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Review of Indigenous Peoples Policy and Institutional Grounding

Sonny N. Domingo and Arvie Joy A. Manejar



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Review of Indigenous Peoples Policy
and Institutional Grounding

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Abstract

Around 300 million indigenous peoples have been identified across 70 countries, 14 million of them are located in the Philippines with their cultural zones taking up as much as 44 percent of the country's land area. There has been much confusion regarding their identity and rights, resulting to a lengthy policy and institutional evolution which eventually resulted to the passage of the Indigenous Peoples Rights Act in 1997 and the establishment of the National Commission of Indigenous Peoples (NCIP). It took almost a decade for the institution to issue its salient guidelines and regulations like the delineation of ancestral domains, and free, prior and informed consent. This resulted to numerous opportunities foregone in leveraging cultural communities and their ancestral domains against encroachment. The landmark legislation safeguarded essential core rights of the IPs/ICCs. Although seemingly apt protection to IP/ICC rights is accorded by IPRA, the protection of these rights remained contentious on the ground. The IPs/ICCs true empowerment is visible only through their claim and stewardship of ancestral domains, preservation of the integrity of their cultural heritage, and the protection of their basic human rights and social entitlements. Going forward, the IPs/ICCs must assume their rightful place as empowered stewards of their historical domains, and mainstream their interests and advocacies. The Commission, as the enabling institution, would have to review its bureaucratic functions and address the roots of certain weaknesses to better deliver mandated services, and own its critical role in safeguarding the welfare of IPs/ICCs.

Keywords: indigenous peoples, welfare, IPRA, culture

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Review of indigenous peoples policy and institutional grounding

Sonny N. Domingo and Arvie Joy A. Manejar¹

I. Introduction

1.1 Background of the Study

Indigenous peoples and indigenous cultural communities are consistently emerging in studies pertaining to resource management and extractive industries, implying a correlation among their way of life, their surrounding environment, and the activities that affect them. Particularly for mining and forestry studies, findings highlighted the welfare loss of these communities at the expense of national wealth and commercial profit. The weak bureaucratic stewardship of the National Commission for Indigenous Peoples (NCIP), which is primarily mandated by the Indigenous Peoples Rights Act (Republic Act No. 8371) to represent and leverage the communities against those which tamper their rights, seems to aggravate the worsening welfare conditions in these areas. The discussion on IP welfare persistently merges and overlaps with discussions on development and extractive industries which prompts the need to probe into the existing mechanisms and institutional arrangements established by the government. Understanding how these mechanisms work as well as how they affect the indigenous communities on the ground can greatly inform future policy initiatives as well as development plans.

For this study, translation of legal instruments and proceedings from national to local levels and vice versa was looked into along with inter-agency collaboration and external interventions from non-government agencies and international bodies. Complementation with other relevant policies, particularly those touching on resource extraction, environmental management, access to services, and tenurial security, are also observed together with the implementation of these provisions on the ground.

1.2 Objectives

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

Specifically, the study aimed to:

1. Review the provisions of the Indigenous Peoples Rights Act (IPRA) and its grounding;
2. Conduct case studies on the implementation of policy on indigenous cultural communities;
3. Identify strengths and weaknesses of NCIP as a bureaucratic institution; and
4. Recommend ways forward for NCIP as an institution and IPRA as a legislative document.

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1.3 Policy questions

The study sought to answer the following policy questions:

1. What are the relevant policies established in place to leverage the rights and welfare of IPs and/or ICCs?
2. What have been the challenges encountered by NCIP in terms of grounding and implementing these policies?
3. What were the changes facilitated by these policies?
4. What policy augmentations are needed to improve the current realities of IPs and/or ICCs?

1.4 Thematic concerns

NCIP identified fourteen thematic issues that surround the social, political, and cultural landscape of the indigenous cultural communities and even that of the Commission. These were listed as the following: formal recognition of ancestral domains; control and management of ancestral domains; NCIP's capacity to deliver its mandate; destruction of the ecosystems within ancestral domains; non-compliance and violation of FPIC; erasure of IP culture; weak IP governance; impact of government services are not felt; overlapping claims over ancestral domains; non-recognition of IP leaders by agencies; displacement of IPs from their domains; low awareness on IP rights; discrimination of IPs; and peace and security (NCIP Region 6 & 7 n.d.).

Overlapping concerns and similarities were grouped to narrow down the list to eight thematic concerns to which the flow of the study was based on issues and concerns, and the recommendations were based on.

1. Recognition, control and management of ancestral domains (combination of formal recognition of ancestral domains, control and management of ancestral domains, overlapping claims over ancestral domains)
2. NCIP's capacity to deliver its mandate
3. Destruction of ecosystems within ancestral domains
4. Non-compliance and violation of FPIC
5. Weak IP governance
6. Impact of government services not felt
7. Low awareness on IP rights (included non-recognition of IP leaders by agencies)
8. Self-determination and right to culture of IPs (included discrimination of IPs, peace and security, erasure of IP culture, and displacement of IPs)

2. Indigenous people and indigenous cultural communities

2.1 Ethnic groups in the Philippines

Indigenous peoples have been defined by the United Nations as inheritors and practitioners of cultures and ways existing between the people and the environment. They have distinct social, cultural, economic, and political characteristics that set them aside from mainstream societies where they live in (United Nations n.d.). An alternative definition is also provided by the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities:

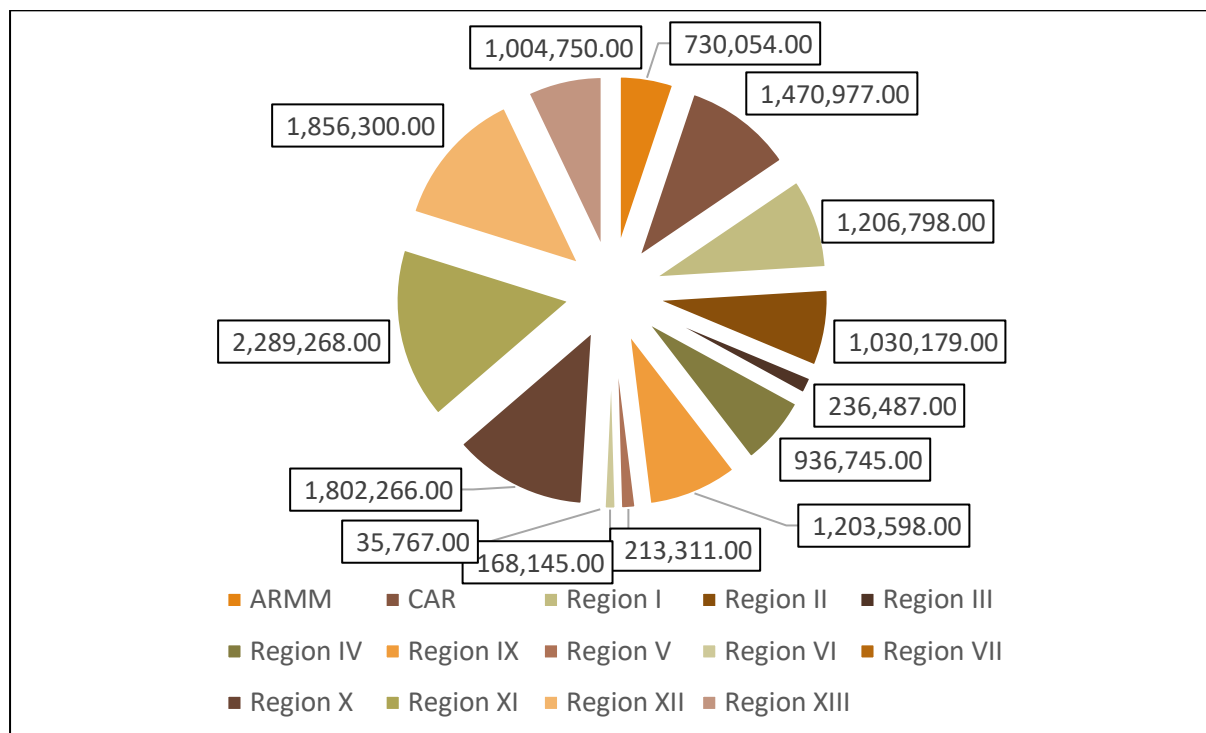
Indigenous peoples, communities and peoples are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider

themselves distinct from other sections of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sections of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples in accordance with their own cultural patterns, social institutions and legal systems. (Kapunan 2001)

On the other hand, the Indigenous Peoples Rights Act (IPRA) refers to them as indigenous peoples (IPs) and indigenous cultural communities (ICCs) organized into groups of people or homogenous societies who have continuously lived as organized communities on communally bounded and defined territory since time immemorial under claims of ownership. They share common bonds of language, customs, traditions, and other distinctive cultural traits that were historically differentiated from majority of Filipinos through resistance against the political and socio-cultural influences of colonization and non-indigenous religion and culture. The said definition also covers descendants of indigenous populations who are able to retain some or most, if not all, of their distinct characteristics but may have been displaced from their traditional domains and/or resettled elsewhere.

At a global scale, around 300 million indigenous peoples that speak over 4,000 languages have been identified across 70 countries (UN 2007). In the Philippines, they are grouped into 110 groups in the Philippines, comprising around 14 million people. They make up approximately nine percent of the population, but their cultural zones take up as much as 44 percent of the land area of the country (Lalata 2003). The largest percentage comes from Mindanao at 63 percent, followed by Luzon at 34 percent, and Visayas at 3 percent (United Nations Development Programme (UNDP) 2010). IPRA, on the other hand, subdivides the population into seven ethnographic areas, namely (1) Ilocos Region and Cordillera, (2) Cagayan Valley, (3) the rest of Luzon, (4) Island groups including Mindoro, Palawan, Romblon, Panay and the rest of Visayas, (5) Northern and Western Mindanao, (6) Southern and Eastern Mindanao, and (7) Central Mindanao. The biggest projected IP population in the country can be found in Davao Region (Region 11) with approximately 2,289,268 people who are collectively known as Lumad communities. The region comprising of the provinces of Davao del Norte, Davao del Sur, Davao Oriental, and Davao City make up 16.14 percent of the total indigenous population. This is followed by Soccsksargen (Region 12) with 1,856,300 IPs, having a 13.09 percent share. South Cotabato, Sultan Kudarat, Sarangani, and General Santos serve as home to the tribes of B'laan, Manobo, and T'boli. The third most populated region is Northern Mindanao (Region X) with 1,802,266 people (12.71%). Higaunon, Manobo, Talaandig, Matigsalug, Tigwahanon, Umayamnon, and Bukidnon (a close sibling of the Panay-Bukidnon in Western Visayas) can still be found among the provinces of Camiguin, Misamis Oriental, Cagayan de Oro, Iligan, Bukidnon, Lanao del Norte, and Misamis Occidental. The least populated regions are identified to be Bicol Region, Western Visayas, and Central Visayas with 1.50, 1.19, and 0.25 percent shares respectively. The disaggregation of the population can be found in the figure below.

Figure 1. Estimated IP Population disaggregated across regions



Note: The regional estimated population was estimated by the Commission using the Population Growth Rate (2007) by Region as reported by the National Statistics Office. The ethnic group population by province was computed using ratio and proportion method.
 Source: NCIP (2018)

It should be noted that the identification process of the IPs is not without difficulties as what can be seen in the data of the Commission which only reflected the projected population across regions. In addition, not up-to-date cultural mapping also contributed to the challenges. It is an entirely another matter when talking about the construction of identities since this is most often created by IPs themselves and how they value political, religious, and cultural affairs among others as part of their identities.

2.2 Ancestral land and domain

Ancestral domains are defined by IPRA as all areas belonging to IPs/ICCs comprising lands, inland waters, coastal areas, and natural resources held under a claim of ownership, occupied or possessed by themselves or through ancestors since time immemorial (Rola et al. 2015). These are legally recognized in the country through the Certificate of Ancestral Domain Title (CADT); without such, the concept of native titles will hold little to no leverage against encroachers and may result to displacement of the ethnic groups. Another concept of ownership among IPs/ICCs is ancestral lands which are land occupied, possessed, and utilized by individuals, families, and clans who are members of the same cultural community since time immemorial.

It is important to note that ancestral lands are not just mere properties to the indigenous peoples. They do not only represent tenurial security, but land is responsible for the social relationships formed among people for which territory serves as a form of shorthand reference (Ballard &

Banks 2003). When displaced, individuals may continue to exist but their culture are gravely threatened. The land itself maintains the sustainability of culture, preserves institutions, and passes on environmental knowledge (Holden, Nadeau, & Jacobson 2011).

2.3 Indigenous knowledge systems and practices

These are defined in the NCIP Administrative Order No. 2012-01 as a set of systems, institutions, mechanisms, and technologies informed by a body of knowledge across time among and between peoples, and their environment. These indigenous knowledge systems and practices (IKSP) reflect aspects of relationships which revolve around social, political, cultural, economic, and religious dimensions. These are inferred to be results of the indigenous peoples' survival mechanisms within their existing socio-cultural and biophysical conditions. It should be understood that IKSPs are treated as collective properties of IPs and all members of ICCs regardless whether one belongs to the past, present, and future generations.

The administrative order provided for the protection of any manifestation of the IKSP e.g. community intellectual rights, cultural resources and treasures, traditional ceremonies and rituals, and important cultural sites. It also provided IPs and ICCs the power to determine the extent of knowledge and practices to be documented or released to the public; this also meant constant participation of the community in all stages of the research and documentation processes.

The research and documentation guidelines for IKSP and customary laws were not released until 2012, 15 years after IPRA was passed. Other guidelines were released in joint memorandum circulars for application in health and education.

2.4 Indigenous Political Structures

The organizational and leadership systems in indigenous communities are collectively referred to as indigenous political structures (IPS); they are commonly manifested through council of elders, tribal leaders, and other tribunal body. Identified by the people, these bodies hold the power of decision-making and participatory process in a cultural community. In particular, some of their salient functions include but are not limited to the following:

- Formulation and implementation of systems for the protection and conservation of the flora and fauna in accordance with their documented IKSP
- Regulation of activities that may cause adverse effects to the cultural communities' environment (airspace, sources of water, land)
- Representation of the community when negotiating on terms and conditions involving their natural resources
- Provision of assistance and/or leading the community in filing for a certificate of ancestral domain title (CADT)
- Regulation of entry of migrants

It was later observed in the study that IPS is arbitrary and has the tendency to change across cultural communities not only in its composition but also in its process of identification. This has numerous implications in situations that require strong leadership and representation that will be explored later on in this paper. This could have been one of the primary motivations why they issued Administrative Order No. 2012-02 containing the guidelines on the

confirmation and registration of indigenous political structures and indigenous peoples' organizations. Similar to IKSP, this document was released 15 years after the passage of IPRA.

3. Policy landscape

3.1 Pre-IPRA Law

Prior to the passage of IPRA, several laws were issued to encompass and capture the plight of indigenous peoples. However, these were mere attempts to define the indigenous and the cultural community and to identify them from the general population. The earliest of these pronouncements was the establishment of the Bureau of Non-Christian Tribes (BNCT) under the Department of Interior on October 2, 1901 during the early years of American colonization. The presence of such bureau allowed for the segregation of the citizens into Christians and non-Christians, the latter term referring to natives with low grade of civilization. Its main functions included conducting an ethnographic study on the life and ways of pagan and Muslim tribes. The study was later expanded to the rest of the Philippine population and was turned over to the Bureau of Education. The main objective of this legislative move was to introduce civilized customs and to integrate them into the mainstream society then at the expense of giving up their pagan practices, basically removing them of their cultural identity (Schult 1997). This was mostly observed in upland communities.

