karsts limestone island. The Swift birds that have been nesting on these caves have provided the Tagbanwa their major source of income for centuries, trading edible birds' nests since ancient times with the Chinese and other traders from near and afar²⁰. The caves are owned by the clans and are bequeathed as inheritance to the next generation.

Located around Coron Island are the *pulo* (islets) and the *kweba* (caves) which are the burial sites (*libingan*) of their ancestors. The *Kenay* (white sands) that surround the island are actually burial places. The mountains of Coron Island also contain the *Awuyuk* or the 13 sacred lakes. The caves near the lakes are also nesting places of the swift birds.

For the Tagbanwas of Coron Island, their *TeebSurubliyen* (ancestral waters) has been the primary source of living and supplier of the basic needs of their ancestors and the present generation. To ensure its sustainability, only the traditional way of fishing is allowed. The ancestral waters unite the other Tagbanwa peoples living on the other islets of the Calamianes Group.

The *BahurangPanyaan* (Squid Reef) is home of the revered giant squid. The lagoons are considered sanctuaries where the fish and shell lay their eggs. Fishing is prohibited on these sites.

¹⁹Presented by Roy Abella, member of the Board of Trustees of the Tagbanwa Tribe of Coron Island (TTCI) during the First National Conference on ICCA in the Philippines held on 27 – 30 March 2012 at the UP-NCPAG.

²⁰The current trading price of the edible birds' nest is USD 4,000/kilogram.

For centuries and until recently, the Mamepet (Council of Elders) composed of elders who give counsel and guidance, has strictly imposed traditional governance (*Panglaw at Bordon*). At present, the *Mamepet* has 30 elders. They identify and share the stories of the sacred places and are the ones who give permission to whoever wants to enter the sacred places. Going to the sacred places without a significant cause is prohibited. The tourists are not allowed on sacred sands.

Going to the *Awuyuk* without a significant cause is also prohibited. The Tagbanwa observe that the swift birds drink water from these sacred lakes to make the expensive *luray* or bird's nest made which is made into nido soup. At present, the *Kayangan* and *Barracuda* are the only two lakes open to the public upon the elders' permission. These lakes were declared as the cleanest lakes in the Philippines and have been elevated to the hall of fame.

In the lagoons which are considered as sanctuaries where fish and shells take shelter and lay their eggs, only hook and spear fishing is allowed. Using fish net is prohibited.

Cutting of trees from the sacred and reserved forest is prohibited. Hunting and swidden farming are also not allowed.

The traditional governance of the community conserved area is under severe threats and challenges. Coron Island and its surrounding waters are the crown jewels of tourism in that part of the country. In fact, it is one of the top attractions. As tourism prospers, people increasingly flocked to the Tagbanwa territory that made it difficult to enforce the policies, particularly in the lakes open to tourists.

Outsiders continue the illegal extraction of trees from the forests. To counter this, the Tagbanua organized forest and sea patrol groups. The persistent entry of migrants into the territory doing dynamite and cyanide fishing causes a lot of destruction to the environment.

But the greatest challenge comes from the government. The combined forces of the local DENR office, the PCSD, and the local government units of Coron and Palawan, and even the NCIP, have been giving no respite to the Tagbanua. They continue to insist and attempt to take away control of the island and its surrounding waters from the Tagbanua. This happens despite the fact that the Tagbanua already has a CADT to their territory.

It is a testament to the resiliency of the Tagbanua that after all the brickbats thrown against them, they are still in control of their territory. But the efforts to undermine them continue. In the past they kicked out the PAMB and the DENR when their territories were declared as a protected area without their consent.

In 2011, the PCSD filed a complaint against them for building cottages on the beaches of the island for the tourists. The PCSD alleges that the Tagbanwa did not seek its permission to do so. Apparently, the NCIP has dismissed the case in

February 2012 because the PCSD never attended the hearings which were conducted in Manila.

To the Tagbanwa it was plain and simple power play and harassment because the PCSD is still smarting from the fact that they were not able to stop the Tagbanwa from having a CADT to their ancestral domain. More importantly, the PCSD and the other government agencies are raring to take over the management of the booming tourism in the island.

