

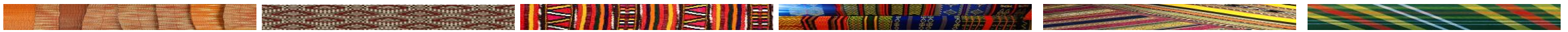


# Review of Indigenous Peoples Policy and Institutional Grounding

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**“The State recognizes the inherent rights of ICCs/IPs to self-governance and self-determination; and respects the integrity of their values, practices and institutions, guaranteeing them to freely pursue their economic, social and cultural development.”**

## **1987 Constitution**

(National Economy and Patrimony, Article XII, Section 5)

The State shall...

protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well being.

provide for applicable customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

## **Republic Act No. 8371**

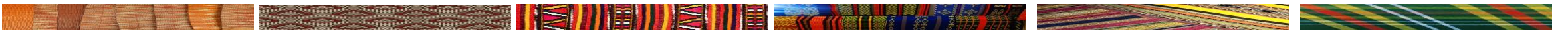
The Indigenous Peoples’ Rights Act of 1997 (IPRA)

The State shall...

recognize and promote all individual and collective rights of ICCs/IPs within the framework of the Constitution and applicable norms and principles.

ensure their economic, social and cultural well being

recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain



# Objectives

The study generally aimed to conduct a policy and institutional review of indigenous peoples policy and implementation on the ground.

Specifically, the study aimed to:

1. Map the policy and institutional evolution of laws on IPs;
2. Review the provisions of IPRA and its grounding;
3. Assess resources and capacities of NCIP as oversight agency on IP welfare;
4. Determine how four core rights are ensured; and
5. Recommend ways forward for NCIP as an institution and IPRA as a legislative document.

# Conceptual Framework

## CASE STUDIES

**NCIP Central Office**  
Administrative insights

**CAR**  
High IP population  
Capacitated IPs

**Davao region**  
Home to Lumad IPs  
Peace conflicts  
Examined how mechanisms  
work in this context

**Western Visayas**  
Lowest IP population  
Only 1 office for Regions 6, 7, 8

## IPRA COMPONENTS

Policy

Institutional structures

Implementation  
process

## THEMATIC CONCERNS

Ancestral domains

NCIP's capacity

Ecosystem destruction

FPIC violations

Weak IP governance

Inaccessible  
government services

Low awareness on IP  
rights

Self-determination

## FOUR CORE RIGHTS

Right to ancestral  
domains

Right to self-  
governance and  
empowerment

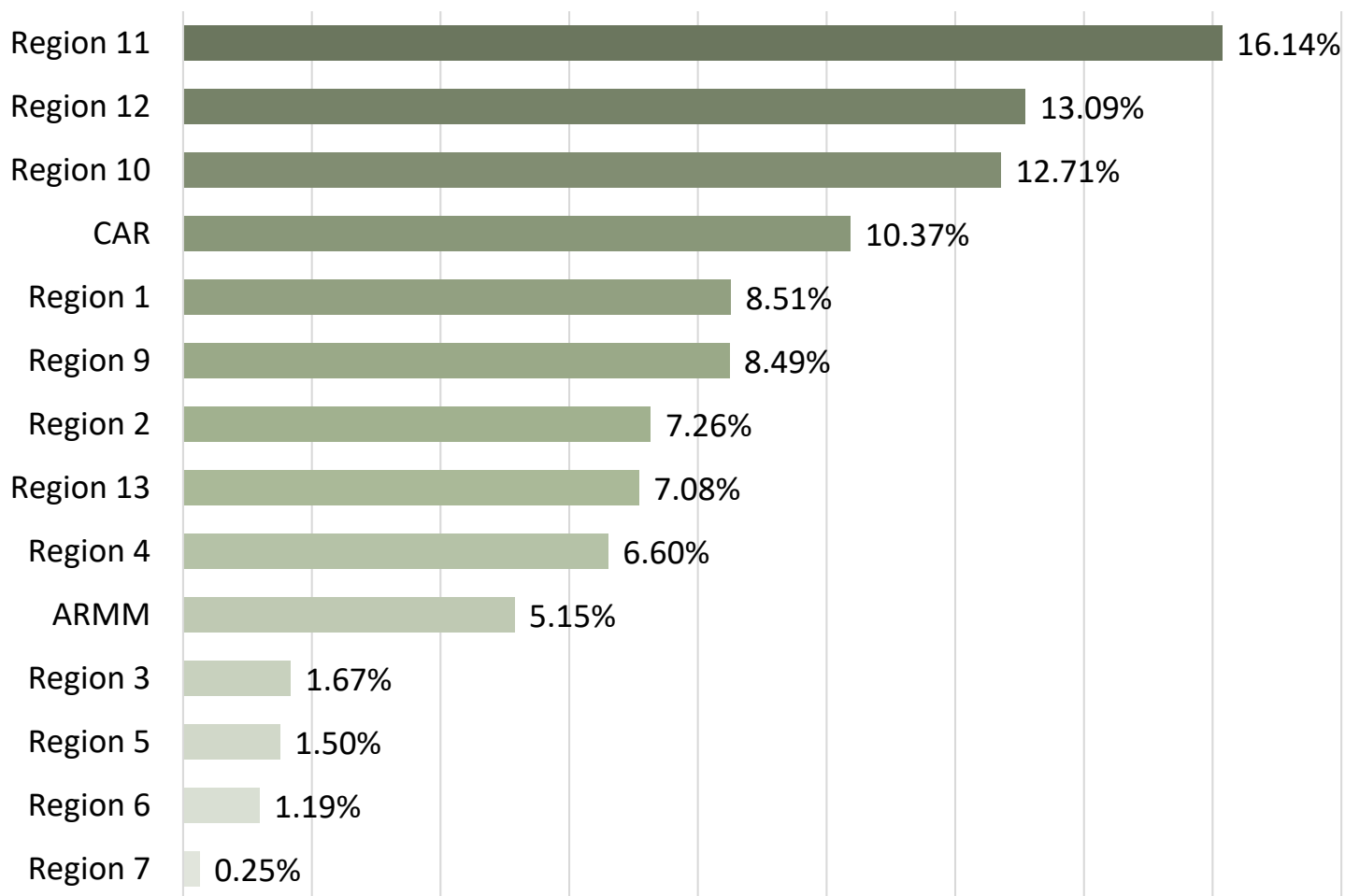
Right to social justice  
and human rights

Right to cultural  
integrity



# Where are the IPs?

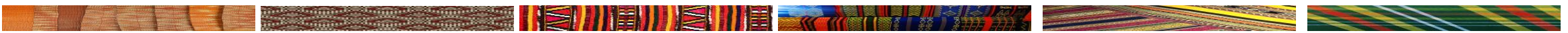
PROJECTED IP POPULATION



IPs and indigenous cultural communities are homogenous, organized societies living in communally bounded and defined territory since time immemorial.

They share common bonds of language, customs, traditions, and distinct traits preserved through resistance that differentiated them from colonized population (IPRA Chapter 2, Section 3h).





# Policy and institutional evolution provides glimpse of difficulties in defining IPs/cultural communities

| YEAR | POLICY               | INSTITUTION  | EVENTS   |
|------|----------------------|--|--|
| 1901 | American Period      | Bureau of Non-Christian Tribes   | Segregation between Christians and non-Christians                                |
| 1957 | RA 1888              | Commission on National Integration   | Acceleration of moral, material, and economic aspects of non-Christian Filipinos |
| 1968 | PANAMIN              | Presidential Assistant on National Minorities  | 300,000 Moros displaced by foreign mining corporations                           |
| 1975 | PD 690               | Southern Philippine Development Authority  | Southern Philippines (Mindanao, Sulu, Palawan) underwent mass development        |
| 1984 | EO 969               | Office of Muslim Affairs and Cultural Communities  | OMACC catered both Muslim and non-Muslims  |
| 1987 | EO 122-A<br>EO 122-B | Office of Muslim Affairs, Office for Northern Cultural Communities, Office for Southern Cultural Communities |  |
| 1997 | RA 8371              | National Commission on Indigenous Peoples  |  |