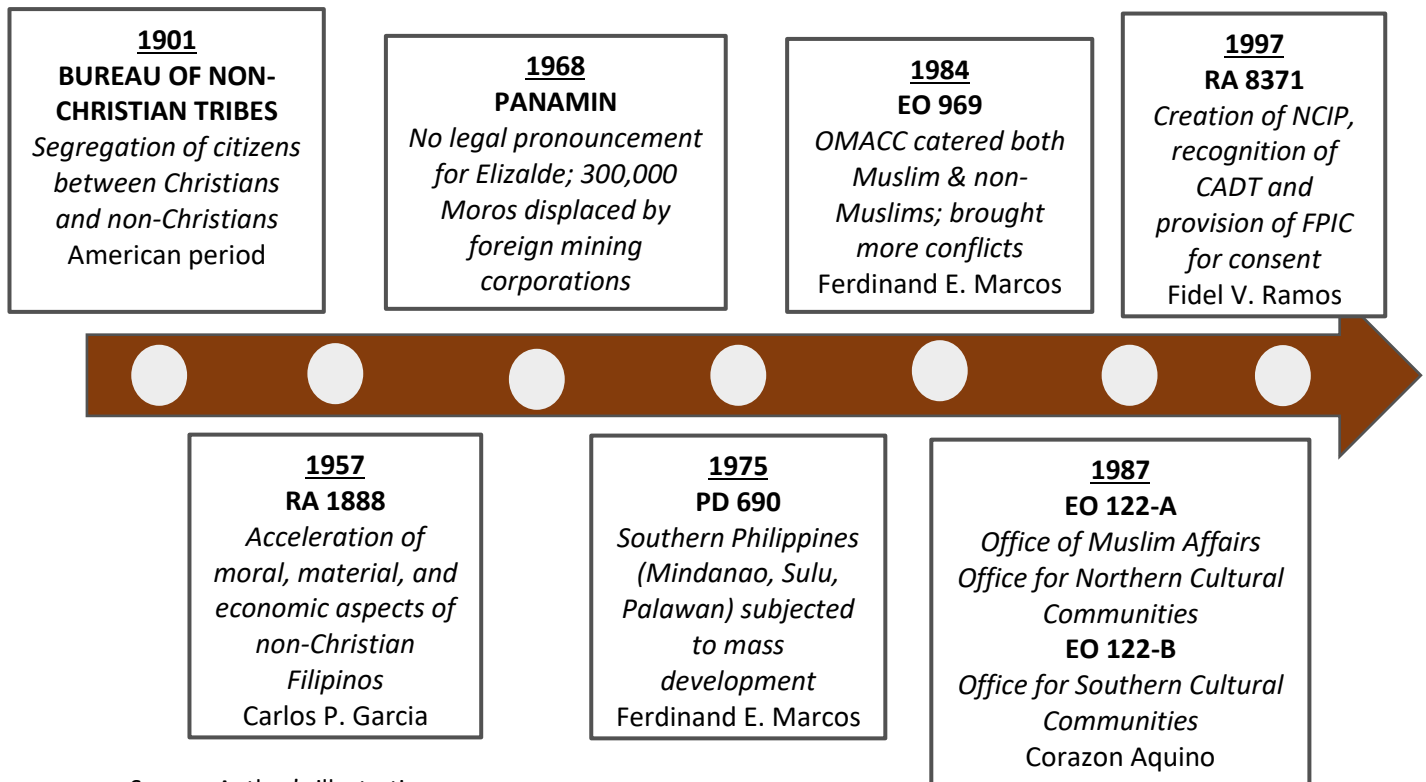
On June 22, 1957, Republic Act No. 1888 was signed by Carlos P. Garcia, facilitating the creation of Commission on National Integration (CNI). The law provided for the acceleration of moral, material, economic, and socio-political aspects of non-Christian Filipinos who they referred thereafter as national cultural minorities. It greatly implied even then the perceived backwardness of cultural communities. The CNI was later on abolished and replaced with two separate agencies, the first one being the office led by Manuel Elizalde, Jr. He was appointed in 1968 as the Presidential Assistant on National Minorities (PANAMIN) under the administration of former dictator, Ferdinand E. Marcos. There were no legal pronouncements documenting his and the office's functions, but they seemed to adopt the previous functions enclosed in prior laws related to cultural minorities such as provision of health (Official Gazette n.d.). However, there were also testaments of Elizalde's office becoming an aggressive recruitment agency for paramilitary groups aimed to divide and harass cultural communities. Around 300,000 Moros were reportedly displaced from 1972 to 1986 to pave way for foreign mining corporations (Malayao 2016). The second agency was the Southern Philippines Development Administration (SPDA), created by virtue of Presidential Decree (PD) No. 690 in 1975. The southern Philippines in this context pertained to the islands of Mindanao, Sulu, and Palawan which were to be subjected to the mass participation in the development process. The SPDA was tasked to implement development projects in areas the national government failed to provide effective action. These projects were supposedly coordinated with the regional development offices of the National Economic Development Authority (NEDA) to ensure the alignment of projects within the national development plans.

The office of PANAMIN was rendered headless after the exit of Elizalde abroad. This prompted Marcos to merge it along with SPDA to form the new agency, the Office of Muslim Affairs and Cultural Communities (OMACC) by virtue of Executive Order (EO) No. 969. While the objective of the office remained similar, it was provided additionally that there should be "due regard for their beliefs, customs, traditions, and institutions" (EO 969 1984, Section 1). The office was supposed to cater to the needs of both Muslims and non-Muslims

communities, but the conflicts weighed more than the benefits provided by the agency. It only lasted three years as the February Revolution ensued in 1986. The administration of Corazon Aquino created three agencies under the Office of the President namely, Office for the Muslim Affairs (OMA), Office for Northern Cultural Communities (ONCC), and Office for Southern Cultural Communities (OSCC). OMA was eventually abolished by RA 9997 or the National Commission on Muslim Filipinos Act of 2009. The mandate of the office shifted into preservation of culture, tradition, institutions, and well-being of Muslim Filipinos aligned with national unity and development. The two offices of ONCC and OSCC were later merged to become the National Commission for Indigenous Peoples.

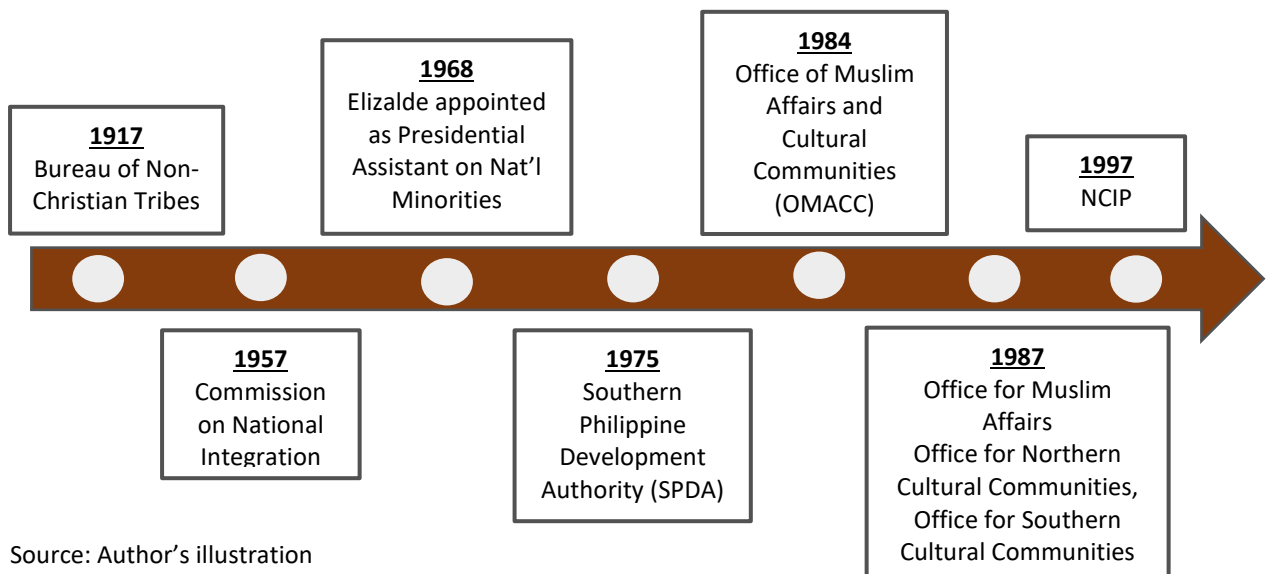
It was evident in the above discussions that the intention for creating an agency in charge of cultural communities was well misplaced. Majority of the laws until the administration of Corazon Aquino saw their distinct traditions and way of life as backward and needing development to be integrated in the bigger society. Another key observation also was the blurry identification of indigenous peoples and indigenous cultural communities. They were collectively called by the Americans as the non-Christian population, lumping them in a similar way with their natives back in North America and perceiving them as minorities. This identification expanded to specifically separate Muslim communities, but the mere separation between Moro people and others did not also effectively facilitate government interventions on the ground. Major aspects like the definition of IPs and ICCs, mandates of the bureau, and the mechanisms actually needed for these communities were attempted to be rectified by the issuance of RA 8371. The transformation of policies, institutions, and bureaucratic jurisdiction can be found in Figures 2, 3 and 4 below.

Figure 2. Policy evolution



Source: Author's illustration

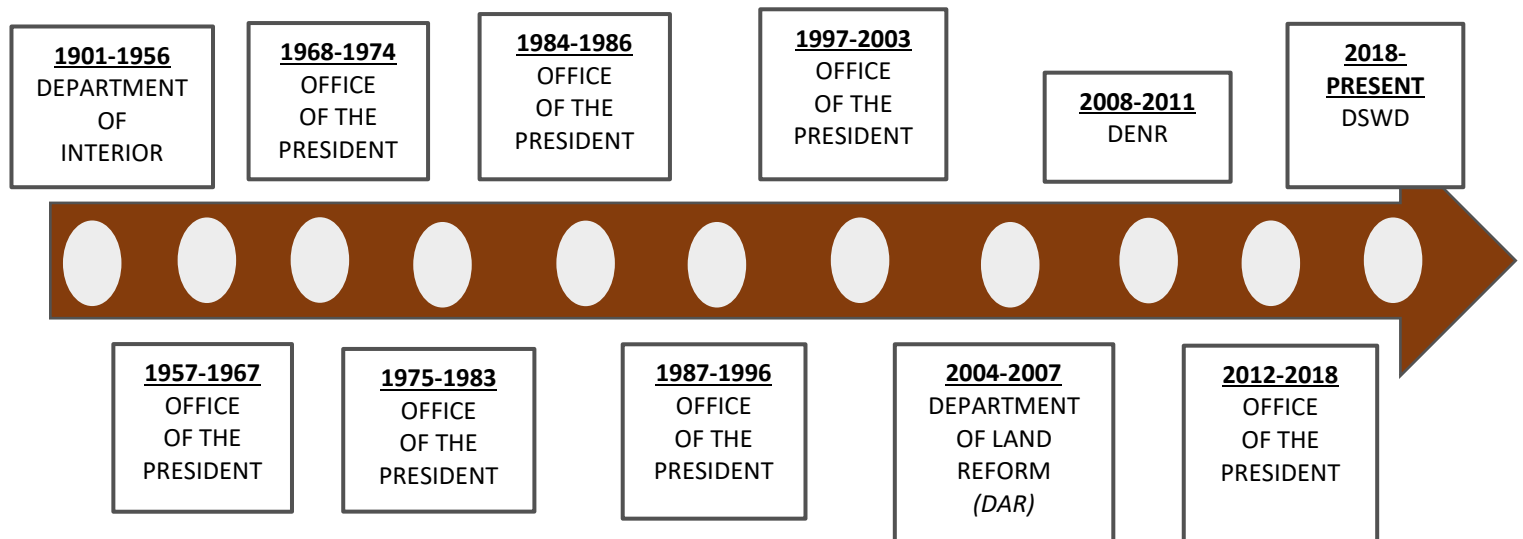
Figure 3. Institutional evolution



Source: Author's illustration

The longest that the NCIP was under the bureaucratic jurisdiction of an agency was under the Office of the President which lasted from 1957 to 2003. In 2004, OP released EO No. 2004-364 which transferred NCIP to the Department of Land Reform (now known as the Department of Agrarian Reform or DAR). The Chairman of NCIP was to be the ex-officio undersecretary of the Department for Land Reform. This lasted for three years until 2007. By 2008, Gloria Macapagal Arroyo issued EO No. 2008-726 which shifted the oversight from the Department of Land Reform to DENR. The rationale for this was primarily because of the Department's mandate to preserve and conserve the cultural and natural heritage of the country's IPs/ICCs and to allow them to enjoy all rights and opportunities accorded thereby. This implied that an added mandate was given to DENR to extend its protection and management services to natural resources, but to the country's cultural assets as well that are embodied through oral traditions and living culture of the communities. This is the first time that the policy landscape acknowledged the intrinsic cultural value of the indigenous community, and it is not limited to physical manifestations (e.g. textile, indigenous products). At the end of Gloria's term, Benigno Aquino III returned NCIP under the OP. When another shift in the administration happened, the Commission was also transferred to another, this time to the Department of Social Welfare and Development. President Duterte believed this arrangement would help harmonize policies between the two agencies to deliver essential public services to the IPs which would eventually help attain the goals enclosed in the Philippine Development Plan.

Figure 4. Bureaucratic jurisdiction evolution



Source: Author's illustration

3.2 Indigenous Peoples Rights Act

Republic Act No. 8371, entitled “An act to recognize, protect and promote the rights of indigenous cultural communities/indigenous peoples, creating a National Commission on Indigenous Peoples, establishing implementing mechanisms, appropriating funds therefor, and for other purposes, was enacted on October 29, 1997 after a decade of lobbying for its passage. The law provided state policies which allowed for the recognition and promotion of IP rights, particularly the delineation of ancestral domains; preservation of culture, traditions, and institutions; assurance of human rights and freedoms and non-discrimination; and provision of access to services responding to the needs and desires of these communities. IPRA particularly highlighted the rights to ancestral domains; self-governance and empowerment; social justice and human rights; and cultural integrity.

The law established the National Commission on Indigenous Peoples and declared it to be the primary government agency responsible for policy formulation and implementation in relation to the promotion and protection of IP rights and the recognition of ownership and rights within ancestral domains. Some of the salient functions of the Commission include being the primary government agency which ICCs/IPs can seek government assistance from; proposing relevant policies to address their role in national development; formulating economic, social and cultural development of ICCs/IPs; issuing of certificate of ancestral land/domain titles; issuing pre-condition certificates in relation to permit or lease grants within an ancestral domain upon approval of IPs/ICCs; and representing these communities in all international conferences and conventions.

A contention regarding the ownership rights over ancestral domains emerged in the process such that the IPs and ICCs do not solely have land rights but cultural and governance rights as well. For these people, collective rights are deemed more relevant than their individual ones, but both are integral in the communities’ self-determination. Their culture and way of life must be considered in formulation and implementation of national plans and policies henceforth coercion is prohibited against them (Eligio 2012). However, the passage of the law as a response to the call of the IPs and ICCs was seen as a recognition of tenure rights and entirely

ignored pressing concerns on autonomy and self-determination (Gatmaytan 2004). The latter term was thought of as ‘threatening’ by the state as it prompts a separation of the people from the State itself (Eligio 2012).

After the passage of IPRA, a series of administrative orders have been released by the NCIP. The first of these was Administrative Order (AO) 2003-01 which formed the consultative body within the ICCs and laid down the rules on pleadings, practice, and procedure. The body was to be composed of traditional leaders, elders, and representatives from women and youth sectors. The body was required to present in community, provincial, regional, and national levels. The rules on pleadings and practice emphasize the role of traditions and customary laws of the communities. These should be foremost considerations in dealing with property rights, ownership claims, hereditary succession, and settlement of disputes. The rest of the administrative orders were issued a decade later. AO 2012-01 enabled the compilation of traditional indigenous knowledge, primarily creating an intellectual bank of intangible heritage from these communities to become a collective property of IPs and ICCs. A semblance of formalization was facilitated by AO 2012-02 in its attempt to trace indigenous political structures and clump the IPs under the registration of indigenous peoples’ organizations. The guidelines for the free prior and informed consent were released through AO 2012-03. The role of FPIC in the protection of rights of IPs and ICCs will be emphasized in later discussions. Basically, FPIC is similar to an environmental compliance certificate (ECC) in the sense that it allows the community to learn about the proposed project being introduced within their ancestral domain and the power to decline it. The process ensures their protection and exercises their self-governance. Any alternative proposal shall be subjected to another FPIC. Another landmark administrative order was AO 2012-04 which revised the omnibus rules on delineation and recognition of ancestral domains. This included the applications for certificate of ancestral domain titles and ancestral land titles (CADT/CALT) which required the creation of Ancestral Domains Sustainable Development and Protection Plan. AO 2012-04 identified AD as private lands under the natives, and in view of conflicts, customary laws must be followed in resolving them. More importantly, it emphasized that CADTs/CALTs were non-transferable. Hence, an AD shall remain to that ethnic group indefinitely. AO 2014-01, on the other hand, mandated the regional offices of NCIP to represent ICCs and IPs in light of claims and disputes involving the rights of IPs.

To put things into perspective, a review of important guidelines was carried out with particular focus on the years they were passed. The implementing rules and regulations (IRR) of IPRA were issued one year after the policy’s passage. Five years after, Administrative Circular 2003-01 was passed for the rules on pleadings, practice, and procedure. Within the same year, AO 2003-01 was passed for the formulation of a consultative body. The following year, the guidelines for the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) were issued through AO 2004-01. This was later on revised in 2018 through AO No. 02. It was almost a decade later when the mechanisms for the free, prior, and informed consent was released. Even more concerning was the rules on delineation and recognition of AD which were only released in 2008. The two most important mandates and documentary requirements of NCIP were only given guidelines a decade after the passage of IPRA. A lot of foregone opportunities and avoided consequences are the result of the policy delay. Revisions for FPIC and the delineation guidelines were released in 2012 while ADSDPP amendments were issued in 2018.

Apart from IPRA, a number of laws have been passed that serve to complement their provisions, but oftentimes, these legal documentations overlap with the rights of IPs and ICCs, thus the need for collaboration with the Commission.

3.3 Complementary laws

3.3.1 The Philippine Constitution

The 1987 Philippine Constitution allows for the recognition and promotion by the State of the rights of the indigenous cultural communities within the framework of national unity and development as given in Article II, Section 22 of the law. It also provides for the protection of the ICC's rights to ensure economic, social, and cultural well-being subject to the provisions of the Constitution and national development policies. The power may rest on the power of the Congress to determine the applicability of customary laws in relation to the ownership and extent of ancestral domain (Article XII, Section 5). Lastly, the state ensures the preservation and development of cultures, traditions, and institutions. These cultural aspects shall be considered also in the formulation of national plans and policies (Article XIV, Section 17).

It is evident that state and indigenous laws exist in the same time and space, but they remain independent of each other. Despite this, conflicts persistently arise, and studies attribute these contradictions to the various historical origins and the evolution from different modes of production. This can be traced as far as the 16th century at the prime of Spanish colonization. The influx of Spaniards in the country ushered in their own worldview of land, system of ownership, and mechanism of use packaged together with a concept called *Jura Regalia* or the regalian doctrine. This theoretical concept became the legal basis for all land laws thereafter from the American period up to the country's Constitution, completely dismissing the tenurial security of indigenous cultural communities (Molintas 2004). This doctrine is similarly brought up during discussions on mining and the extraction of resources which the next section will expand on.

3.3.2 Natural resource laws

These laws cover all pronouncements and orders from the Department of Environment and Natural Resources (DENR) and its line bureaus, Mines and Geosciences Bureau (MGB) and Environmental Management Bureau (EMB). In general, there are three main memoranda issued by DENR in coordination with NCIP. The first is the Joint Memorandum Circular (JMC) 2003-01 which facilitates the harmonization of the implementation of IPRA and environment and natural resources (ENR) laws and policies. The objectives of the JMC include the clarification of jurisdiction, authority and responsibilities between the two agencies in relation to the management of ENR within ancestral domains; strengthening of on-going policy harmonization efforts; and recognition of related initiatives from local government units (LGUs), concerned agencies, and civil society. IP representation is enshrined in its provisions, allowing for their participation in joint review of resource management/utilization instruments, multi-partite monitoring teams, and Protected Area Management Boards (PAMB). Technical assistance is also required from DENR in terms of the formulation of Ancestral Domains Sustainable Development and Protection Plan (ADSPP) and delineation of ancestral domains through the capacities of its attached agencies namely, the National Mapping and Resource Information Authority (NAMRIA), Land Management Bureau (LMB) and Forest Management Bureau (FMB).