Most certainly, the challenges to the Tagbanwa's authority to govern and manage their territory will continue. The nagging question will be for how long the Tagbanwa would hold on. For them, they intend to continue the traditional system of governing the sacred places and lakes and impart the traditional knowledge to the next generation. But they know that for them to be able to do this, they also need the cooperation of the various agencies of the government and support groups.

For more information about this case, voluminous documents have already been written about Coron Island and the Tagbanwa. Many of them are readily available on the internet. These include the works of Sampang, De Vera and Mauricio Ferrari, among others.

Here are some helpful links:

- [http://intranet.iucn.org/webfiles/ftp/public/ForumEvents/E0570/Final%20Document/570_Sampang_A_Living%20Culture%20-%20Sacred%](http://intranet.iucn.org/webfiles/ftp/public/ForumEvents/E0570/Final%20Document/570_Sampang_A_Living%20Culture%20-%20Sacred%20Land%20Management%20Plan.pdf)
- http://www.iapad.org/publications/ppgis/coron_best_practice_paper.pdf
- <http://pcij.org/stories/print/cadt.html>
- http://www.pcsd.ph/protected_areas/coron.htm

10.2 MahagkotKiluntudan Tag-ebo Ancestral Domain (MAKITA)²¹

The traditional territories of the Agusanon Manobo are located in the southern part of Agusan del Sur, CARAGA Region, Mindanao. Their ancestors are *Apo Enbonsan*, *Apo Ebo*, *Apo Ebad* and *Apo Sanga*. Farming and fishing are their sources of living.

The name of their ancestral domain is also the name of the formal organization they formed and registered to transact business for and on behalf of their community – the MahagkotKiluntudan Tag-ebo Ancestral Domain (MAKITA). This is based on the

²¹Presented by Datu Makalipay Ireneo P. Rico during the First National Conference on ICCA held on 27 – 30 March 2012 at the UP-NCPAG.

name of three mountains in their territories - *Mahagkot*, *Kiluntudan* and *Tag-Ebo*. They established their organization to protect their ancestral land, particularly the sacred places entrusted to them by their ancestors.

The ancestral domain covers about 8,996 hectares. It is located in the municipalities of Esperanza and San Luis, and portions of Bayugan City, all in the province of Agusan del Sur.

The ancestral and sacred places include the areas where they breathe and perish; where rituals are conducted such as *Kahimunan* and *Uyagdok*. It is where they gather food, water, medicine and others. The sacred places are where their ancestors' burial grounds are found, and where Tagbanwa and other spirits that protect various natural resources stay. These include sacred forests, rivers and traditional burial grounds.

Mahagkot is one of the sacred mountains of the Manobo in Esperanza. It is where *Tagbanwa* and other spirits reside. It is one of the highest mountains in their ancestral domain. *Ilihanni Apo Kiyaw* is the bunker or camp of the *bagani* (warrior) *Apo Kiyaw*, who established and instituted the systems and rules in fishing and hunting. *Kiebad* is the traditional burial place of the Manobo. It was named after *Apo Ebad* the first to have lived in the place and who is also buried there.

Linumpawan is derived from the word "*lumpaw*" which means "echo." It is believed that whenever *Apo Sanga* pounded rice for *Kahimunan*, the sounds reach even beyond the next neighbouring mountain. It is in this mountain where the *Manobo* obtain their drinking water. *Kiluntudan* is derived from the *Manobo* word "*migyuntod*" which means on top. This is an important place because according to their ancestors it was the only place of refuge of the tribe during the great deluge. They believe this is where *Daytanon*, a deity, stays.

Tag-Ebo is a sacred mountain because *Apo Ebo*, one of their ancestors, was born, lived and buried there. *Kabay-angan* is a sacred forest where *kahimunan* rituals are held. This is also a traditional hunting ground where a water falls is also found. *Tag-Ebo River* is the traditional fishing area. *Moy-baay* is the source of their potable water. The *Danaw* (lake), according to tales, was once a man hit by the lightning and was turned into the lake as punishment for trespassing the place. Until at present, noise and other disturbing behaviors are prohibited in the vicinity of the lake to avoid meeting the same fate.