Source: Author's compilation



# Bureaucratic evolution and its impact on priority setting and mandate delivery

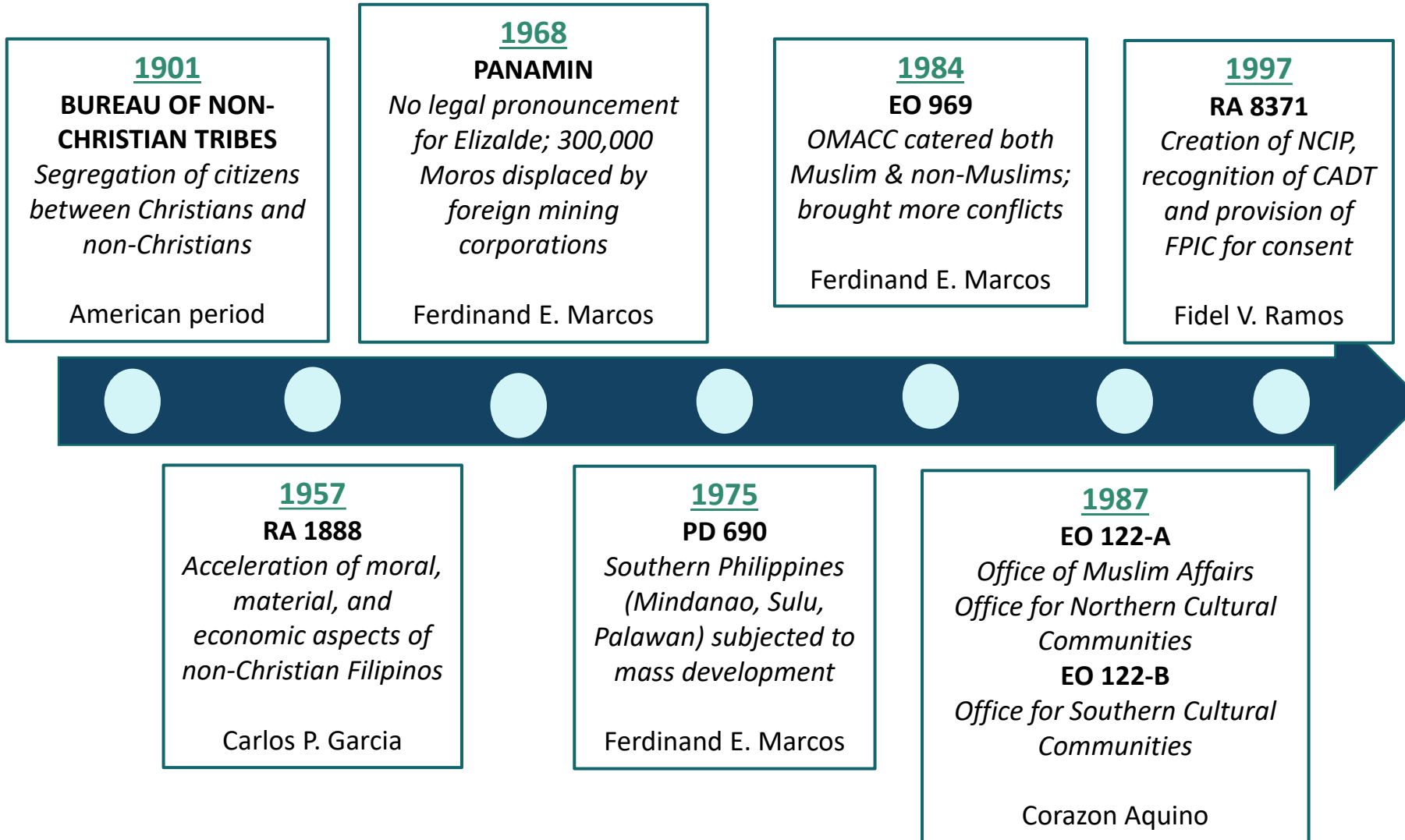
| YEAR         | OVERSIGHT                            |
|--------------|--------------------------------------|
| 1901-1956    | Department of Interior               |
| 1957-2003    | Office of the President              |
| 2004-2007    | Department of Land Reform (now DAR)  |
| 2008-2011    | DENR                                 |
| 2012-2018    | Office of the President              |
| 2018-Present | Dept of Social Welfare & Development |

Source: Author's compilation

The bureaucratic jurisdiction of the oversight agency NCIP was under directed the priorities on implementation and programs.

- Creation of NCIP
- AO 2003-01 enabled formation of consultative bodies within ICCs
- AO 2006-01 contained revised methods for free, prior, and informed consent (a decade after IPRA)
- AO 2012-01 FPIC guidelines revised again
- AO 2012-04 Omnibus rules on delineation and recognition of ancestral domains
- **10-year gap** between IPRA and salient guidelines on implementation, **implying policy delay**

# PRE-IPRA LANDSCAPE POLICY EVOLUTION

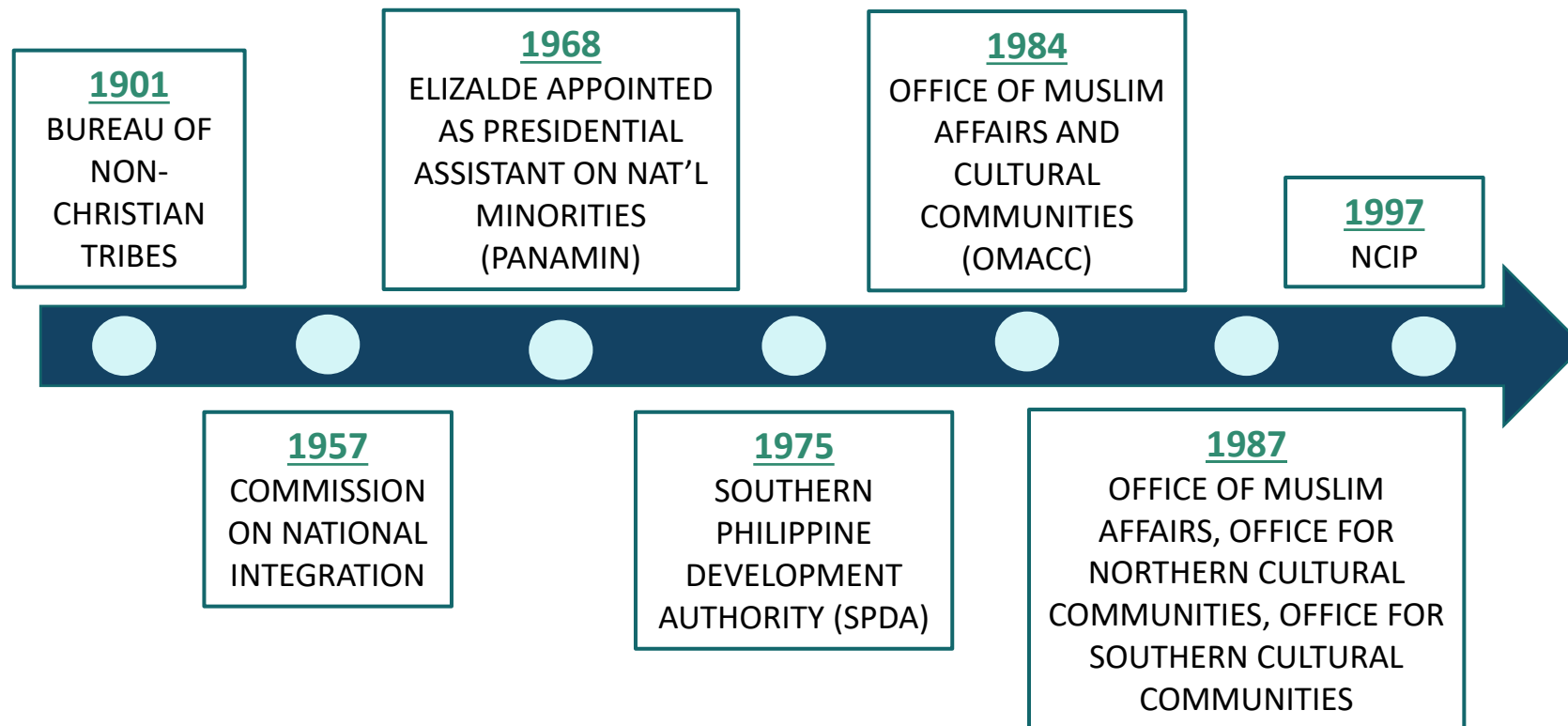






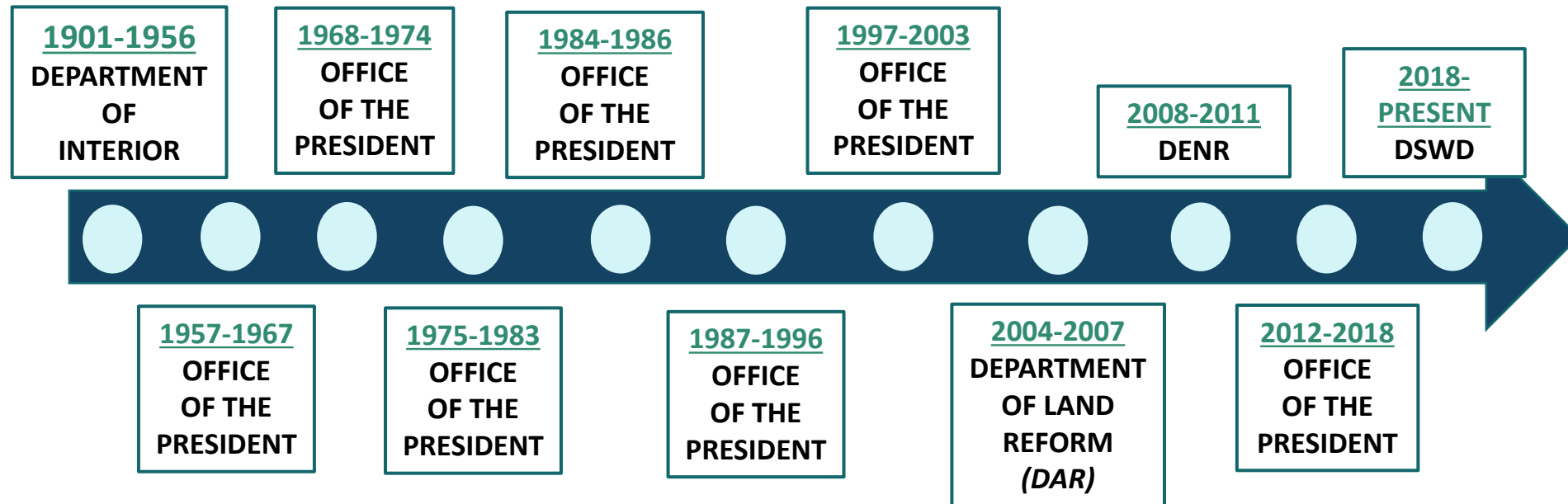
# PRE-IPRA LANDSCAPE INSTITUTIONAL EVOLUTION

- There was no clear-cut definition back then of what an IP or ICC is. Most of the earlier pronouncements were attempts to identify them or at the very least, segregate them as non-Christians or Muslims.