The second order is the Joint Administrative Order (JAO) No. 2008-01 entitled, “Guidelines and procedures for the recognition of all sustainable traditional and indigenous forest resources management systems and practices (STIFRMSP) of indigenous cultural communities or indigenous peoples in ancestral domain/land.” The general objectives of this order are to document practices of ICCs/IPs that are found to be sustainable in resource management, recognize preferential rights of IPs to benefit from and utilize natural resources within their ancestral domains, institutionalize the sustainable practices documented, and formulate appropriate policies based on their documentation and registration. A memorandum of agreement (MOA) shall be signed among DENR, NCIP, the ICCs, and LGUs, complemented with a joint implementing rules and regulation (JIRR) for the systems and practices.

The third one is a Memorandum Circular 2013-06 which provides the guidelines and procedure for plantation development for the National Greening Program. It particularly highlights the participation of the IPs/ICCs to the attainment of the national target of 1.5 million hectares with 1.5 billion seedlings. In exchange, they are given priority for employment opportunities within the area vicinity.

In relation to mining, there are two landmark laws passed which contain implications on the welfare of IPs/ICCs. The first of which is the Republic Act No. 7076 or the People’s Small-Scale Mining Program. Its main contention is the inclusion of FPIC as one of the primary requirements for the declaration of Minahang Bayan. It is still debatable up to the present day where FPIC should be placed in the process – prior to the conduct of ECC or after its issuance. In the case of the Cordillera Administrative Region, NCIP prefers to enforce specifically two FPICs – one for the Minahang Bayan declaration and one for the provision of a small-scale mining contract. In contrast, small-scale mining actors would like to limit the FPIC to the provision of the contract or at the most, dismiss the process altogether. Moreover, NCIP is pushing for the representation of IPs/ICCs in the composition of the regulatory body, Provincial Mining Regulatory Board (PMRB), with a voting position and not just as mere observers. As for large-scale mining, its backbone lies with the enactment of Republic Act No. 7942 or the Philippine Mining Act of 1995. The law provides for the recognition and protection of rights of IPs/ICCs to ancestral lands and that no ancestral land shall be opened for mining operations without prior consent of the IPs. The persistent concern in this sector is the just compensation for the said communities. Mining companies are required to set aside one percent (1%) of their gross revenue as royalties for the IPs/ICCs affected, but note that this would only apply for communities with a Certificate of Ancestral Domain Title (CADT). However, none from NCIP, DENR, and the mining company has the mechanism to monitor the distribution of royalties among the members of the community as this would overstep their right of self-governance. Some mining corporations shifted instead to providing community programs instead of hard cash, providing a counterpart to the Social Development and Management Programs (SDMP) given to LGU constituents.

One of the very critical complementary laws was the Joint Administrative Order No. 2012-01 signed by the Department of Agrarian Reform (DAR), DENR, Land Registration Authority, and NCIP. The objective of the policy was to clarify, restate, and interface respective jurisdictions, policies, programs, and projects of the agencies in order to address jurisdictional and operational issues. There have been numerous overlaps in land jurisdictions among these agencies, particularly between DENR and NCIP, since ancestral domains are often situated within forestlands or protected areas. Areas contested in the AO were identified as the following: untitled lands claimed by ICCs/IPs and are also being claimed by DAR and/or DENR; titled lands with registered Certificate of Land Ownership Awards (CLOAs); patents

within CADT (e.g. patented mining claims issued prior to Mining Act and IPRA); resource instruments issued by DENR over lands within AD (e.g. Integrated Forest Management Agreement [IFMA], Timber License Agreements [TLA], National Greening Program [NGP], protected areas); exploration permits/financial or technical assistance agreement (FTAA), mineral production sharing agreement (MPSA) over Comprehensive Agrarian Reform Program lands (CARP); and areas with existing and/or vested rights. NCIP was particularly advised to exclude and segregate all lands covered by titles. The joint administrative order turned out to be very limiting for NCIP in their conduct of delineating ancestral domains. In November 2019, the Commission pulled out from the agreement, which placed uncertainty on the progress of all their CADT applications.

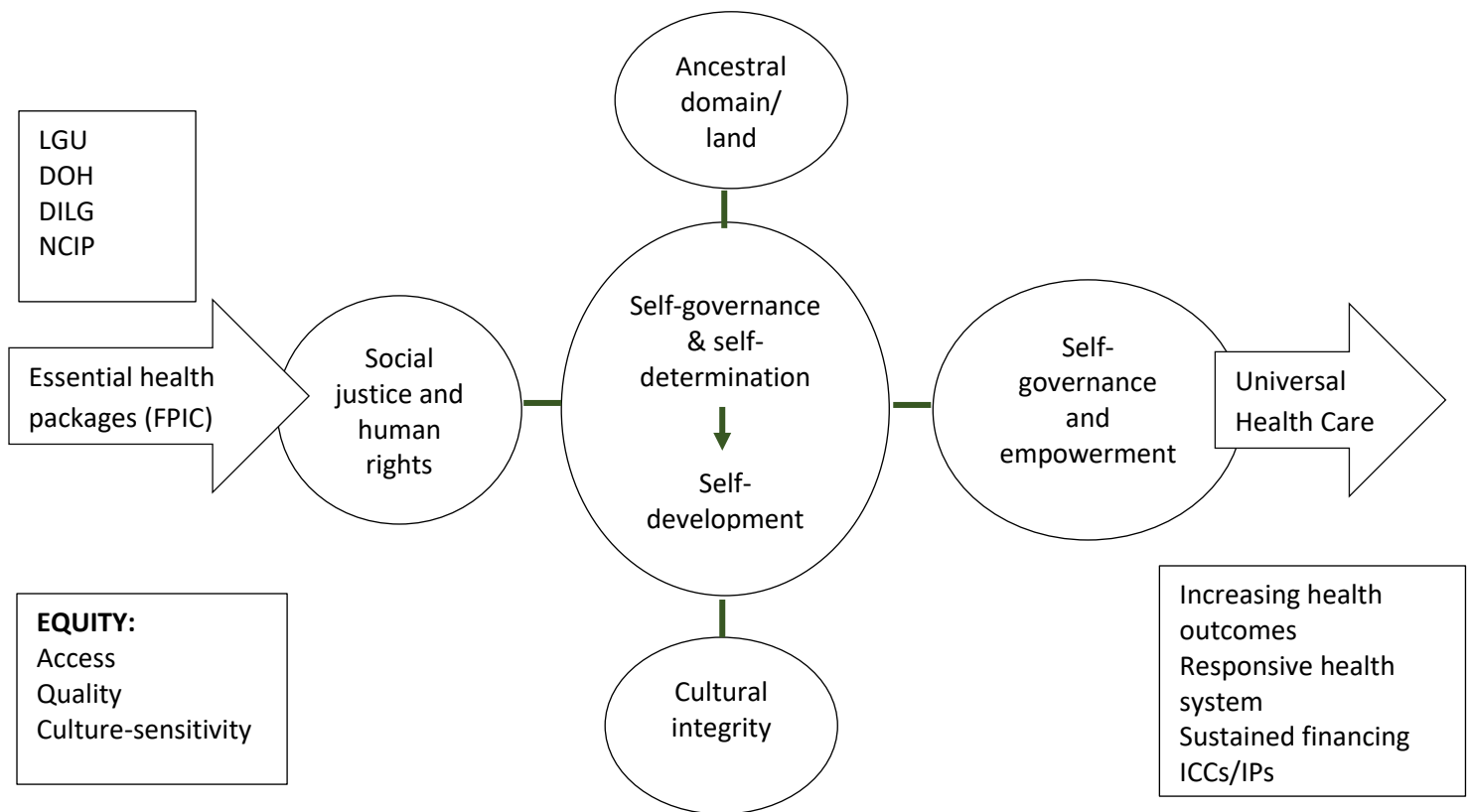
The Commission has to frequently interface with other agencies like MGB on large and small-scale mining operations, and there are some instances when the State has to carry out its state welfare responsibility for most of its constituents at the expense of the IPs. For instance, discussions on IP rights and their tenurial security are always brought up in relation with hydrological development projects, most notably Chico River Pump Irrigation Project in Cordillera, Jalaur River Multipurpose Project, and Kaliwa Dam. Oftentimes, critical documents and processes like FPIC are disregarded or circumvented with the IPs/ICCs lacking the leverage and adequate information to counter such development aggression. However, it remains debatable whether or not these projects should be discontinued just because ‘minority groups’ will be affected. Pareto efficiency is used to put things into perspective; ultimately, there are gainers and losers, and those who lose shall be compensated. What is lacking in this case is the absence of just compensation – relocation plans, livelihood projects, and monetary fees. NCIP also has to resolve its boundary issues with local government units (LGUs) with some markers of ancestral domain infringing on their delineated land.

3.3.3 Health services

Basic health services are delivered by the Department of Health as this is the primary agency mandated to fulfill this. In 2013, DOH signed JMC 01 with NCIP and the Department of the Interior and Local Government (DILG) for the access of health services to IPs/ICCs as part of their national initiative called Universal Health Care (UHC)/Kalusugan Pangkalahatan (KP). The objectives of UHC fall are directed towards achieving better health outcomes, sustained health financing, and responsive health systems. The initiative employs the strategy known as Geographically-Isolated and Disadvantaged Areas (GIDA) Health Systems Development (HSD) aimed at addressing inequity and improve availability and accessibility of services.

The policy targets the indigenous peoples because of their vulnerability to health inequities and the eventual lack of health information, considering that they still do not have a disaggregated health data per ethnicity. DOH then enlisted the help of NCIP to assist and design the delivery framework in a more culturally sensitive manner while DILG mainly exists to provide supervision of the LGU’s programs. The guiding principles for the delivery of services include (1) equity in health, (2) favorable health outcomes as the primary goal, (3) culture-sensitivity in health, and (4) respect for human rights, and gender development. The figure below shows the proposed service delivery framework envisioned by DOH, NCIP, and DILG.

Figure 5. Health Service Delivery Framework for IPs as part of Universal Health Care initiative



Source: DOH-NCIP-DILG JMC 2013-01

3.3.4 Education and learning

One of the primary services being sought by IPs/ICCs is education. It was only in 2011 when the Department of Education (DepEd) formally adopted the National Indigenous Peoples Education (IPED) Policy Framework through Department Order No. 62. This policy directive was part of the country’s commitments to the Education for All (EFA) targets, Millennium Development Goals (MDGs) and the Basic Education Sector Reform Agenda (BESRA). The IPED framework recognizes the right to education as one of the fundamental rights of the IPs/ICCs; moreover, the framework was to follow a rights-based approach which prescribes to the key tenets of participation, inclusion, and empowerment.

This is followed by Department Order No. 32 in 2015 which adopted the IPED curriculum framework. The framework was to be mainstreamed in the curriculum of both public and private schools in an effort to localize, indigenize, and enhance the K to 12 curriculum-based on their respective educational and socio-cultural contexts.

However, IP education is not accessible to everyone, most especially to far-flung, upland communities. In response to this gap, Lumad schools were established by Save Our Schools Network all over Mindanao, particularly in North Cotabato, Davao del Norte, Compostela Valley, and Sultan Kudarat. There were over 200 families being serviced by community schools, with teaching assistance coming from the academe and religious organizations. In 2019, DepEd ordered the closure of 55 Lumad schools under the jurisdiction of Salugpongan

Ta'Tanu Igkanogon Community Learning Center, Incorporated (STTICLCI). The Department said their reasons for closure were the allegations that the schools were training centers for New People's Army, non-compliance with the curriculum standards, and unlicensed teachers. Around 3,500 students and more than 30 teachers were affected (Tan 2019).

3.3.5 Culture and traditions

Harking back to the rights being espoused by IPRA, cultural integrity has been mentioned as a major pillar that should be protected along with self-determination and self-governance. NCIP, as an institution, does not provide the necessary capacities to help enrich the indigenous communities. The Tumandok in Tubungan, Iloilo said that in terms of culture and traditions, they lean more on the presence and interventions of the National Commission for Culture and the Arts (NCCA), the overall policy-making body in charge of the preservation, development, and promotion of Philippine arts and culture. It was established in 1992 through RA 7356 and was placed as the overall head of other cultural agencies like the Cultural Center of the Philippines (CCP), National Historical Commission of the Philippines (NHCP), National Museum of the Philippines (NM), National Library, National Archives, and the Komisyon sa Wikang Filipino (KWF).

NCCA has a separate section in their institution called Cultural Communities and Traditional Arts which handles all programs and projects for cultural communities across the country. Among these, the School of Living Traditions (SLT) emerged as their flagship program. SLT is like an alternative learning system wherein a living master/culture bearer or culture specialist teaches skills and techniques needed for the conduct of a traditional art or craft e.g. weaving, carving, creating musical instruments, traditional dances. The learning application differs from DepEd's formal education as the nature of teaching involves oral and practical demonstrations. They do not also hold classes in classrooms but in the house of the living master, community hall, or akin to those venues. The program was engineered due as a response to the call of UNESCO to preserve cultural heritage in its living form and to transmit the indigenous skills and crafts to the young, allowing for sustainability of practices and customs. As of 2015, there are 13 SLTs, six of which are found in Mindanao, four in Luzon, and three in Visayas (Panay Island).

Another separate program within the commission is the Philippine Cultural Education Program (PCEP) which builds on the foundation that culture is the cornerstone for the build-up of education, governance, and sustainable development. This was launched in 2002 as the Commission's flagship program, mainstreaming cultural education in formal, non-formal, and informal systems. In 2010, the program expanded its reach to the overseas Filipinos. The most recent activity they launched is the celebration of Indigenous Peoples' Month every October. They spearhead the celebration by organizing a number of national forums and exhibitions that happen simultaneously all over the country.

3.3.6 Protection and security

Another form of protection comes in the form of state forces. Fresh from Malacanang is the Executive Order No. 70 entitled, "Institutionalizing the whole-of-nation approach in attaining inclusive and sustainable peace, creating a national task force to end local communist armed conflict, and directing the adoption of national peace framework" released last December 4, 2018. The EO mandates the government to harmonize the delivery of basic and social services

in conflict-affected areas and vulnerable communities. To ensure the effective implementation of the order, a National Task Force to end local communist armed conflict is formed under the jurisdiction and guidance of the Office of the President; the task force is chaired by the President of the Philippines with the National Security Adviser as vice-chair and the following Secretaries, Director Generals, and Chairpersons as members: Department of National Defense (DND), Department of Public Works and Highways (DPWH), and Department of Budget and Management (DBM), Department of Finance (DOF), Department of Agrarian Reform (DAR), Department of Social Welfare and Development (DSWD), DepEd, National Economic and Development Authority (NEDA), Presidential Adviser on the Peace Process, Presidential Adviser for Indigenous Peoples' Concerns; Armed Forces of the Philippines (AFP); Philippine National Police (PNP), NCIP, Presidential Communications Operations Office (PCOO), and two representatives from the private sector.

The National Peace Framework enclosed in the provisions of the EO shall respond to the root causes of insurgencies, internal disturbances, tensions, and armed conflicts through policies, plans, and programs. The framework will be fitted to the local needs and realities on the ground on which it is being implemented on. Moreover, mechanisms for peace engagements and negotiations should be included as well in the grounding of the strategy.

3.3.7 International agreements

In the international policy landscape, United Nations is the foremost organization that have comprehensive laws and declaration covering cultural communities. In particular, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a policy instrument that provides for the protection of collective rights of indigenous peoples that may not have been addressed in other human rights charters. The declaration took 25 years of deliberation and back and forth between indigenous communities and UN member states until it was finally adopted by UN on September 13, 2007. The 46 articles contained within the declaration espouse the right of IPs/ICCs to fully enjoy collectively and individually the human rights and fundamental freedoms written in the Charter of the United Nations, Universal Declaration of Human Rights, and International Human Rights Law. It also guarantees their rights to practice their cultures and customs, religions, and languages while they simultaneously develop and strengthen their respective economies and social and political institutions. The right to be free from discrimination and the right to a nationality were likewise mentioned. UNDRIP was adopted by 114 countries, abstained by 11 and voted against by 4. These initial countries were Canada, USA, New Zealand, and Australia. Since 2009, Australia and New Zealand shifted their stances and provided statements of support to the Declaration (Hanson n.d.).

Given all the international and local policy instruments, department orders, and joint circulars, the provisions themselves cannot secure and sustain the welfare of IPs/ICCs as they are mere pronouncements. Concrete results are manifested in the implementation and grounding of such policies, one of the mechanisms can be found in how effective and responsive are the established institutional structure and arrangements, and their financial and labor resources to complement their mandates and functions.