The ancestral domain and the sacred places are governed by the *dagpon*. They implement the customary laws in punishing people who intrude into the sacred places.

To protect their ancestral lands and sacred places, the community organized forest guards and stewards of the sacred places. Cutting of trees, clearing for additional farms and housing lots are strictly prohibited.

Before entering the sacred places, the ritual of *Uyagdokis* conducted to ask permission and guidance from the spirits. The use of these places is limited and requires the observance of the traditional systems in hunting, fishing, farming and extracting medicines or food from the forest.

Several threats and challenges confront the Manobo territories. These include the rising number of migrants, abusive and extensive use of the natural resources, illegal logging, relentless wildlife poaching, land use change by the migrants (hunting grounds and fishing areas were converted into farms) and the entry of large scale commercial extractive industries disrespecting the traditional rights of the tribe.

To counter this, the community implements the following:

- Strengthen the organization and its members and continuous implementation of traditional rules and customary law.
- Collaboration with dagpon and other Manigaon of the other Ancestral land to protect the remaining forests.
- Pursuing and strengthening of the formulated resolution for protecting the sacred places and coordinate with LGU government offices such as DENR, DAR, etc.
- Information drives regarding the sacred forest, rivers, and burial grounds significantly to the migrants.
- Secure CADT

10.3 Igmale'ng'en: The Sacred Forest of Portulin²²

The Talaandig tribe of Portulin, Pangantukan, Bukidnon has a population of 465. The community is located at the western part of Bukidnon Province in Mindanao. Their ancestral domain has a total area of 6,679 hectares. Farming is their primary source of living.

To them, their sacred places are connected to their lives. They are inheritance from their ancestors. They provide them sources of living and other needs like the medicinal plants. It is where the spirits live. It is where their ancestors are buried, where they also conduct rituals. It is also a place where tribal leaders meet and gather.

Igmale'ng'en is the sacred place identified by their forefathers. The identification of the extent of this sacred forest is done through the *apian* or spirit-guides. The Talaandig consider these sacred places as the abode of the spirits, their deity, and resting place of their ancestors.

²²Presented by Datu Johnny Guina during the First National Conference on ICCA held on 27 – 30 March 2012 at the UP-NCPAG.

Mt. Kalatungan is the highest mountain in the Talaandig ancestral domain where the *Kalumbata* (sacred eagle) exists. It is the most sacred place for the Talaandig. The other sacred mountains are the *Mt. Kilakiron* and *Mt. Kiamukon*.

Mt. Induyan is also considered sacred because of its plain surface which the Talaandig believe is where the spirits and deities move up and down.

The *Bagik-ikan* River with the large trees growing on its banks sustains the abundant flow of waters of the *Bagik-ikan* fall that supplies drinking water to the tribe.

The Talaandig manages the sacred places and ancestral domain by implementing the traditional laws and policies of the tribe. They have an established corps of *Bagani* (warrior) to guard the forests. The entry of migrants to the sacred places is strictly prohibited.

The community has formulated a development to govern the use of land and its natural resources. They have declared 4,000 hectares as Community Conservation Area (CCA). A buffer zone was established to protect this area. To restore some degraded areas, they planted indigenous species of hardwood trees. To guide them in the formulation of a comprehensive plan for protecting the domain, they organized the Mt. Kalatungan Council of Elders. The community is collaborating with government agencies like the DENR and other support institutions such as the IUCN and the UNDP.

The community conservation area and the larger ancestral domain are confronted with threats and challenges. These include the burning of forest to clear lands for agriculture, intensive use of chemicals in farming, small scale mining, rising number of mountain climbers, illegal logging, and wildlife poaching.

To counter these threats and challenges, the Talaandig community intends to strengthen their organization and culture, gather support from various groups and government agencies, and to pursue the efforts to obtain a CADT over their ancestral domain.

For additional information on this, you may refer to the **Global ICCA Database Igmale'ng'en sacred forests of Portulin, Mindanao, Philippines**.

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