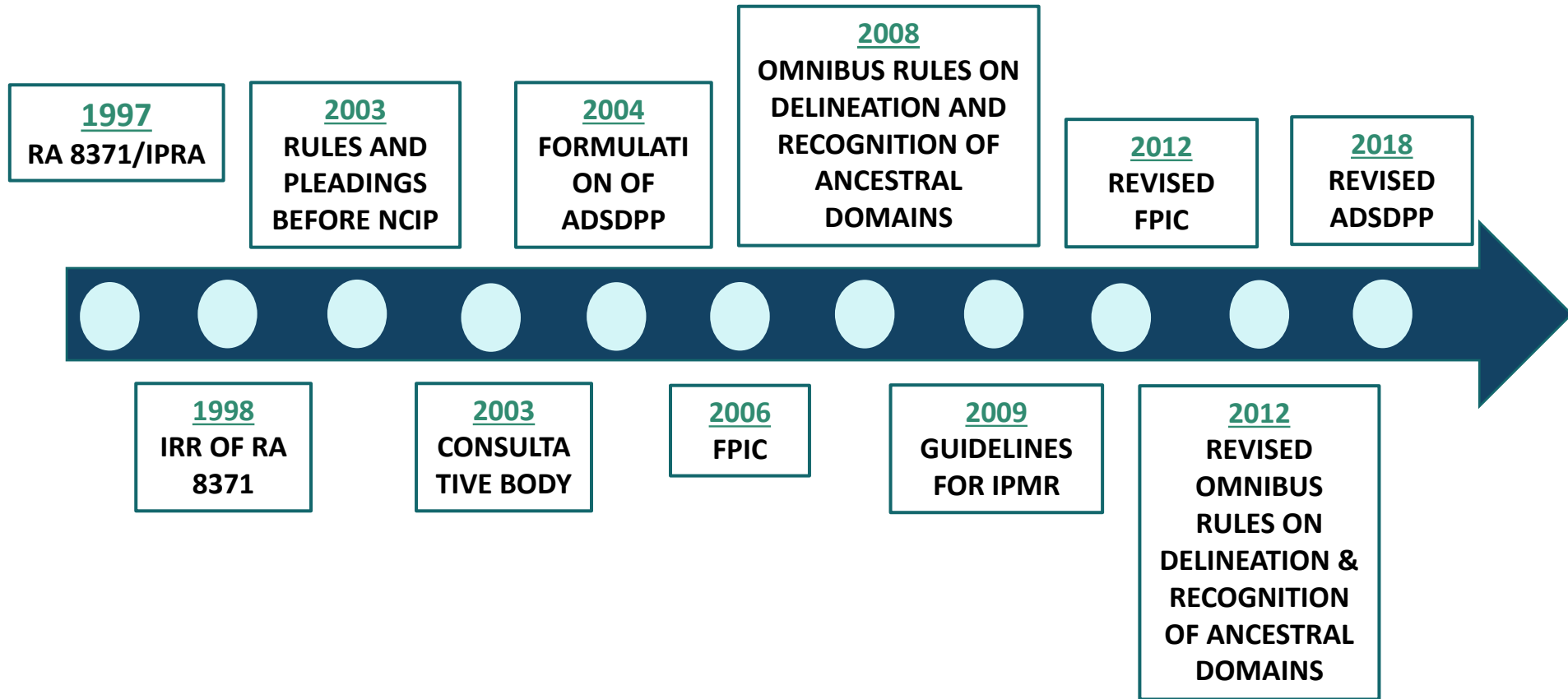


# PRE-IPRA LANDSCAPE BUREAUCRATIC EVOLUTION



- **EXECUTIVE ORDER NO. 2004-364** – NCIP To Department of Land Reform. Chairman of NCIP shall was ex-officio Usec of DLR for Land Reform
- **EXECUTIVE ORDER NO. 2008-726** – NCIP to DENR. Added function to DENR is the preservation of cultural and natural heritage.
- **EXECUTIVE ORDER NO. 2018-67** – NCIP to DSWD to harmonize policies to ensure responsiveness and efficiency in the delivery of essential public services and attainment of PDP goals.

# TIMELINE OF GUIDELINES

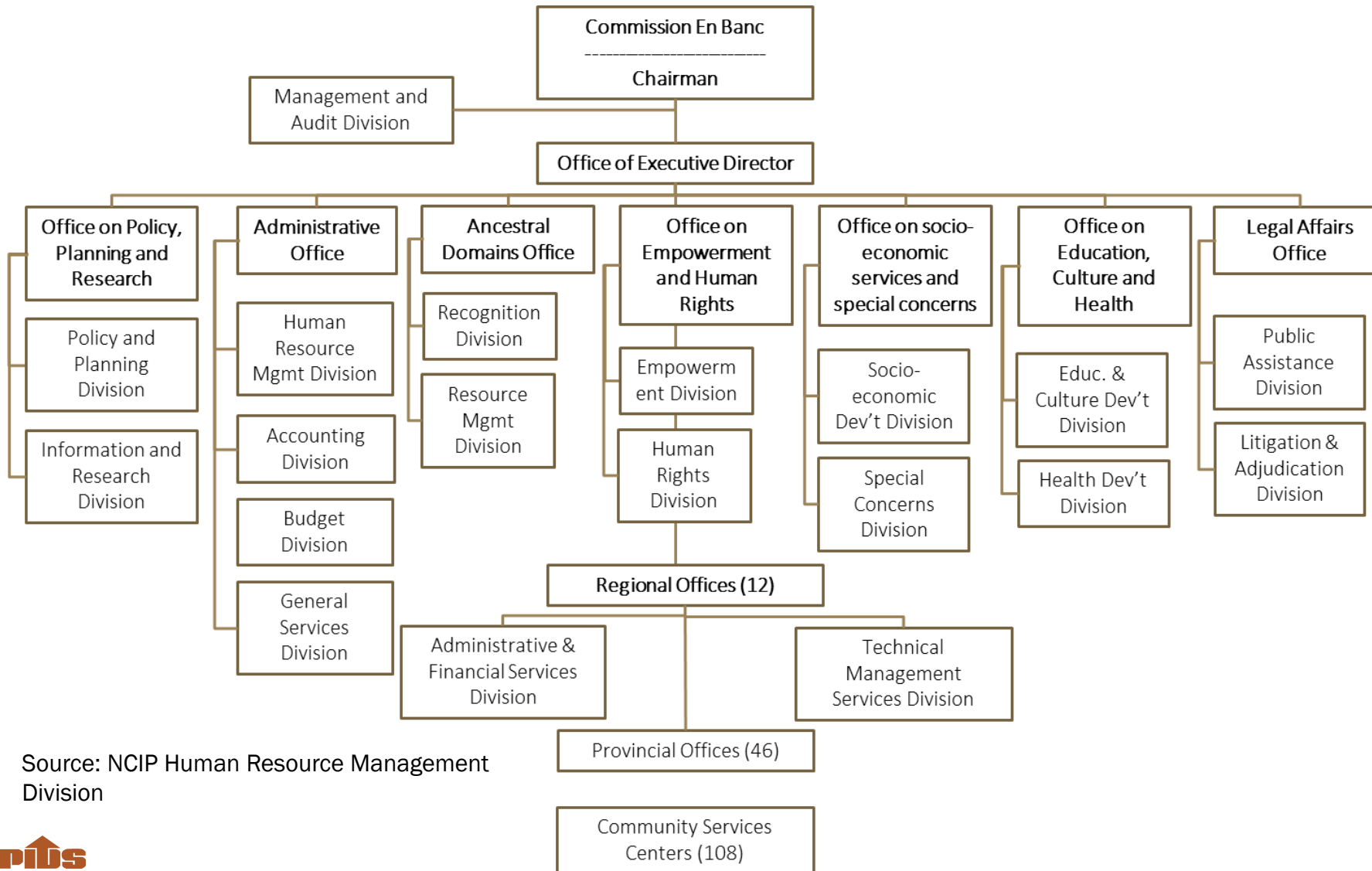




# Complementary (and overlapping) laws on resource

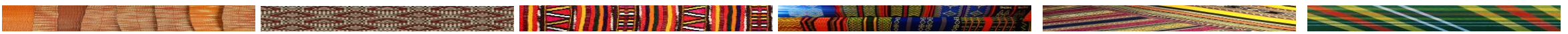
| POLICY                 | INSTITUTIONS         | SALIENT FUNCTIONS  | POINTS OF CONFLICT   |
|------------------------|----------------------|--|--|
| JMC 2003-01            | DENR, NCIP           | Clarifies jurisdiction of forestlands within ancestral domains                     | Operates on notion that forestlands and domains as mutually exclusive, and IPs do not play any role in resource management |
| JAO 2008-01            | DENR, NCIP           | Documentation of sustainable management systems and practices, preferential rights |  |
| JAO 2012-01            | DAR, DENR, LRA, NCIP | Address conflicting land use and policy mandates among involved agencies           | NCIP advised to exclude and segregate lands with prior titles. In November 19, NCIP pulled out from the agreement.         |
| IP Education Framework | DepEd                | Localize and indigenize learning process   | Non-alignment of worldview definition on development and progress; led to emergence of Save Our Schools                    |
| EO 2018-70             | OP                   | Harmonize delivery of social services in conflict-affected areas                   | IPs caught in crossfires and contrasting interests   |