4. Institutional Review

4.1 Institutional structure and arrangements

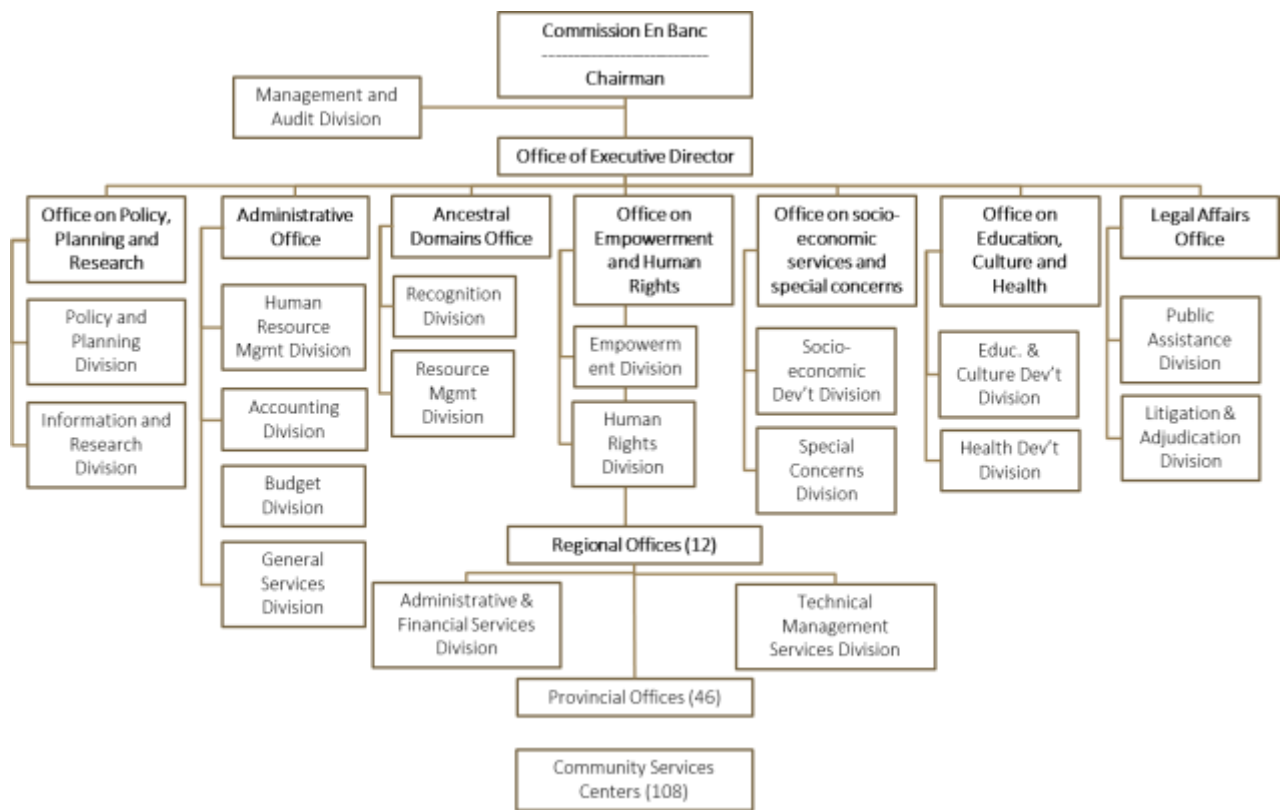
There are nine offices established under the bureaucratic institution of NCIP as seen in Figure 4 below: the Office of the Executive Director, the Ancestral Domains Office (ADO), the Office on Policy, Planning and Research (OPPR), the Office of Education, Culture and Health, the Office of Empowerment and Human Rights, the Office on Socio-economic and Special Concerns, the Administrative Office, the Legal Services Office, and the Regional and Field offices. The Office of the Executive Director serves as the secretariat of the Commission.

Heading the above offices is a Commission En Banc composed of seven commissioners, with a Chairman designate. Originally lodged under the Office of the President, the NCIP Commissioners supposedly represented the following ethnographic areas: Region I and the Cordilleras; Region II; the rest of Luzon; Island Groups including Mindoro, Palawan, Romblon, Panay and the rest of the Visayas; Northern and Western Mindanao; Southern and Eastern Mindanao; and Central Mindanao. The institution's charter also provides for the appointment of at least two women as Commissioners.

The Chairperson of NCIP is appointed by the incumbent President along with designated commissioners, usually for three-year terms. This follows the appointment nature of many offices in government and begs the discussion on short-term appointees versus medium to long-term executive civil servants. While credentials and professional standards are strictly observed among rank and files, the same standards oftentimes take a backseat to political nuances when considering executive appointees. More weight should be given to institutional fit, familiarity with the institutional mandate and history, and desired managerial and leadership competencies, particularly for civil executive servants. As Spiller and Urbiztondo (1994) and Cohen (1996) professed, the same would significantly impact the internal workings of the institution, and its ability to function and deliver service.

If strictly complied with, the NCIP's institutional design would have afforded it with appropriate IP/ICC representation, operational capacity and institutional clout. Appointment transparency and security, and better professionalization of the NCIP's ranks could also promote competent long-term organizational commitments, for both management and staff.

Figure 6. Institutional structure of the National Commission for Indigenous Peoples (NCIP)



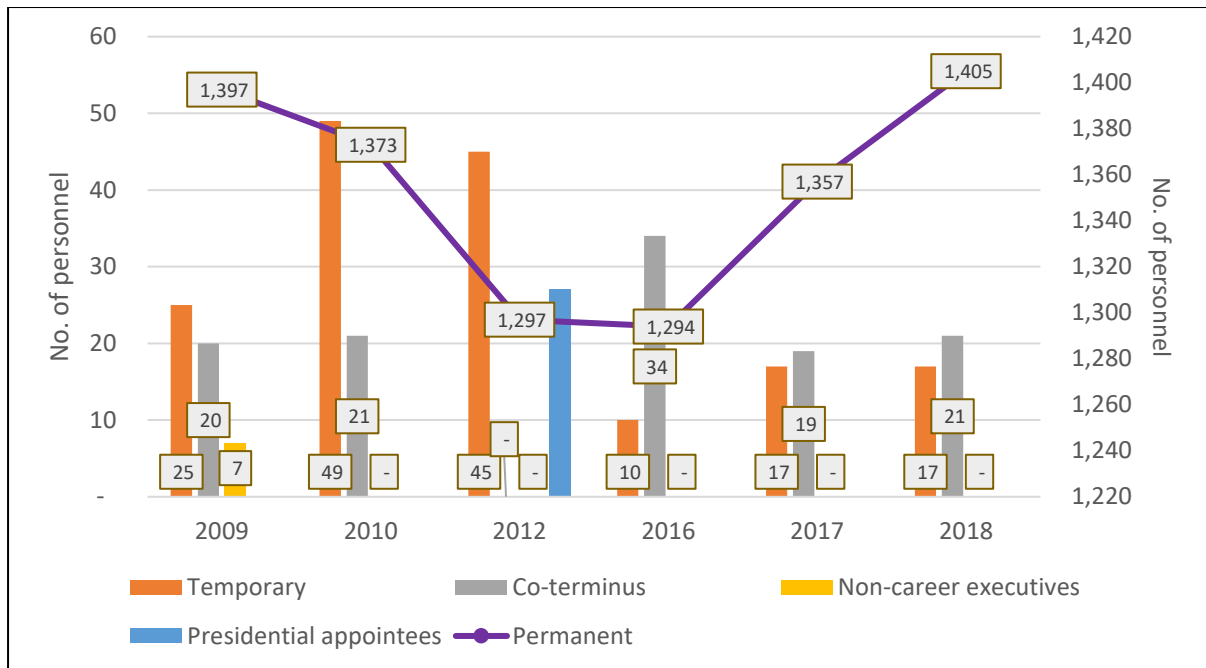
Source: NCIP Human Resource Management Division

4.2 Labor and financial complement

In terms of the Commission’s manpower complement, the highest share comes from the permanent personnel with around 1,405 employees in 2018. This is followed by temporary personnel ranging from 10-50 people and co-terminus personnel of around 15-34 people. There was a surge of presidential appointees in 2012, which was indicative of the incumbent government administration’s commitment toward grounding the provisions of IPRA. The same also coincided with notable accomplishments including the release of streamlined processes for FPIC application and award in 2012. Such appointees were regularized with the focus of the Duterte administration on removing endo and promoting job security.

In hindsight, the inflections in the nature of NCIP’s manpower complement over the past decade could have been capitalized on to enact desired changes in structure and technical composition. There is internal institutional awareness that the Commission needs more technical personnel that would cater to its requirement for social research, geodetic engineering work, and legal service. An extended and stable leadership tenure would have allowed for such longer-term assessment, planning and vision articulation.

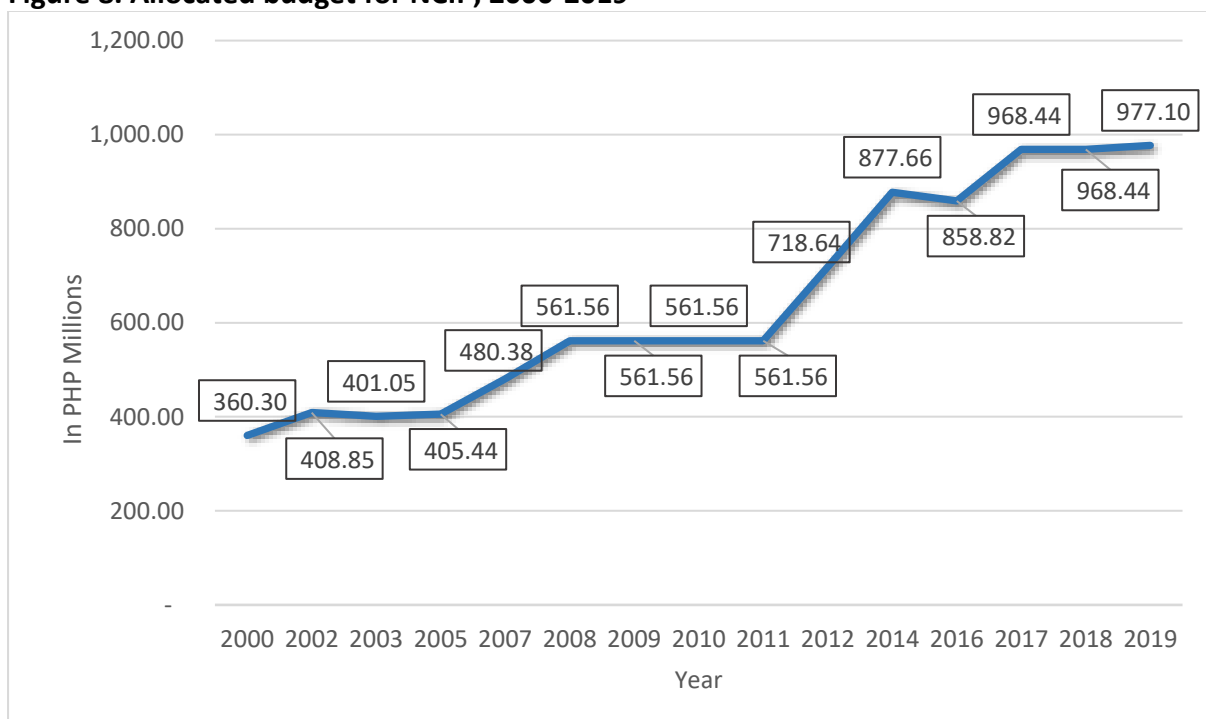
Figure 7. NCIP’s manpower complement disaggregated by nature of employment, 2009-2018



Source: Commission on Audit Annual Reports (2009-2018)

Looking at the allocated budget of the Commission, figures show that their allocation almost nominally tripled over the past two decades. Although plateauing in certain years, their budget had a generally increasing trend from 2000 to 2019. Its latest budgetary appropriation amounted to Php 977.10 Million.

Figure 8. Allocated budget for NCIP, 2000-2019

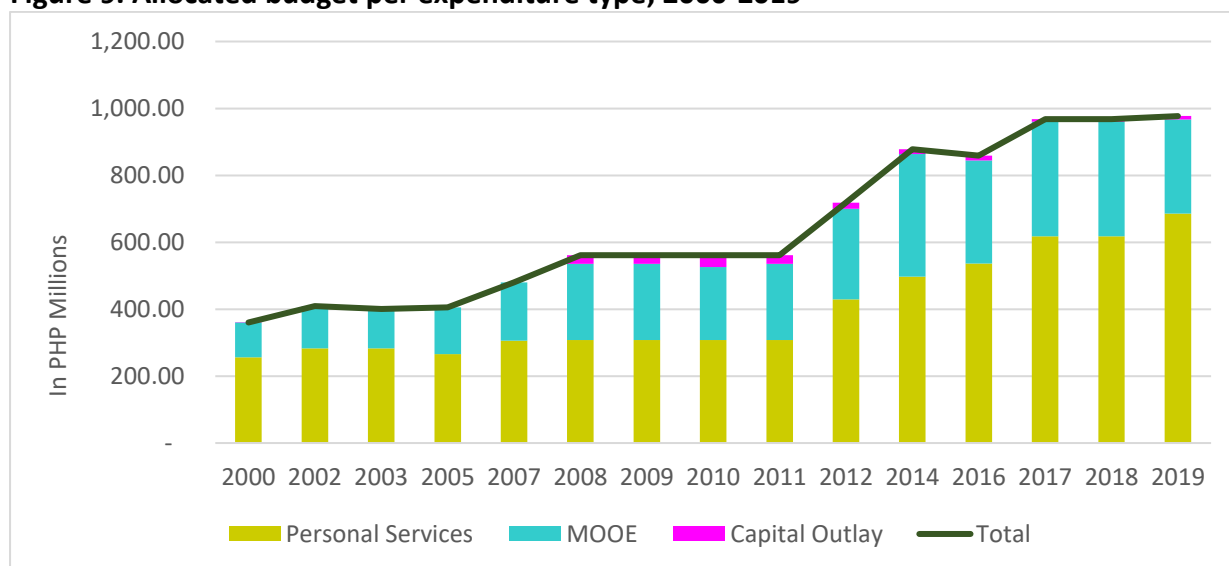


Source: GAA 2000-2019

Still, a common sentiment among national and sub-national NCIP personnel is their limited resource, particularly for operational expenses. Disaggregating their allocated budget per expenditure type (personal services, maintenance and other operating expenses, capital outlay) and per program (general administration and support, operations, projects, support to operations) reveal that personal services make up the bulk of their appropriation for all years. A far second is the budget for MOOE. Capital outlay only briefly appeared from 2008 to 2012.

Intuitively, the focus on personnel services enables the NCIP to effectively cater to its millions of IP constituents. However, the limited operating budget and weak technical fit between its personnel technical capacity and institutional mandate compromises functional delivery.

Figure 9. Allocated budget per expenditure type, 2000-2019

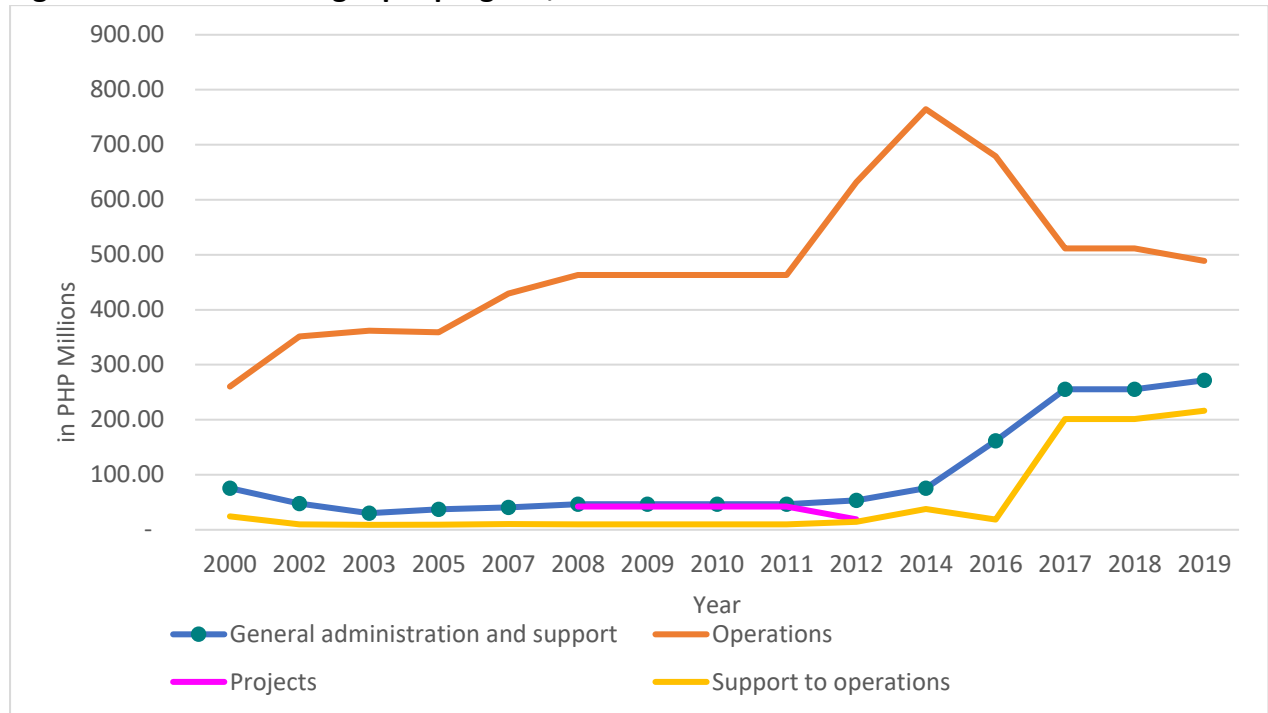


Source: GAA 2000-2019

As for the expenditure per program, the highest allocation was funneled to operations with sharp increases from 2012 to 2014 when it was under the office of former president Benigno Aquino III and then declined when the administration changed. This was probably due to the issuance of revised FPIC and ADSDPP guidelines. General administration and support and support to operations saw sharp increases in 2017. While most of the budget is allocated for personnel, this may not indicate support for most of its vital operations which field personnel often carry out.

The same nuance in allocation give credence to the need for more operational funding for NCIP. However, such resource augmentation must be coupled with commensurate capacity to technically and administratively use the funds. If the absorptive capacity of the commission does not move in line with their budget programming, then the same functional delivery issues would be met.

Figure 10. Allocated budget per program, 2000-2019

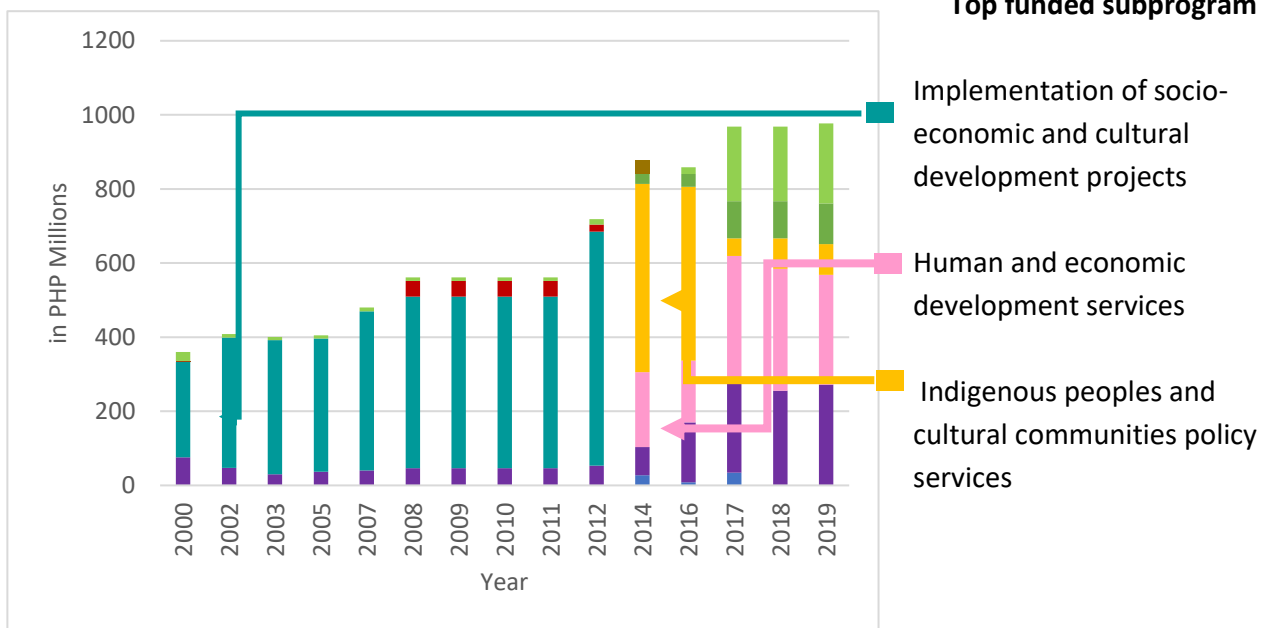


Source: GAA 2000-2019

For every program, there are subprograms identified. In the next figure below, the top funded subprogram is the implementation of socio-economic and cultural development projects, followed by human and economic development services, and indigenous peoples and cultural communities policy services.

The shift in program focus was evident in the funded thematic areas. Socio-economic and cultural development projects made up the bulk of the NCIP budget from 2000 to 2012, IP and ICC policy services in 2014- 2016, and human development services were given the most from 2017 onwards. The NCIP would have benefitted from thematic balancing in its sub-program allocations. It would have been desirable for socio-economic and cultural development projects to have sustained allocations post 2012, and the two other major subprograms prior to 2014.

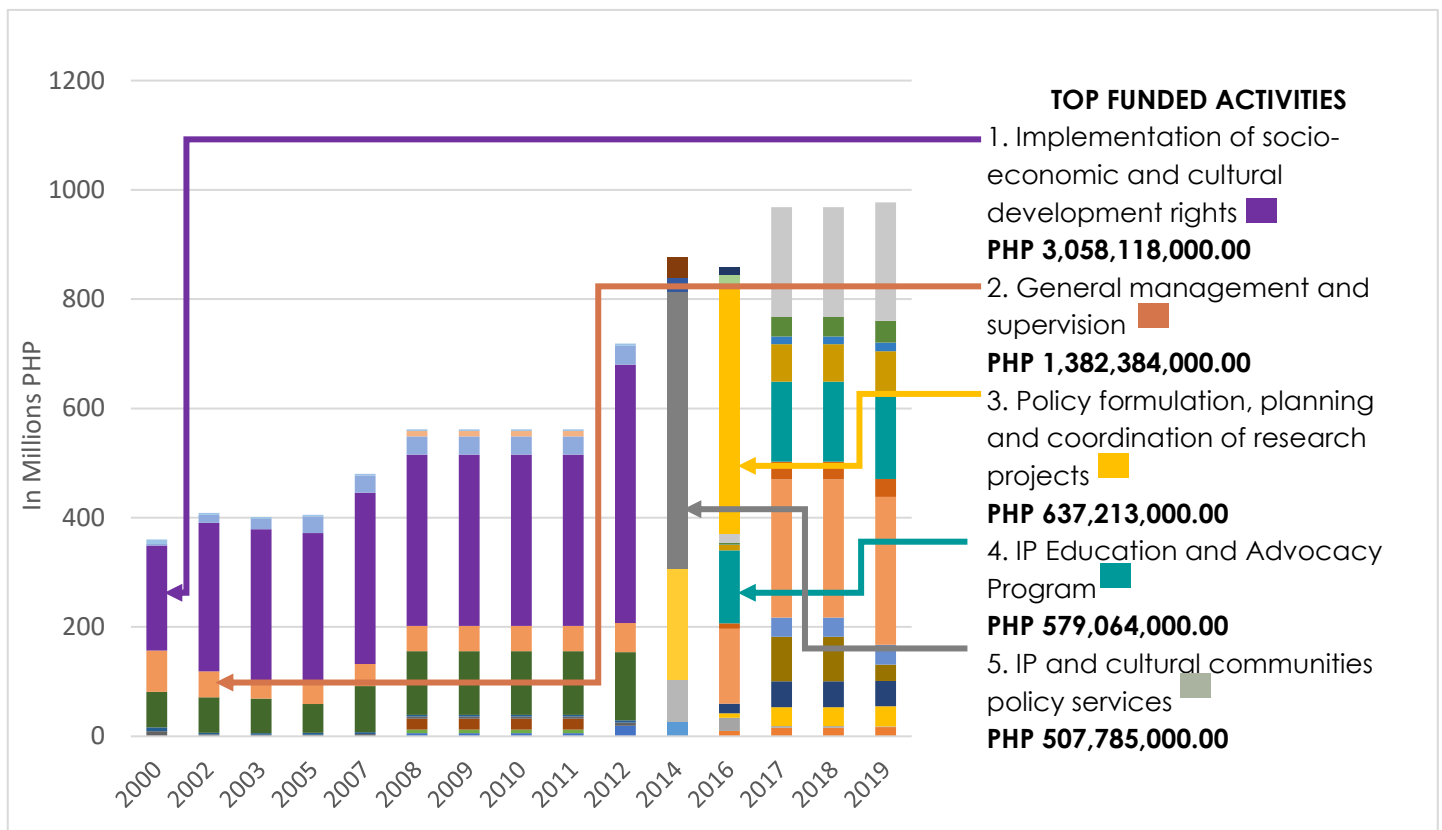
Figure 11. Allocated budget per subprogram, 2000-2019



Source: GAA 2000-2019

Allocated budget per activity was also looked into. While the implementation of projects on socio-economic and cultural development rights had the highest aggregate funding with a cumulative budget of Php 3,058,118,000.00, it should be noted that the figures were only high from 2000 to 2012. In 2014, IP and cultural communities policy services had Php 507,785,000.00, but it was the only year that it had appropriation. General management and supervision which pertained mostly to personnel services ranked second in the list of top funded activities, with an aggregate allocation over the years of Php 1.4 Billion.

Figure 12. Allocated budget per activity, 2000-2019

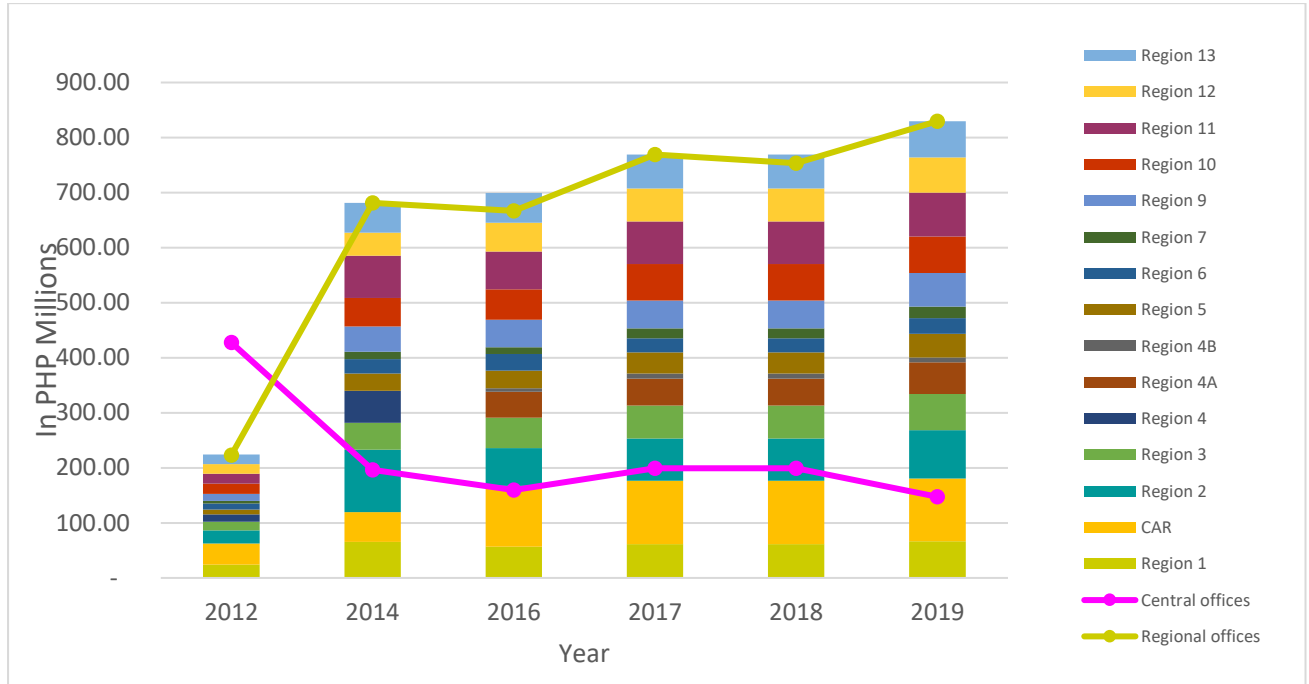


Source: GAA 2000-2019

The NCIP Central Office saw a decreasing trend in its budget from 2012 to 2019, with regional offices cumulatively getting more during the said period. Taking the bulk of the budget was the Cordillera Administrative Region with Php 547 Million, followed by Cagayan Valley (Region 2) with Php 447 Million, Davao Region (Region 11) with Php 397 Million, Ilocos Region (Region 1) with Php 335 Million, and Northern Mindanao (Region 10) with Php 324 Million.

From 2012, there has been a shift in budget programming from the national to the regional operations level. It is commendable that more resources are being channeled to frontline operations, but fund distribution still needs to be justified and made more transparent. Offhand, the magnitude of allocated funds per region do not correspond with the respective population or number of IPs and cultural communities, and size of ancestral domains. Albeit Region 11 and Region 12 are some of the most populous regions, with the latter representing South Cotabato, Cotabato, Sultan Kudarat, Sarangani, and General Santos City, regional operations in northern Luzon still received the most allocations.

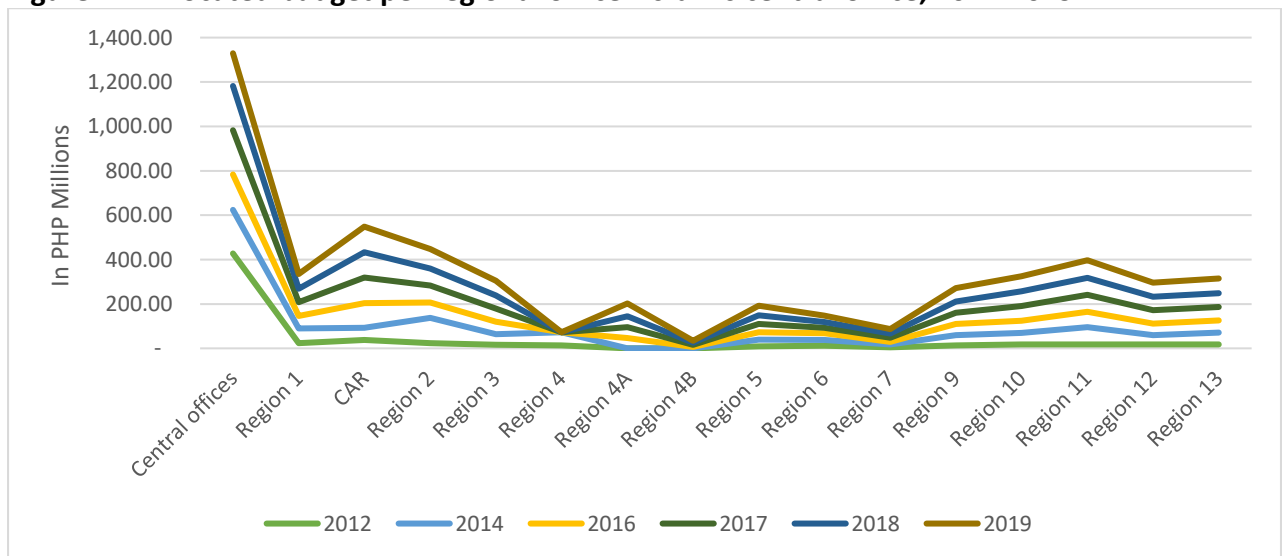
Figure 13. Cumulative budget per central and regional offices, 2012-2019



Source: GAA 2012-2019

In retrospect, when the allocated budget is separated between central and regional offices, it could be observed that the former still has the lion share of the whole Commission’s funding from 2012 to 2019 despite the cumulative increase of funds for the latter. This observation can be seen in Figure 14 below where the proportion of fund increase for every region is simply not comparable to that of the central office. It can be deduced that the impact from this increase in financial resource may not be lasting in its effects for the offices on the ground. On the contrary, it can also be reasoned out with that the central office may have needs for this financial complement due to the large body of work given to them pertaining the CADT and CALT process.

Figure 14. Allocated budget per regional office vis-à-vis central office, 2012-2019

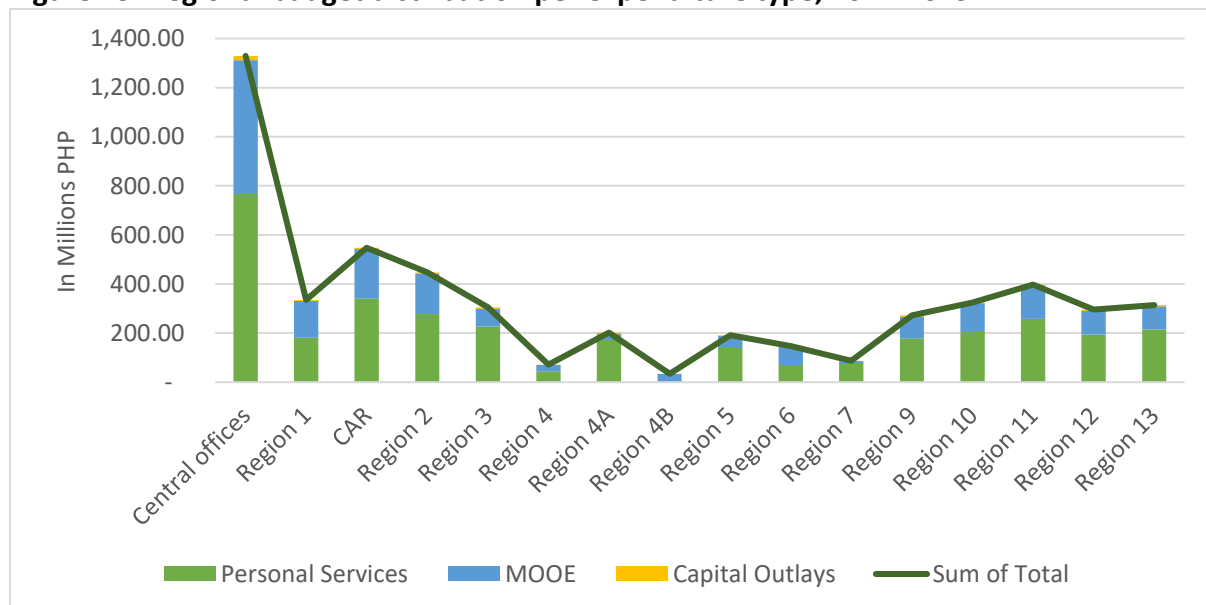


Source: GAA 2012-2019

What do regional offices spend on? In terms of expenditure type, it remains consistent with the overall budget disaggregation with personal services taking up bulk of the composition, followed by MOOE. Ironically, a majority of the funds are funneled into the central office, with CAR and Region 11 following behind. One reason for this allocation is possibly because of the presence of the Ancestral Domain Office (ADO) in the central office which is primarily responsible for the delineation and approval of all CADT applications in the regions. This implies the need for many staff complement to get the tasks done and to avoid backlogs. However, regional offices are left to make do of the available personnel in their office. In the case of Region 6/7, an office composing of around 60 people have to cover three regions – Central Visayas, Western Visayas, and Eastern Visayas.

The figure also implies that functional operation with the NCIP are still very much centralized albeit the presence of subnational offices. Also glaring is the fact that although subnational offices had more allocated budget post 2012, the expenditure details point to the central office as still the controlling unit.