# NCIP's institutional structure and arrangement



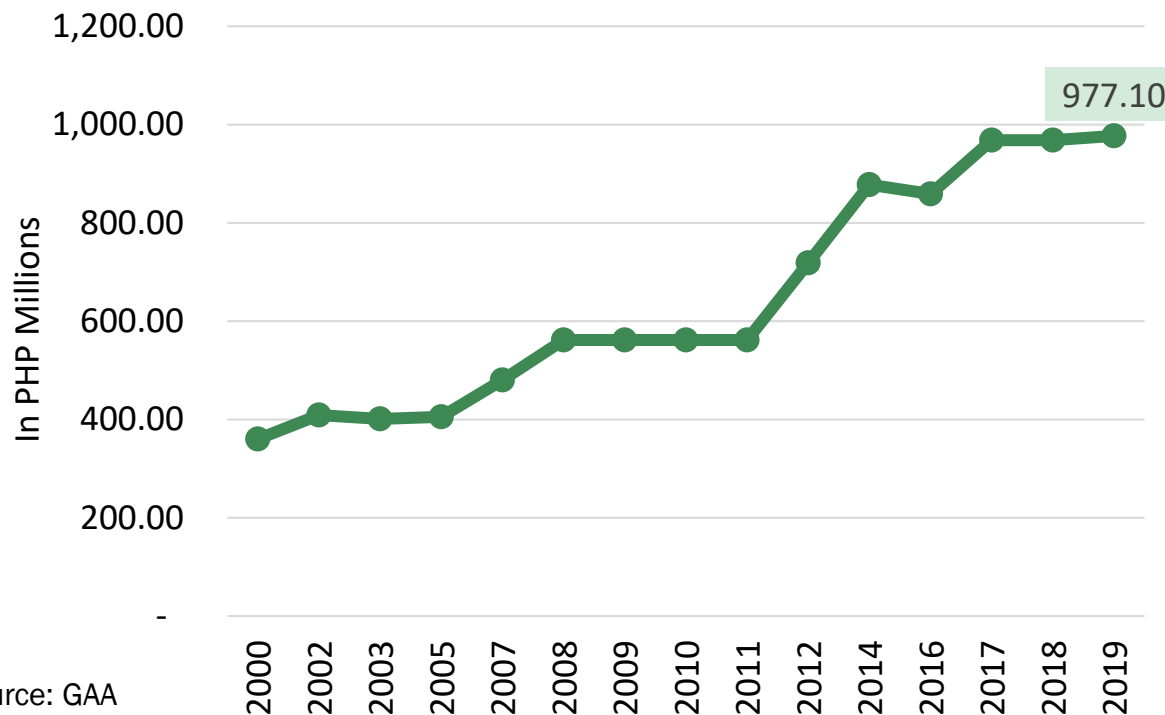
- Ancestral Domains Office handles bulk of applications from all regions
- They are also in charge of registering approved CADTs as deeds and title

Source: NCIP Human Resource Management Division



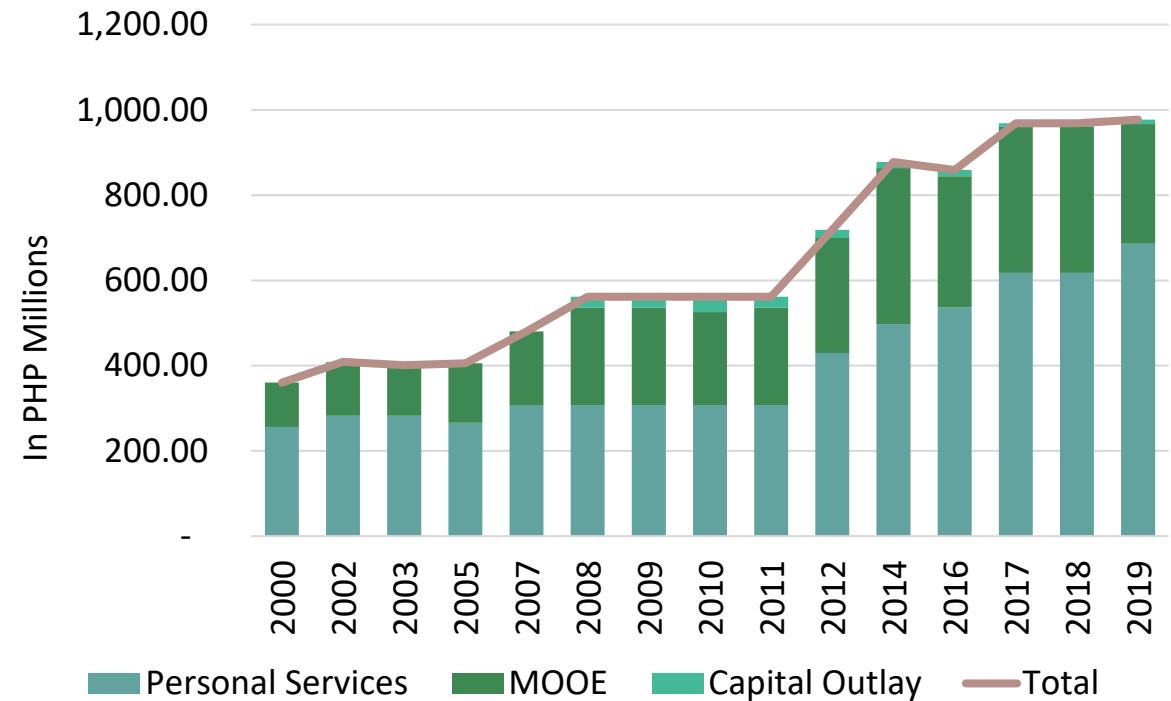
# Allocated budget exhibited increasing trend from 2000 to 2019

### TOTAL BUDGET



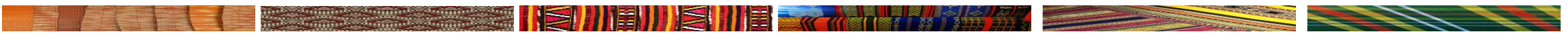
Source: GAA

### PER EXPENDITURE TYPE

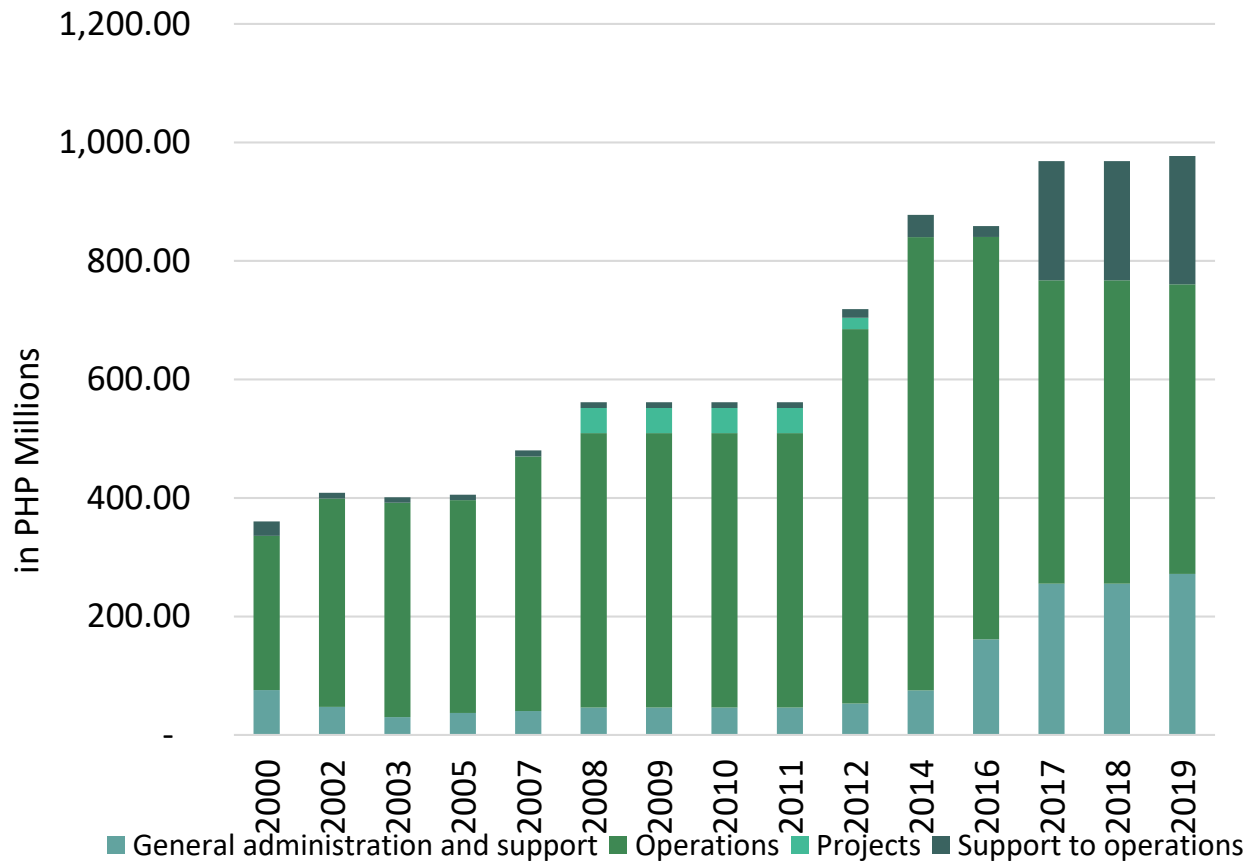


Priority is given to personal services from 2000-2019, taking up more than 50 percent of the budget. This is followed by MOOE, and lastly capital outlay. The latter only appeared from 2008-2012 when the Commission was under DENR.