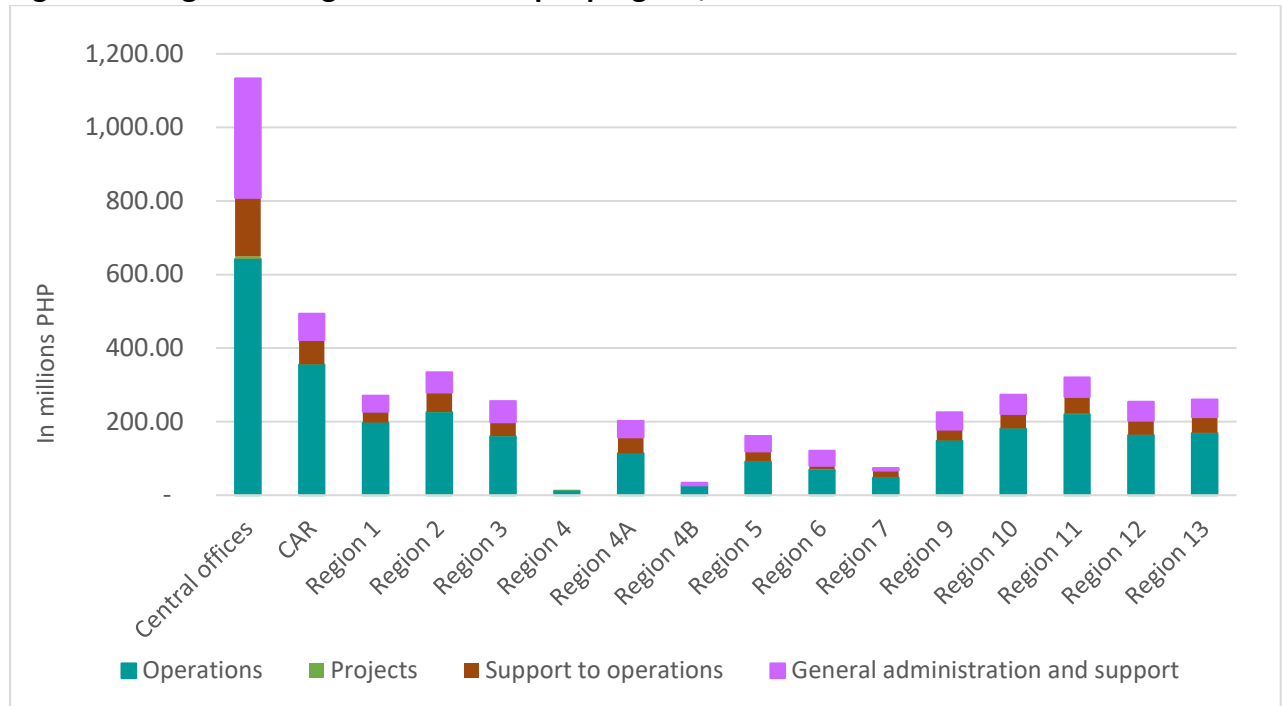
Figure 15. Regional budget distribution per expenditure type, 2012-2019



Source: GAA 2012-2019

In terms of allocation per program, the Central Office still dominated the allocation with operations taking up most of its budget, followed by general administrations and support. For context, operations refer to expenditures the government incurs to carry out its major activities: implementation of socio-economic and cultural development projects, management/development of ancestral lands, ancestral land and domain titling services. Support to operations refer to background mechanisms to enable operations e.g. policy formulation, planning, and coordination. Again, this might be the case of the Ancestral Domain Office (ADO) being in the central office and having oversight over all the key processes in CADT/CALT applications, including leveraging for the domains in case of overlaps with national agencies. However, the skewed allocation compromises the field operations of the regional offices which are similarly integral in determining the delineation and leveraging IPs/ICCs against more pressing concerns.

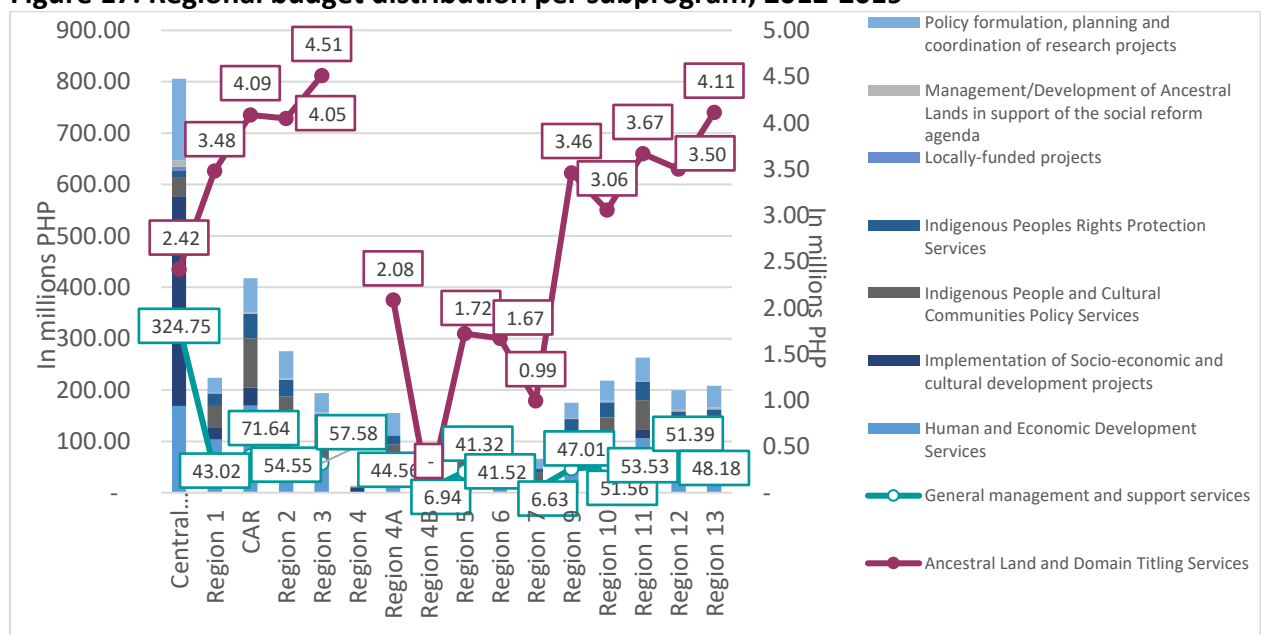
Figure 16. Regional budget distribution per program, 2012-2019



Source: GAA 2012-2019

As for the regional disaggregation per subprogram, the highest was human and economic development with Php 1.14 Billion cumulative across all regional offices, including central. This is followed by indigenous people and policy services with only Php 665 Million and policy formulation, planning, and coordination with Php 637 Million. The graph juxtaposed the financial complement for ancestral land and domain titling services and general management and support services, the former consistently being brought up by the Commission as their primary mandate. Such statement does not correspond to the allocation since the subprogram was not even included in the top three highest funded.

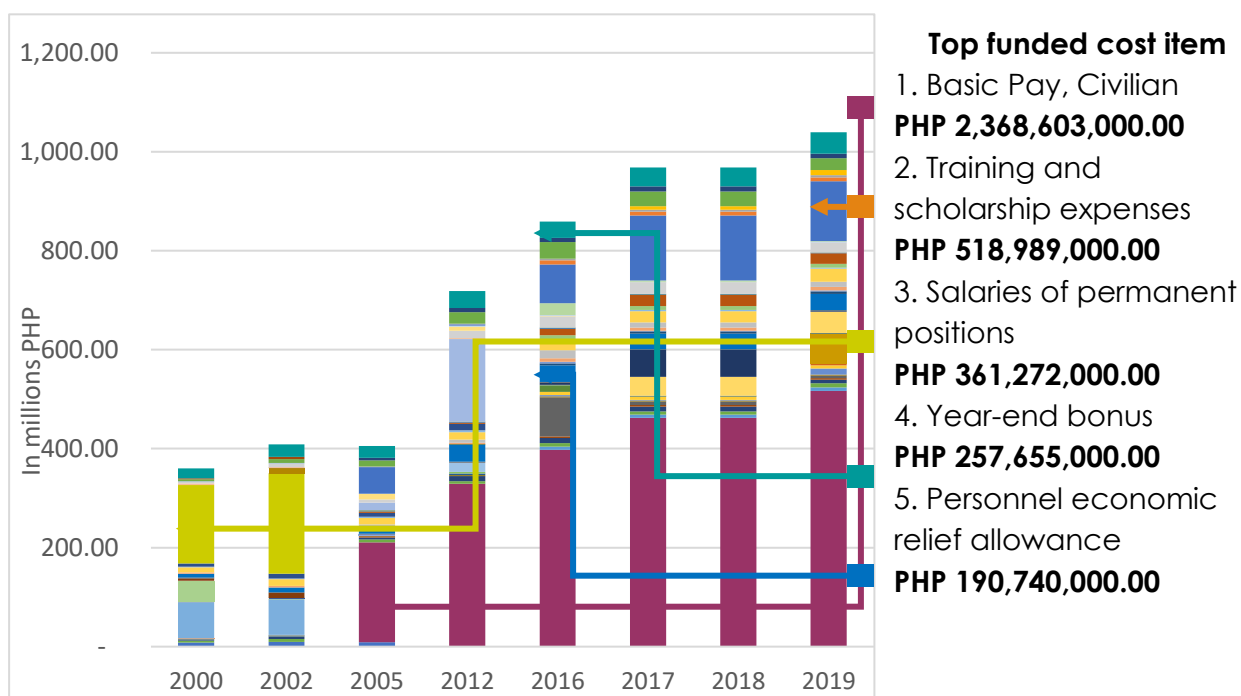
Figure 17. Regional budget distribution per subprogram, 2012-2019



Source: GAA 2012-2019

The same goes for budget distribution per cost item. Comprising the top five funded items were in relation to personal pay with only training and scholarship expenses outside of that group. Basic pay for civilian employees took the top spot with a cumulative amount of Php 2.37 billion from 2000 to 2019. This was followed by training and scholarship expenses with Php 518.99 million, salaries of permanent positions with Php 361.27 million, year-end bonus of Php 257.66 million, and personnel economic relief allowance of Php 190.74 million.

Figure 18. Budget distribution per cost item, 2000-2019



Source: GAA 2000-2019

However, despite the large amounts of incentives funneled for personnel and administrative services, it appeared that most of the findings by the Commission on Audit (COA) in its annual reports from 2009 to 2018 pertained to their lapses. Frequently flagged situations are shown in the table below. It is concerning that these funds are supposedly funneled into their projects on the ground with a certain number of beneficiaries, but then the funds are turned out to be misplaced or misapplied for other purposes. For instance, FBI/FPIC accounts were temporarily utilized for salaries, cash advances, and other benefits. Funds for projects like EAP and possibly, ADSDPP were not utilized for the purpose they were allocated which meant there were cases of deprivation of intended IP beneficiaries. In particular, EAP implementation was flagged by COA as ineffective due to their weak adherence to the guidelines of the scholarship program. In 2012, 24 grantees were all NCIP employees, but the guidelines only included children of the employees as eligible applicants for the scholarship. Moreover, there was a contentious delay in CADT/CALT conversion which ironically should have reflected the outputs for a centralized concentration of funds. Even more disconcerting is the unliquidated cash advances which may indicate their lapses as well in conducting fieldworks and field-based investigations that are integral in improving the general welfare of IPs/ICCs.

Table 1. COA Findings on NCIP, 2009-2018

Points flagged	Indicative amount (in PHP)	Years mentioned
Unliquidated cash advances	~238,641,939.70	2009-2018
Misapplication of FBI/FPIC account	26,934,872.74, 18,924,364.17 (2009)	2009, 2011, 2014
Misapplication of project funds	1,191,683.72 (2009)	2009, 2011, 2013, 2014, 2015
Deviation of Educational Assistance Program (EAP) funds	1,815,000 (2011)	2011, 2012, 2014
Doubtful balances of Property, Plant, and Equipment (PPE) Accounts	65.712M (2010), 1,589,694.93 (2012)	2010, 2011, 2012, 2014-2018
Unremitted idle funds and unliquidated fund transfers	700M (2014), 22M (2015), 28M (2016)	2009-2018

Source: Commission on Audit Annual Reports (2009-2018)

COA placed recommendations alongside their findings. The first step is to always follow the accounting provisions concerning those accounts. If not complied with, the Commission should issue letters to demand accountability and immediate rectification of the deed. The last step would be filing of administrative charges. One repercussion suffered by NCIP would be a deduction in their appropriated budget and what was allocated may not necessarily be the same amount given for their perusal. Thus, it could be the reason why the Central Office and regional offices visited brought up the lack of funding.

Table 2. Recommendation from COA, 2009-2018

Points flagged	Recommendations
Unliquidated cash advances	Observe laws surrounding CA, resort to issuance of demand letters & withholding of salaries
Misapplication of FBI/FPIC account	Strictly follow provisions governing use of accounts
Misapplication of project funds	Disburse funds only for intended purposes
Deviation of Educational Assistance Program (EAP) funds	Stop practice of utilizing trust funds and current funding for regular ops, and file administrative charges
Doubtful balances of Property, Plant, and Equipment (PPE) Accounts	Reconcile balances
Unremitted idle funds and unliquidated fund transfers	Monitor and enforce immediate liquidation of funds

Source: Commission on Audit Annual Reports (2009-2018)

4.3.1 Educational assistance program (EAP)

One of the key programs of the NCIP under the IP Education and Advocacy Services is the Educational Assistance Program (EAP) aimed to grant scholarships to IPs/ICCs who seek

opportunity and access for education. The program grants the slots based on degree programs for elementary, high school, vocational, bachelors, and post-graduate studies. The criteria for selection are listed below:

- a. Bonafide member of ethnolinguistic group
- b. Income must not be more than Php 150,000 per annum
- c. Parents/guardians must commit to support the child throughout the program
- d. For children of NCIP employees, the gross annual salary must not exceed Php 150,000 for them to be eligible
- e. Favorable endorsement from at least two IP traditional leaders
- f. Willingness to sign an undertaking to serve his/her community to eventually serve as stewards of the domains
- g. Applicants for post-graduate degrees must specialize in indigenous laws
- h. Applicants must be able to pass aptitude exam
- i. Must have general average grade of not lower than 80 percent

The screening is usually conducted per administrative region which is overseen by a regional screening and selection committee (RSSC) headed by the Commissioner and chaired by the regional director. The financial incentives for each scholar vary per educational level. For elementary grantees, they are able to receive Php 2,500 per school year; for high school grantees, Php 5,000 per school year, and for degree/vocational program grantees, Php 10,000 per semester. The regional office releases financial benefits through check payment or cash advance, but 10 percent of project cost are retained by the Commission as administrative cost to cover expenses relative to implementation and administration of programs.

The abovementioned amounts, although still helpful in motivating scholars, are relatively inadequate particularly in covering student expenses outside school fees. The benefit system needs to be revisited for the scheme to truly benefit students and see them succeed in their chosen academic programs. Cost of living expenses needs to be taken into account when deciding on academic allowances. Such can be patterned over existing scholarship programs in the government like the DOST-SEI scholarships.

The noted deviations in the use of EAP funds also need to be addressed. As COA recommended, the Commission must comply with more prudent fund management and stop its practice of utilizing trust funds and current funding for regular operations.

As of 2019, a total of 9,132 benefited from the NCIP-Educational Assistance Program. composed of 514 elementary, 1,728 high school and 6,890 colleges. The table below shows the distribution of EAP grantees per region and by level.

Table 3. NCIP- Educational Assistance Program beneficiaries from 2018- 2020

REGIONS	ELEMENTARY	HIGH SCHOOL	COLLEGE	TOTAL
CAR	-	-	1,491	1,491
I	-	-	1,687	1,687
II	201	415	808	1,424
III	87	413	952	1,452
IV	114	390	99	603
V	95	127	67	289
VI/VII	-	53	218	271
IX	-	-	172	172
X	17	330	-	690
XI	-	-	499	499
XII	-	-	307	307
XIII	-	-	247	247
TOTAL	514	1,728	6,890	9,132

Source: NCIP (2018)

4.3.2 Philippine Indigenous Peoples Ethnographies (PIPES)

The most recent flagship of the NCIP in 2017 is the Philippine Indigenous Peoples Ethnographies (PIPES) which focuses on the expansion activities of the core mandates of the Commission. The program was enacted in place because of the President’s directive to utilize ancestral domains for rights-based development among IPs. It was formulated to provide the baseline and mechanism where development plans may be built on and for culture regeneration. The program aims to achieve complete documentation of all ethnic groups through census of population and housing, and ground-truthed maps among others. It is a multi-year project, supposedly starting from 2017 to 2022, with a budget of Php 207 million. However, based on the interview with the NCIP Central Office, the budget proposal for the program was not approved.

5. Documentary requirements

5.1 Certificate of ancestral domain title / Certificate of ancestral land title

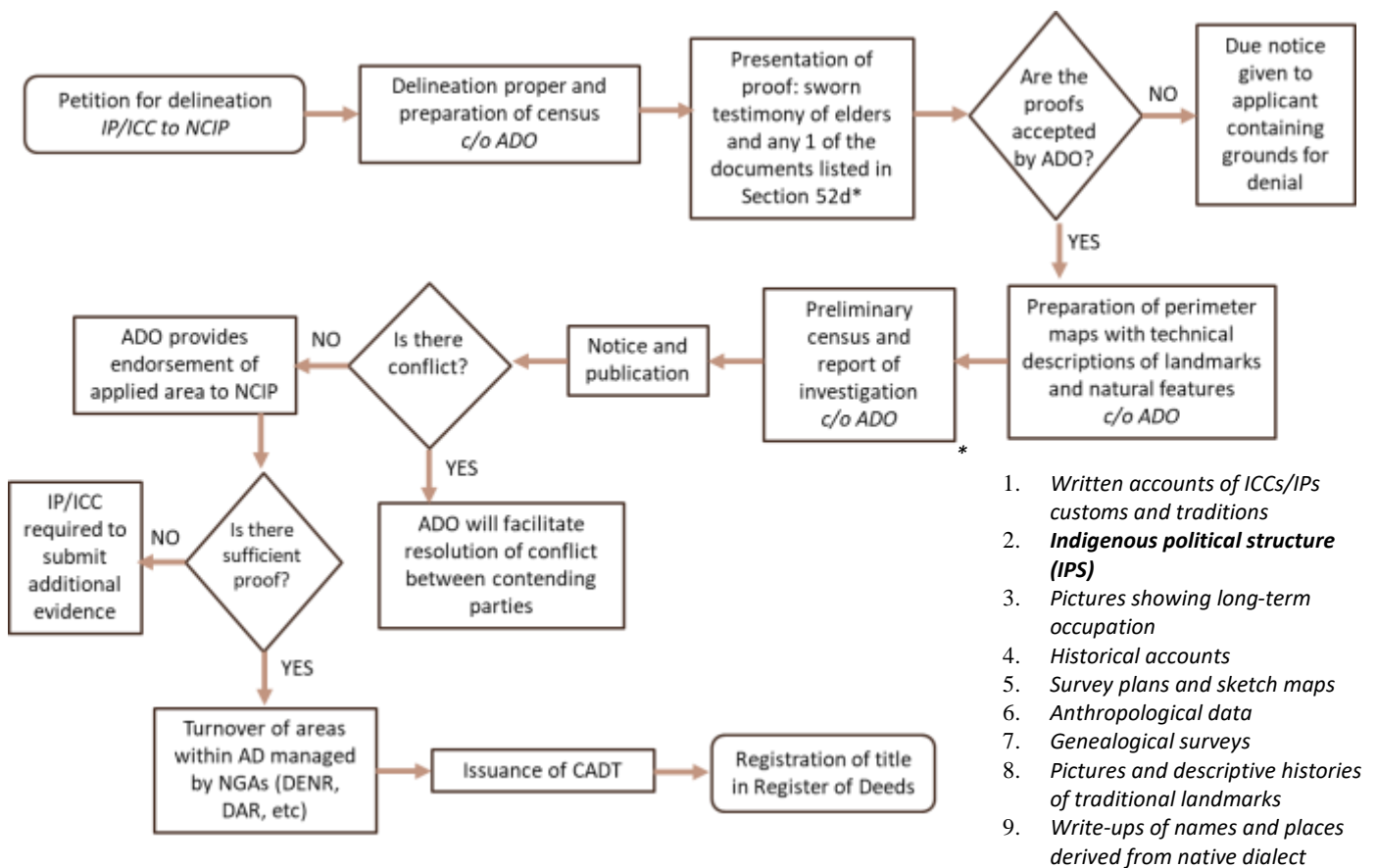
The process for CADT application starts when a group of IPs or an indigenous cultural community petitions for delineation. A number of documents is presented by the community as evidence or proof namely, written accounts of customs and traditions, indigenous political structure (IPS), pictures showing long-term occupation, historical accounts, survey plans and sketch maps, anthropological data, genealogical surveys, pictures and descriptive histories of traditional landmarks, and write-ups of names and places derived from native dialect. The process involves a lot of technical assistance like preparation of perimeter maps, conduct of census and field validation, all of which are dependent on ADO services.

The complex and meticulous nature of this process requires a lot of technical expertise and support. As one of its major final outcome targets, CADT/CALT application processing and awarding must receive apt resource complement. The NCIP must allocate enough funds and augment its ranks with technical personnel to effectively and efficiently provide functional support to its IP constituents. It must ensure that CADTs and CALTs are awarded to the right IP community with the right representation and internal political structure. Doing otherwise

opens up the processes to corruption and leakages, with the possibility of robbing the indigenous cultural communities of their rights to their ancestral domains.

Properly documenting customs and traditions and historical narratives, as well as ensuring the integrity of domain bounds preserves the IPs ancestral heritage and protects them from tenurial claims and conflicts.

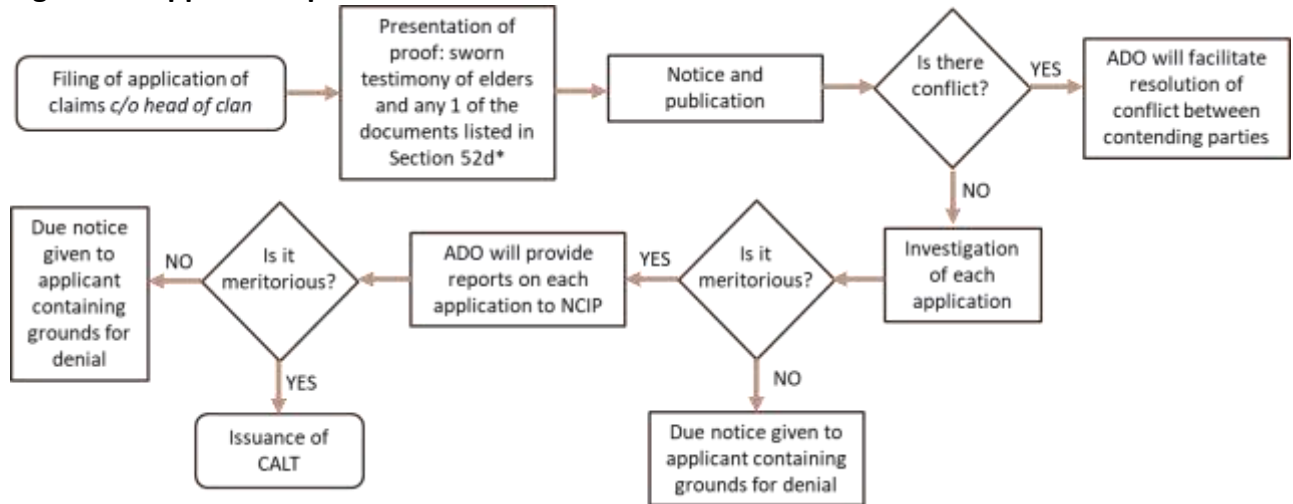
Figure 19. Application process for Certificate of Ancestral Domain Title



Source: NCIP Administrative Order No. 2012-04, author's illustration

In terms of CALT process, the one who will spearhead the application will be the head of clan or an IP family. Aside from the previous list of proof required during the CADT process, tax declarations and proof of payment of taxes are added. It is a bit shorter than the process beforehand, but the critical stages would be the investigation of each application and the determination of the application's merit.

Figure 20. Application process for Certificate of Ancestral Land Title

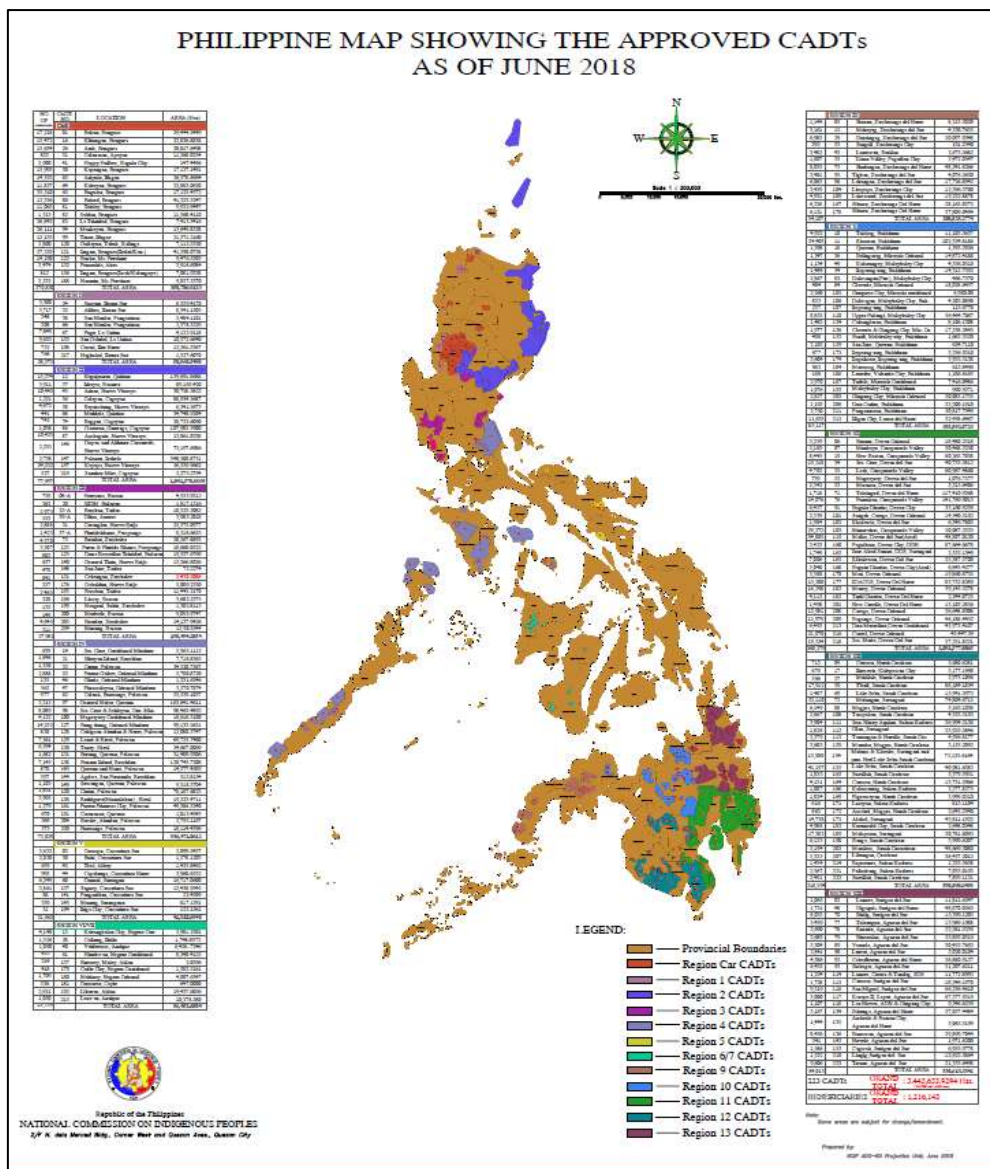


Note: Previous list in CADT process, including tax declarations and proof of payment of taxes.

Source: NCIP Administrative Order No. 2012-04, authors' illustration

According to the central office, there was a total of 223 CADT applications as of 2018 which accumulated to 5,445,653.9294 hectares and 1,216,143 IP right holders. This only comprised 8.57 percent of the projected population figure for all regions which was around 14,184,645 IPs.

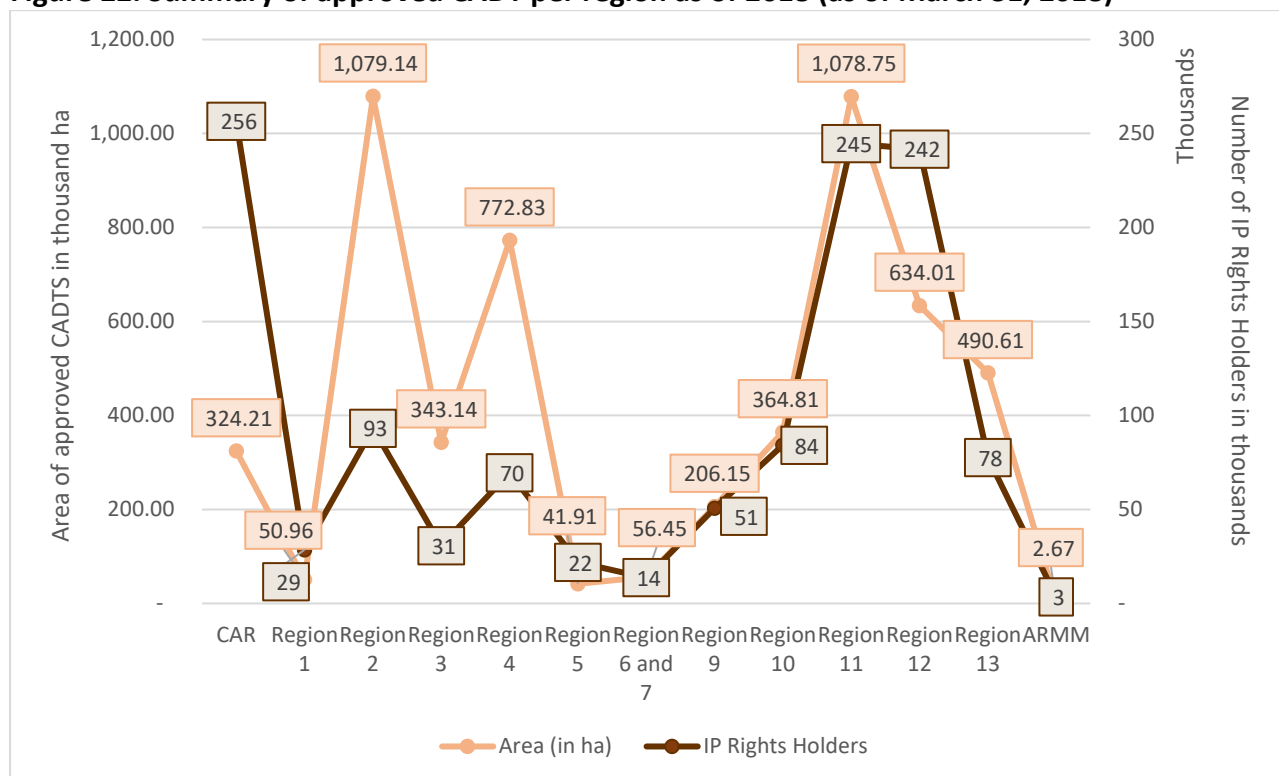
Figure 21. Map of the approved CADTs as of 2018



Source: NCIP ADO-RD Projection Unit (2018)

The approved CADTs are disaggregated into regions with figures for area in ha and the number of IP rights holders for each CADT. In the figure below, it can be seen that CAR has the highest number of IPs in the region with around 256,475 people, but it only has 324,208.22 ha of domain. The largest CADT belongs to Region 2 with an area of 1,079,141.70 ha but with only 93,162 people; followed by Region 11 with 1,078,745.30 ha and only 244,616 IP rights holders. The lowest figure for both area and population is found in ARMM, a single CADT approved in 2006. When proportions are looked at, the lowest ratio is obviously in ARMM with 1 IP covering only 0.77 ha, followed by CAR with 1 IP equivalent to 1.26 ha while the highest can be found in Regions 3 and 4 where 1 IP is equal to 11.58 and 11.18 ha respectively.

Figure 22. Summary of approved CADT per region as of 2018 (as of March 31, 2018)



Source: NCIP Ancestral Domains Office, Recognition Division

Table 3. Proportion of IP to ancestral domain ha

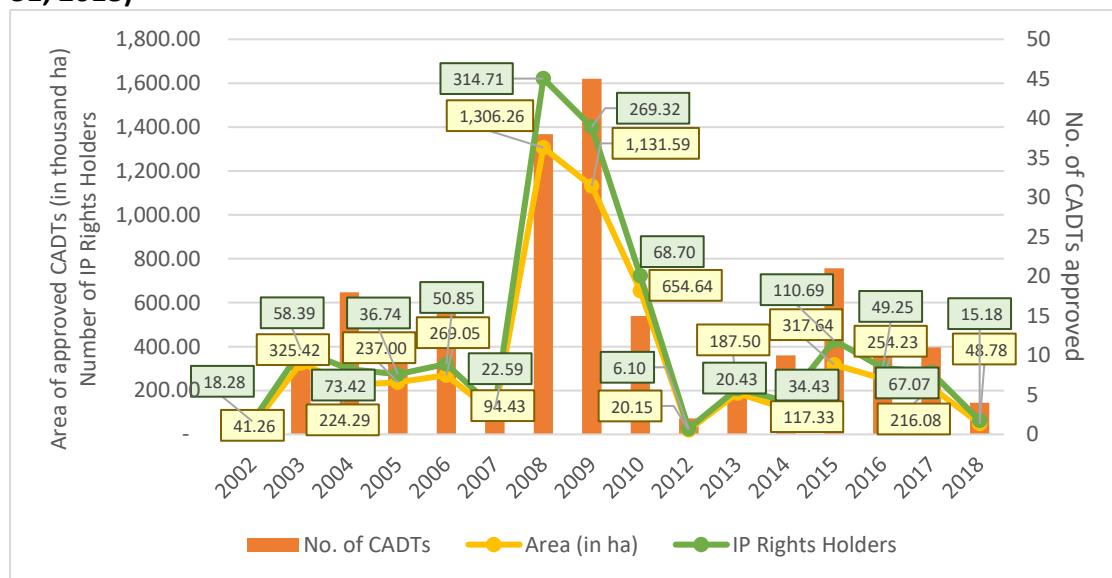
REGION	AREA PER IP (in ha)
Cordillera Administrative Region (CAR)	1.26
Ilocos Region (Region 1)	1.78
Cagayan Valley (Region 2)	11.58
Central Luzon (Region 3)	11.18
CALABARZON & MIMAROPA (Region 4)	11.12
Bicol Region (Region 5)	1.92
Central, Western, Eastern Visayas (Region 6 and 7)	4.10
Zamboanga Peninsula (Region 9)	4.07
Northern Mindanao (Region 10)	4.34
Davao Region (Region 11)	4.41
Soccsksargen (Region 12)	2.62
Caraga (Region 13)	6.32
ARMM	0.77

Source: Authors' calculations

Trend of the CADTs approved from 2002 to 2016 was also reviewed, revealing a rather steady trend until 2008 to 2009 when the figures drastically increased. It must be noted that the NCIP

was transferred under the jurisdiction of the DENR from 2008 to 2011. The application approvals may have been facilitated by the decrease in bureaucratic delays and inter-agency interactions. Having NCIP under the Department also resolved the tenurial overlaps faster. Note, however, that the application process takes years to conclude and so the exceptional accomplishments during those two years were also a culmination of years of invested effort. Still, this bureaucratic arrangement under the DENR showcased both highs and lows, as there were no CADTs awarded in 2011. There must be a political dimension to the explanation, since 2011 was a transition year from the administration of President Gloria Macapagal Arroyo to that of President Benigno Aquino III. In 2012, the NCIP was transferred back to the auspices of the Office of the President.

Figure 23. Trend of CADT approved and IP rights holders from 2002 to 2018 (as of March 31, 2018)



Source: NCIP Ancestral Domains Office, Recognition Division

5.2 Free, Prior and Informed Consent

Free and prior informed consent (FPIC) is derived from the IPs and ICCs’ rights to land, way of life, culture, and self-determination. It is a process to gather the consensus of all members of the ICCs/IPs in accordance with their customary laws and practices. The process should be free from any manipulation, interference and coercion from external influences, and consent should only be obtained after full disclosure of intent and scope of the project in the community’s local language as much as possible and should be understood by the stakeholders.

The FPIC allows for the facilitation of consultations and decision-making processes with the community supposedly at the helm as the maker and not as a participant or bystander as what often occurs in community-based processes. It is a permitting process that is both vague and encompassing (MacInnes, Colchester, & Whitmore 2017). Many see FPIC as a just representation of human rights jurisprudence, where companies or external entities are forced to respect IP rights even when the state does not (Buhmann 2012).