# Highest program allocation to operations for FPIC and ADSDPP

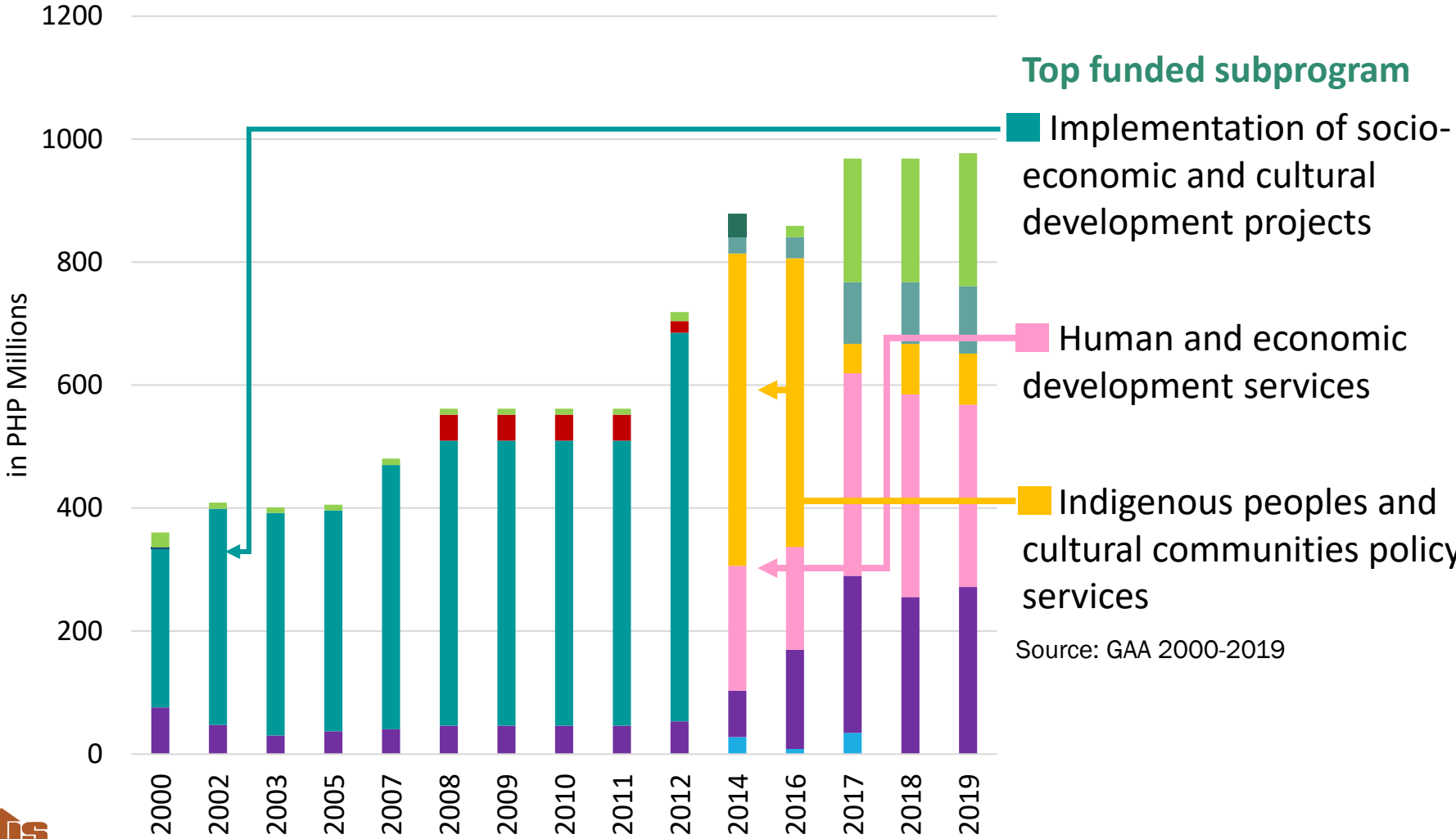


- High allocations for operations, especially from 2012-2014
- General administration and support, and support to operations saw sharp increases in 2017 after admin turnover
- Ample resources given to field operations (e.g. FPIC, ADSDPP development) but should have commensurate technical capacity from agency and its personnel during utilization/implementation.
- Lest, it will be riddled with issues on delivery of functions

Source: GAA 2000-2019



# Allocated budget per subprogram underwent three shifts from 2000-2019

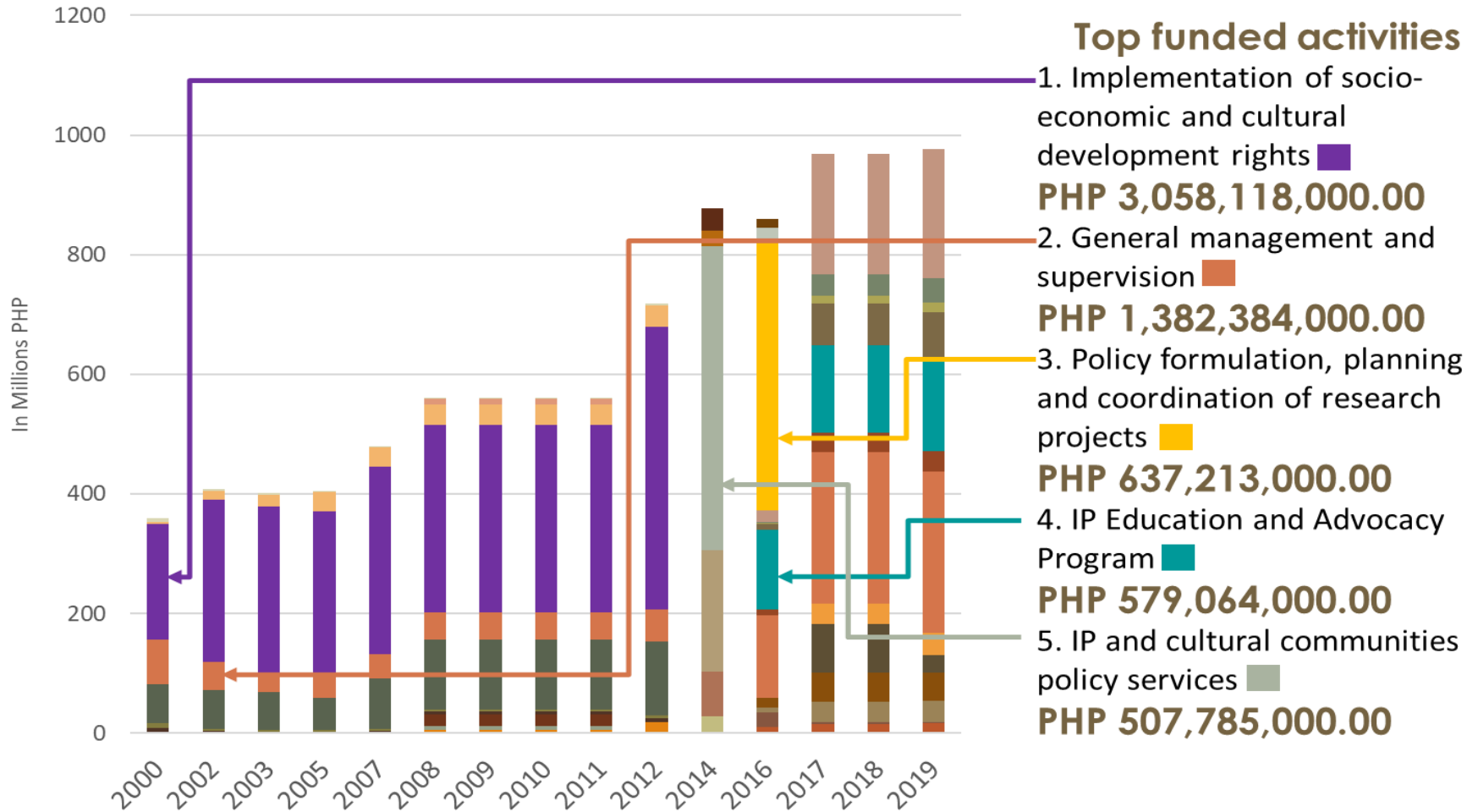


- Shift from socio-economic projects (2000-2012) to policy services (2014-2016) and finally to human and economic development services (2017-2019)

- Follows the tone set by its oversight agencies

(DAR/DENR -> OP -> DSWD)

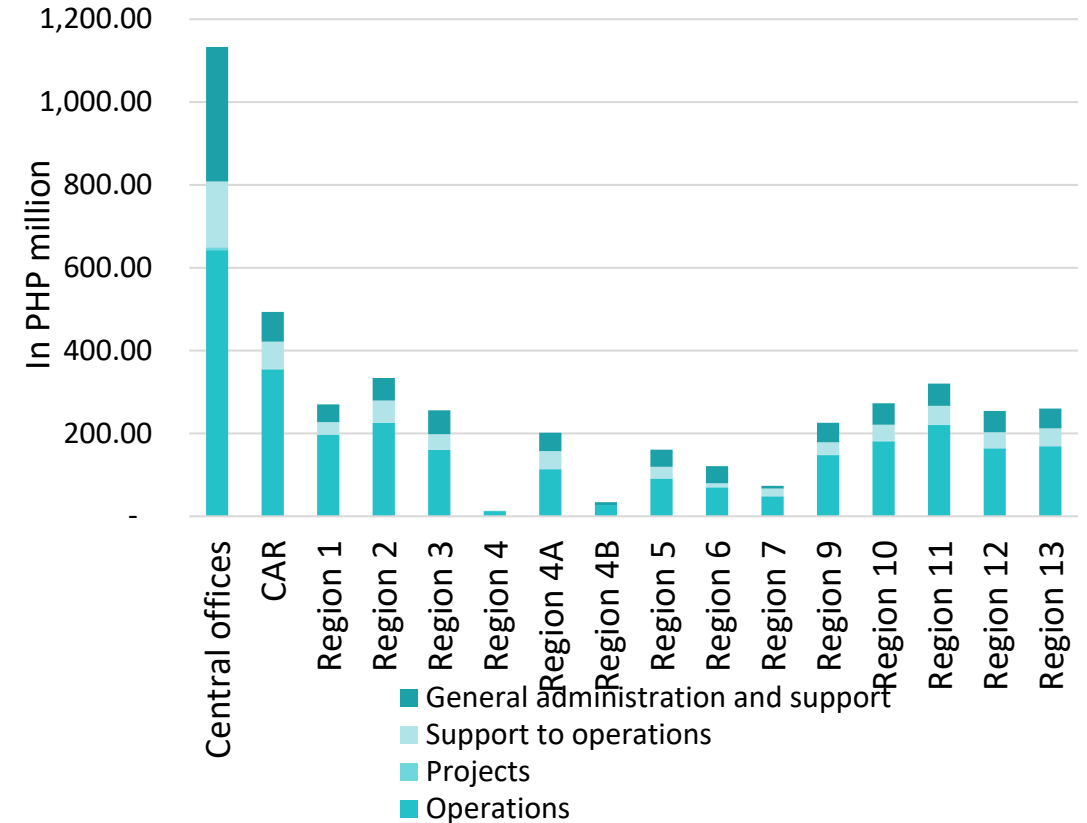
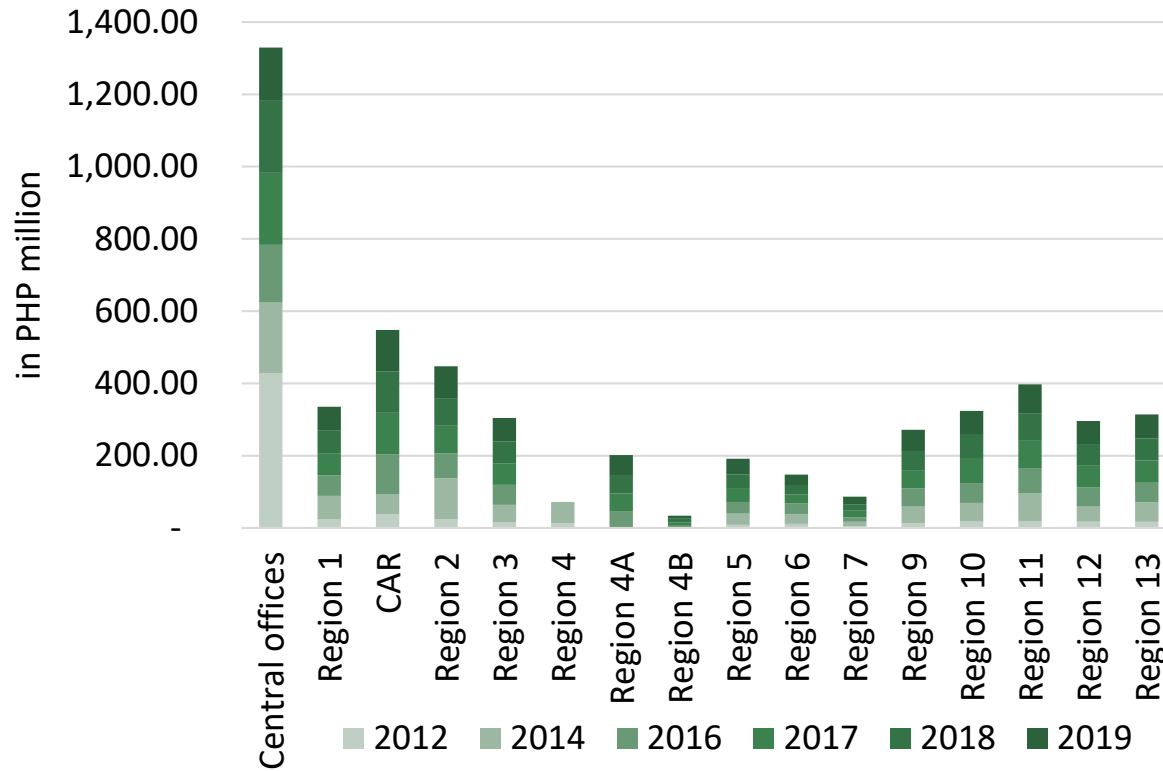
# General management consistently present in programmed activities



General management and supervision placed second, consistently eating up shares in allocated budget which undervalued fiscal support for research projects (ADSDPP), IP education, and policy services.

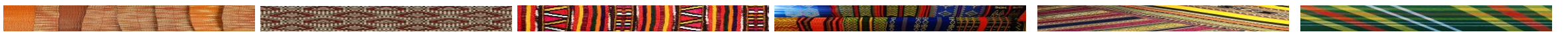
Source: GAA 2000-2019

# Central concentration of allocated budget



Source: GAA 2000-2019

- CAR, Regions 11, 10, and 12 have the highest allocations in line with their IP population but funds mostly funneled to central, possibly to expedite applications under ADO.
- Minimal allocations can compromise field operations of regional office. An office of 69 people is tasked to cover all concerns in Regions 6-8. Not feasible to address all concerns. Lacking govt presence = low awareness on important IPRA provisions\*.

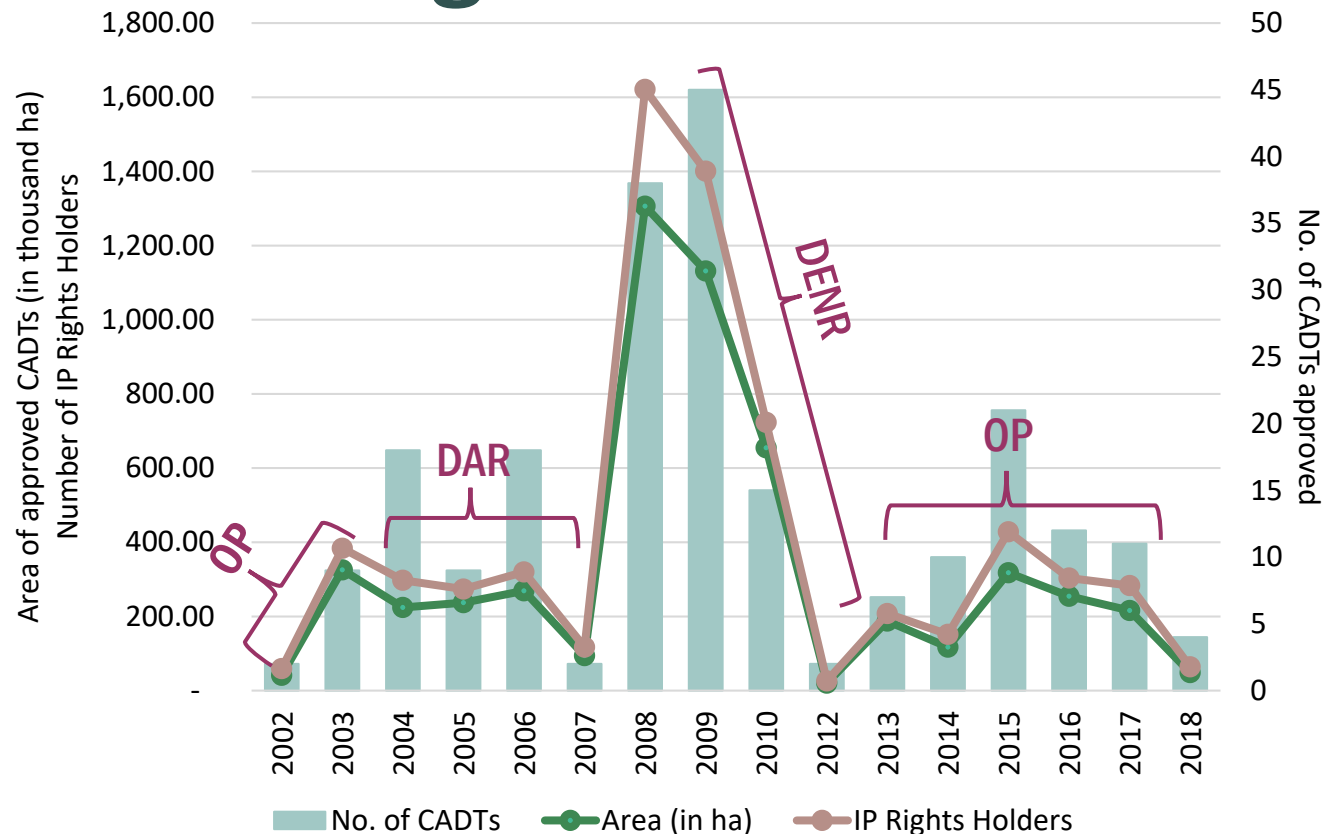
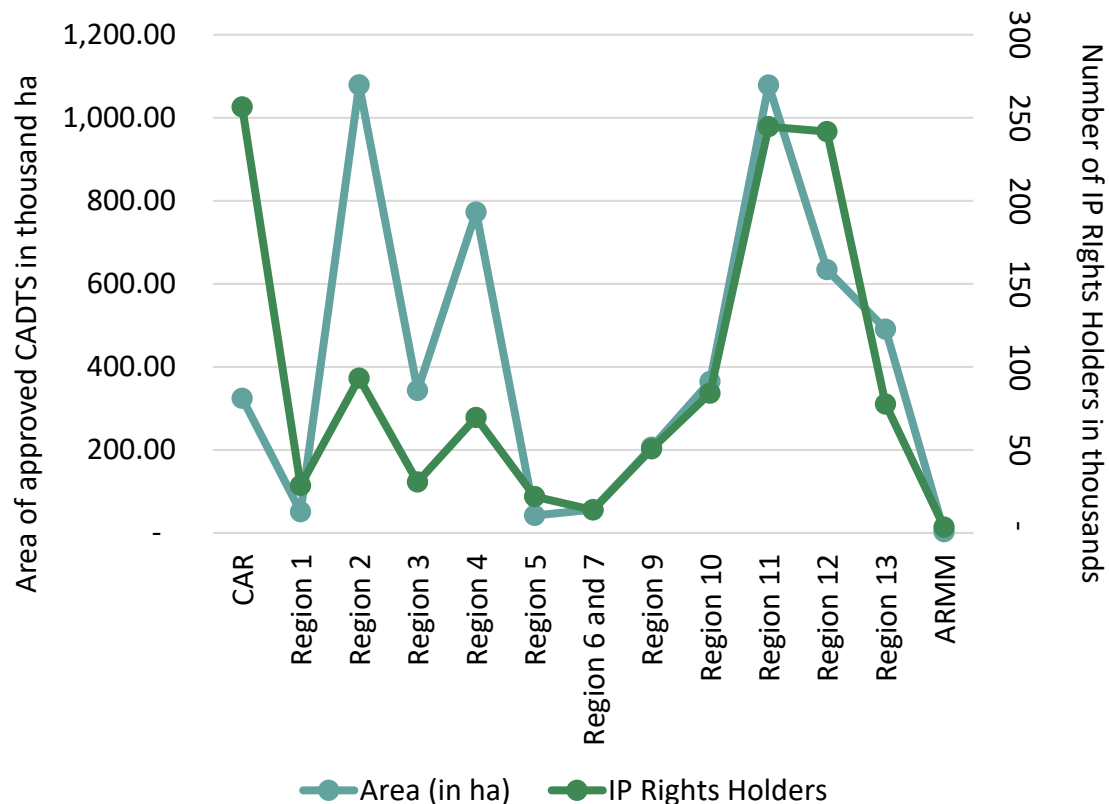


# More observations on regional budget distribution

- Per expenditure type, central concentration with PHP 3.34 billion budget on personal services
- Per program, central concentration with PHP 2.82 budget on operations
- Per subprogram, general management and support services has bigger allocation than ancestral land and domain titling services which is a primary mandate.
- Per object of expenditure (e.g. MOOE, capital outlays, fixed expenditures, and personal services), personal services are higher than MOOE.



# Trend of approved CADTs and IP rights holders



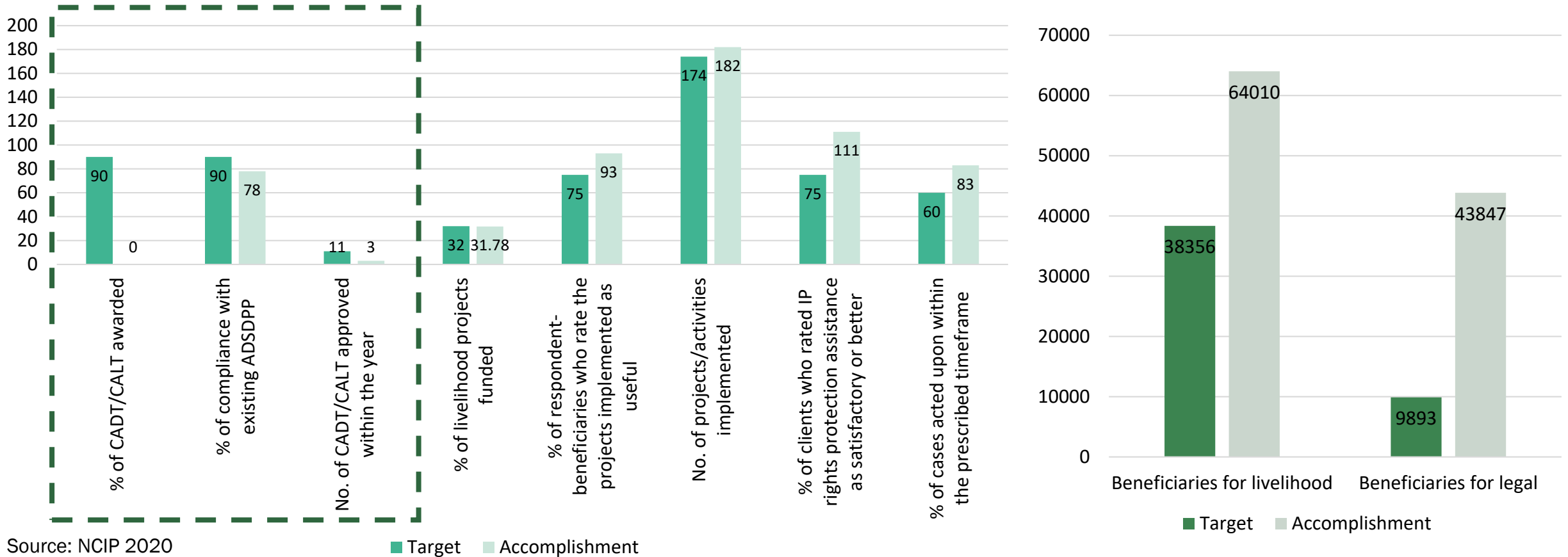
Source: NCIP Ancestral Domains Office, Recognition Division, as of March 31, 2018

- CAR has highest no. of registered IPs while Region 2 has the largest CADT.
- Figures for area and IP rights holders spiked between 2008-2009 after the transfer of NCIP under DENR. This inferred faster facilitation of approvals and lesser bureaucratic delays.



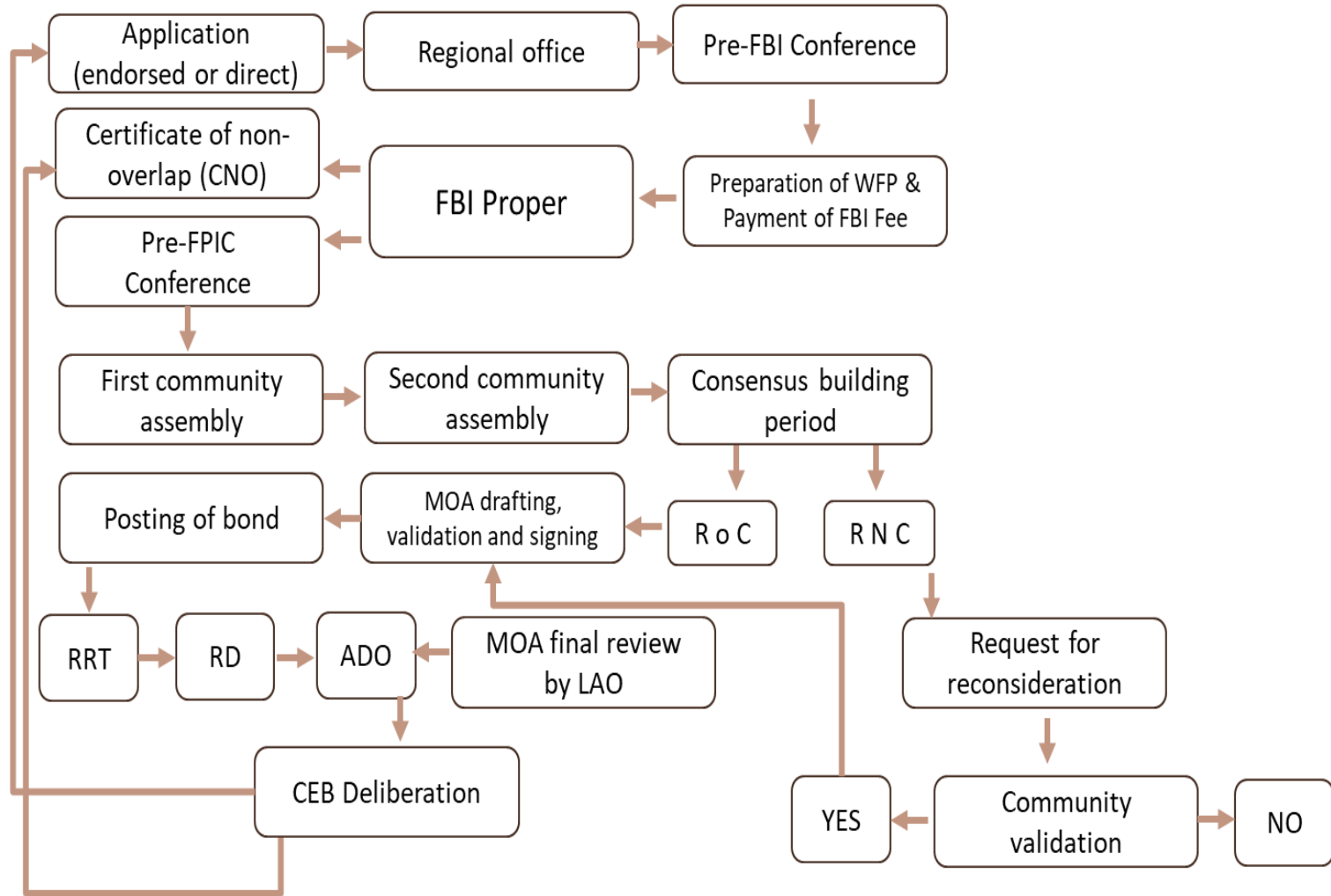


# Difficulty in accomplishing CADT targets (2020)

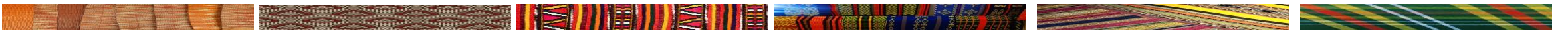


In NCIP’s Physical Report of Operations, they fell behind targets under Ancestral Domain Programs but surpassed the rest for Human, Socio-economic, and Ecology Development and IP Rights Protection Program. Beneficiaries numbered 64,010 for the former and 43,847 for the latter (not clear whether for assistance extended or cases acted upon).

# FPIC is encompassing and potent

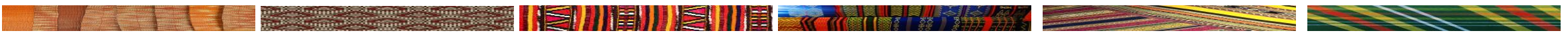


- FPIC represents the consensus of all community members in accordance with their customs.
- While required for any development project, guidelines were only issued in 2006, also costly and difficult to follow.
- KII anecdotes raise concerns on leakages occurring during meetings and assemblies (e.g. incomplete information, incomplete consensus, compromised political structures)



# FPIC concerns

- Delay in provision of guidelines; first issued on 2006 and revised on 2012
- Processes are costly and difficult to follow
- Community assemblies are mostly represented by council of elders
- Consensus only need majority of the votes
- For some regions, NCIP offices are not endowed enough to reach and leverage all IP communities
- FPIC process does not validate the legitimacy of an indigenous political structure (IPS), possibly compromising the consent process
- Non-acceptance/negative view of FPIC's validity/importance
- Non-recognition/disrespect of IPRA also reflects on IPs/ICCs and the process of FPIC compliance.



# Sparse IP representation

| LEVEL          | ORANIZATION/BODY                 | REPRESENTATION                           |
|----------------|----------------------------------|--|
| National       | Mindanao Conference Committee    | Group of IPMRs* (Davao case)             |
| National       | IP National Conference           | IP leaders (with CADTs)                  |
| Regional       | Regional Development Council     | Through NCIP by invitation               |
| Municipal/City | LGU                              | IP Focal Person* (Tubungan, Iloilo case) |
| Barangay       | Barangay Council                 | IP Mandatory Representative (IPMR)       |
| Local          | Protected Area Management Boards | IP members                               |

- Positions lodged within institutional bodies but only on invitation basis.
- Representation involved discussion on crafting development plans, budget programming, and priority setting.
- Should be able to leverage IP interests
- Reps are for visibility, relevance and inclusion
- IP representation visible in barangays but still suffers from weak bottom-up governance



# Programs for capacitation and empowerment



## EDUCATIONAL ASSISTANCE PROGRAM

Scholarships to IPs in all levels. Most are concentrated in Luzon however. Benefit system still needs revisiting.



## PHILIPPINE INDIGENOUS PEOPLES ETHNOGRAPHIES (PIPES)

Utilize domains for rights-based development, full documentation of all ethnic groups through census and ground-truthed maps to steer development plans.(Not approved)



## SCHOOL OF LIVING TRADITIONS OF NCCA

Cultural bearers (e.g. weaving, tattooing) can teach and pass down traditional practices and crafts. Complete reliance on NCCA, no intervention from NCIP



## SOCIAL PROTECTION PROGRAMS OF GOVERNMENT, ACADEME, AND CSOS

Community still lacked capacity to address encroachment and displacement





# Analysis of four core rights over case study sites

| CORE RIGHTS                            | CAR                                   |   | DAVAO  |  | ILOILO  |   |
|--|---------------------------------------|---|--|--|---|---|
|  | Positive                              | Negative                                  | Positive   | Negative   | Positive  | Negative                                    |
| <b>Rights to ancestral domains</b>     | High number of approved CADTs         | Many overlaps with patented mining claims | 24 approved CADTs as of 2019, has an active NCIP | Manifestation of Contested IPS, implying false ownership                 | Active community engagement in CADT process                   | Invisible domains and IP rights holders     |
| <b>Self-governance and empowerment</b> | IPs as majority                       | IPS as an arbitrary structure             | Strong local network among IP leaders            | IPS is based on lineage. Proliferation of migrant IPs and Contested IPS. | Strong linkages and ride-on mechanisms                        | Contesting political structures             |
| <b>Social justice and human rights</b> | NCIP well-articulated to leverage IPs | Non-compliance of extractive industries   | IADDA as an opportunity for self development     | Widespread presence of insurgency and militarization                     | High awareness on possible human rights foregone without CADT | Lack of access to services provided by NCIP |
| <b>Cultural integrity</b>              | Able to maintain traditional culture  | Rampant commercialization                 | Growing recognition of Lumad culture             | Discontinuity of culture due to displacement                             | Proposal to establish School for Living Traditions (SLT)      | More dependency on NCCA compared to NCIP    |







# Thematic Concerns and Recommendations

| THEMATIC CONCERN   | RECOMMENDATION  |
|--|---|
| 1. Recognition, control, and management of ancestral domains, including Governance | <ul style="list-style-type: none"><li>• Complete documentation of IPs/ICCs, IEC with NGAs, NGOs, private sector to raise awareness</li><li>• Enhance and capacitate IPS and IPOs (Indigenous political organizations)</li><li>• Strengthen community-organizing among indigenous peoples and indigenous cultural communities.</li></ul>   |
| 2. NCIP's capacity to deliver its mandate  | <ul style="list-style-type: none"><li>• Restructure EAP for eventual professional service to IP communities; Augment financial resources</li><li>• Ensure inclusion and complementation with other Government programs</li><li>• Coordinate anthropological research, demographic and geodetic legwork with academe and sectoral agencies.</li><li>• Commit to medium to long term human capital investment to increase technical personnel including social scientists, engineers and legal support</li><li>• Allow non-IP as technical personnel to aid CADT application processing and FPIC negotiations</li></ul> |
| 3. Ecological Integrity concerns within ancestral domains                          | <ul style="list-style-type: none"><li>• Harmonize policies and regulations with DENR, LGUs and other government institutions</li><li>• Ensure application of appropriate indigenous knowledge and practices in preserving ecological integrity</li></ul>  |
| 4. Non-compliance and violation of FPIC  | <ul style="list-style-type: none"><li>• Augment legal and adjudication support to IPs and NCIP offices</li><li>• Ensure compliance by government offices in enforcing the FPIC requirement</li></ul>  |



# Thematic Concerns and Recommendations

| THEMATIC CONCERN                                    | RECOMMENDATION  |
|---|---|
| 5. IP/ICC welfare and Access to Government services | <ul style="list-style-type: none"> <li>Promote equitable/structured distribution of aid and royalties among Ips/ICCs</li> <li>Ensure proper representations in bureaucratic platforms</li> <li>Pursue development and land productivity options in accordance with IPRA and IP rights</li> <li>Pass PIPES program, do demographic survey to identify gaps in access to services per ethno-linguistic group</li> </ul>   |
| 6. Awareness on IP rights                           | <ul style="list-style-type: none"> <li>Conduct IEC and Provide orientation on IPRA provisions among government agencies (e.g. agencies facilitating development projects), academe, and private sector</li> <li>Enhance interface of IPRA provisions with other policies</li> </ul>   |
| 7. Self determination and right to culture of IPs   | <ul style="list-style-type: none"> <li>Faster facilitation of CADT delineation, may outsource technical assistance</li> <li>Reinforce effort to document the cultural structures and mechanisms of IPs/ICCs as these help them ensure claims and legal rights.</li> <li>Increase leverage of IPRA in related legal processes and documentations</li> <li>Push for declaration of neutrality or insulation of IPs/ICCs against security issues and state conflict</li> </ul> |





# THANK YOU

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