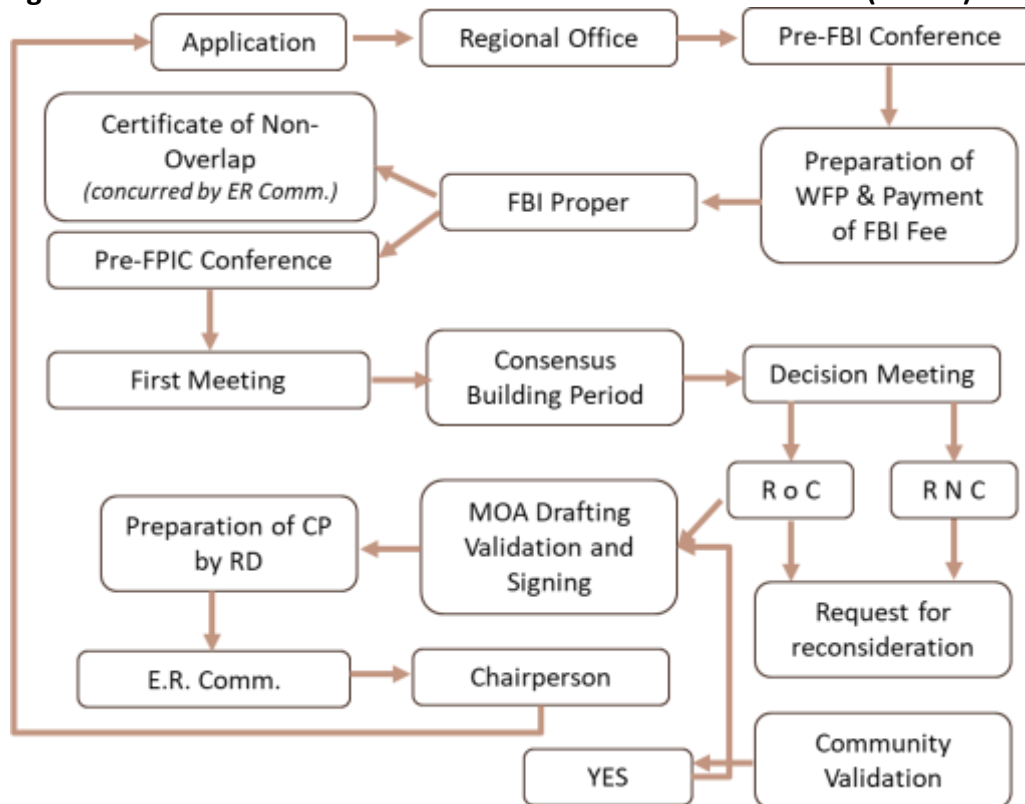
FPIC is required by IPRA prior to any development project within ancestral domains, but it was not until 2006 when the first guidelines were released to the indigenous communities. Such

guidelines were found costly and difficult to follow, attributing initial failures in the process to the “inherent lack of representation of and accountability to indigenous peoples” of the NCIP (MacInnes, Colchester, & Whitmore 2017). Revised guidelines and procedures were issued six years later which enabled the IPs and ICCs to develop a resolution of consent or non-consent, and required the indigenous leaders to be part of the field research team (Magno & Gatmaytan 2013).

Even with the above augmentations, there still are political, industry and policy uncertainties surrounding FPIC. At the international level, extractive industries, particularly those involved in removal of natural resources (e.g. mining, logging), have been observed to be most resistant in recognizing not only the process but the rights of the IPs and ICCs (Colchester & Chao 2014). The same resistance is manifested in the Philippines, with even government-led development projects adding to the picture.

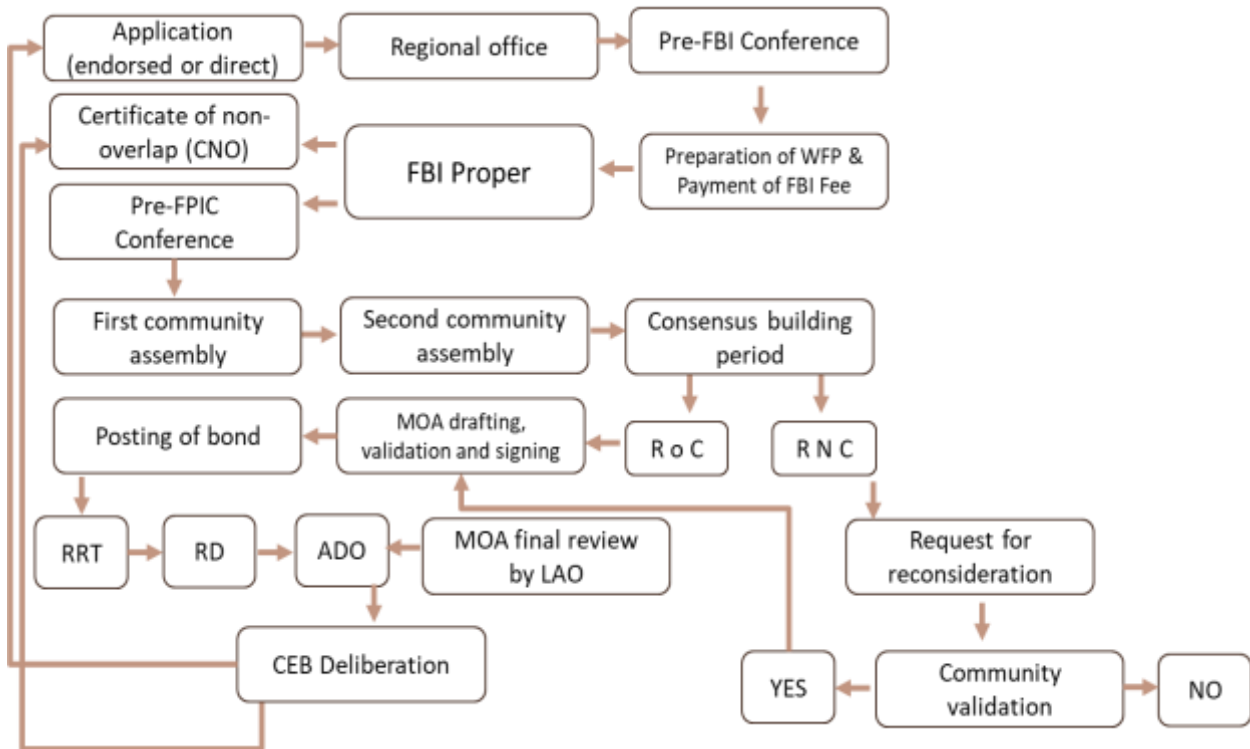
There are two separate FPIC processes for major activities: one for non-extractive and small-scale (NESSA) and another for extractive, intrusive, large scale activities (EILSA). The difference in the process is the need for two community assemblies for the EILSA while NESSA would only need one meeting prior to the consensus building period. Anecdotal inputs from key informants expressed concerns on the integrity of the processes with some claiming leakages are occurring during meetings and assemblies through incomplete information, improper IP representation and assembly, and/or compromised indigenous political structures.

Figure 24. Flowchart for non-extractive and small-scale activities (NESSA)



Source: NCIP Administrative Order No. 2012-03

Figure 25. Flowchart for extractive, intrusive, large scale activities (EILSA)



Source: NCIP Administrative Order No. 2012-03

6. Representation

6.1 National level

IP leaders apparently have a national organization called the IP National Conference attended by leaders and tribal chieftains from ethnic groups across the country. This serves as a venue for discussion on pressing issues in their respective homes, and any progress concerning the 14 Thematic Concerns. They also pool recommendations and solutions from the attendees. On the sub-national level, they have separate conference committees for every island; in particular, IP leaders in Region 11 brought up the existence of IP Mindanao Conference Committee.

NCIP, on the other hand, is enlisted to participate in the National Task Force to end local communist armed conflict under the supervision of the Office of the President by virtue of Executive Order No. 2018-70. Their specific functions are to contribute to the dissemination of development programs and to help formulate the National Peace Framework.

6.2 Regional levels

The Regional Development Council (RDC) is the highest policy-making body in the regions, representing the National Economic and Development Board at the subnational level. It is responsible for consolidating all initiatives and directs these to fuel economic and social development efforts in the region. These initiatives may also be related and mainstreamed with

current and future national development efforts. In some regions, NCIP is invited to represent the IPs/ICCs and ensure their inclusion in the regional plans.

6.3 Provincial, municipal / city and barangay levels

Section 16 of RA 8371 provided for the right of IPs/ICCs to participate at all levels of decision-making that may have impacts on their lives and communities. In response, the state is required to ensure that mandatory representation is given to these groups in local legislative councils and other policy-making bodies. These local legislative bodies translate to Sangguniang Barangay, Sangguniang Bayan (Municipality), Sangguniang Panlungsod (City), and Sangguniang Panlalawigan (Province). The guidelines were initially laid out in 2009 and was revised in 2018 through NCIP Administrative Order No. 03.

Conditions in the administrative order state that representation will be mandatory in areas where a CADT is existing within a given LGU. The IPMR shall be selected from the qualified IP rights holders of the domain. Non-IP rights holders may also participate in the selection in such that they are allowed by both the local government and ancestral domain owners. Should there be no ancestral domain within the LGU jurisdiction, the basis of representation will be based on a required population threshold. This number is the required figure to be reached by the IPs/ICCs in the area to qualify for a seat in the local legislative council, and this is also equivalent to the quotient resulting from dividing the total population of the local government by the number of Sangguniang members. Should the two conditions not fulfilled, the LGU may still consider the representation upon the initiative of the community.

The IPMR, as a representative authority of the indigenous political structure (IPS), will speak for the collective interests of the community. Its particular functions include formulating an IP agenda and lobbying for financial support for programs like IPS documentation, community-based IEC on IPRA, ADSDPP formulation, and delineation and titling of ancestral domains. In relation to the local legislative councils, the seat of the IPMR will also enable powers for decision on ordinances and resolutions that ensure the well-being of the community, inclusion of their budget in the annual programming of the LGU, and facilitate conduct of census.

Apart from being an IP, the administrative order also placed additional requirements to become an IPMR. The representative has to be at least 18 years of age, conversant with the culture of the community, a resident for at least 10 years without interruption, a registered voter, and a high school graduate. The term of office of IPMR in legislative councils is for three years, for at most two consecutive terms. Exception is granted to LGUs where several groups of indigenous cultural communities agreed to term rotation.

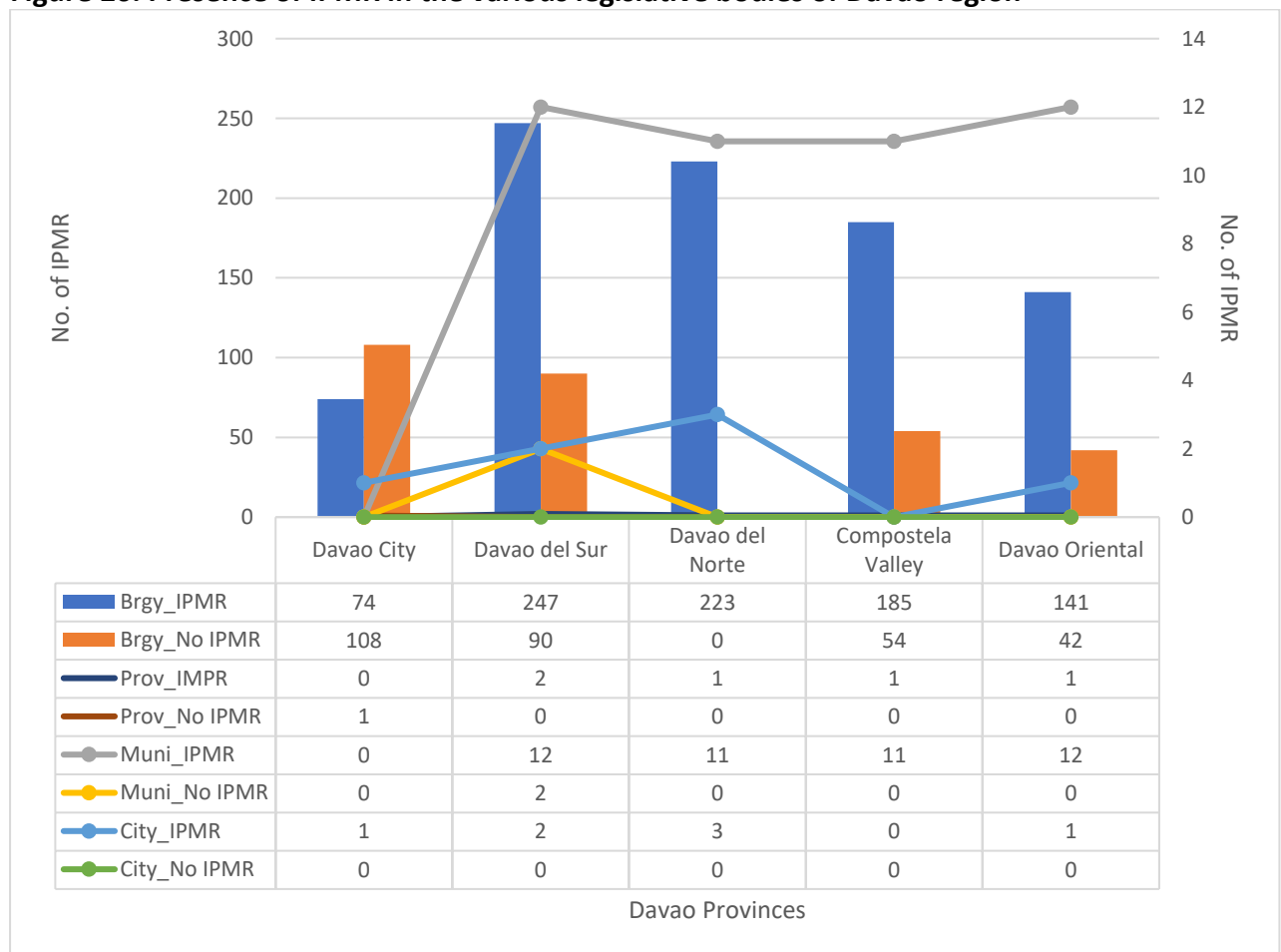
The NCIP supports the representatives through provision of information and capacity-building activities to improve their decision-making skills and help them leverage in policy-making bodies. The Commission also facilitates and assist in the selection process and performance monitoring of the IPMR.

The Sangguniang Barangay is the legislative body of the barangay with the Punong Barangay as the presiding officer. The body's functions include enacting ordinances that promote the general welfare of the inhabitants. They may also approve push for tax and revenue ordinances, annual and supplemental budgets, and provide financial support to the construction and maintenance of barangay facilities and other public works projects charged to the general fund

of the barangay. On the other hand, Sangguniang Panglungsod and Bayan serve as legislative bodies of the city and the municipality, respectively. They are integral in approving ordinances and resolutions that govern the city and to ensure efficient and effective delivery of basic services and facilities, and authorize issuance of permits. They may also regulate activities pertaining to land utilization, buildings and structures establishment within the locality. Sangguniang Panlalawigan or the Provincial Legislative Board has five integral tasks as mandated in the Local Government Code namely, approve ordinances and resolutions necessary for effective operations within the provincial government; generate and maximize resources and revenues for development plans; grant franchises, enact policies to levy taxes, fees, and charges; and ensure delivery of services and facilities. In particular, they are to review all ordinances approved by the Sangguniang Panlungsod and Bayan.

Among these levels, IPMRs are most visible in the barangay level. Most often, only one IPMR is expected for the provincial board. Using Davao’s data as indicative figures, 870 representatives are found in the barangay level, 46 in the municipal, 7 in the city, and 5 in the province. Provincial and municipal representations are key if IP welfare is to be included in the LGU’s comprehensive land use plans and development plans. It is therefore paramount that such representation, if any, are empowered enough to participate and contribute oin relevant local discussions.

Figure 26. Presence of IPMR in the various legislative bodies of Davao region



Source: NCIP Region XI

In the municipal level, there is also another form of representation for IPs/ICCs called the IP Focal Person who is appointed by the local chief executive. Of all the field sites visited for this study, this emerged in Tubungan, Iloilo. This position particularly materialized in the LGU in 2018 as part of the requirement asked for by KALAHI-CIDSS. The designation also fulfills the functions of the Public Employment Service Officer (PESO), but the position allows for the opportunity to attend budget hearings and propose allocations for the welfare of the IPs/ICCs. The Department of Social Welfare and Development (DSWD) also identified a regional IP focal person for the implementation of conditional cash transfer program in geographically isolated and disadvantaged areas as contained in their guidelines in Memorandum Circular 2014-19. In contrast, NCIP did not release any related guidelines to the establishment of an IP focal person, implying that this representation is provided for by DSWD when they roll out programs for or with the indigenous communities. In behalf of the IP/ICC, NCIP may be a part of the Provincial Mining Regulatory Board (PMRB) which is the regulatory body for small-scale mining operations. Composition of most PMRBs do not include NCIP unfortunately, and they can only be invited without voting rights.

6.4 International level

The international community has given due attention to the rising accounts of indigenous peoples facing challenges of displacement, discrimination, and militarization. These impinge on their fundamental human rights, and as response to this, international declarations, mechanisms and guidelines have been put forth by several bodies with the United Nations at its forefront. Through this rationale, a special rapporteur on the rights of indigenous peoples is to be identified to carry through some of these functions: implement international standards concerning IP rights; report overall human rights situations of IPs/ICCs; coordinate with governments and other institutions to address alleged violations; and contribute to thematic studies concerning protection of IP rights. Currently, this position is filled in by Victoria Tauli-Corpuz, a member of the Kankana-ey Igorot group in the Cordillera region (“Special Rapporteur on” n.d.).

7. Evidences of four core rights on the ground

7.1 Cordillera Administrative Region

The Cordillera region was identified in the earlier discussions as the one of the most populated regions, comprising of ethnolinguistic groups like Kankana-ey, Ibaloy, Bontok, Kalinga, Isneg, Itneg, Ifugao, Kalangya, Iwak and Gadang. They have 21 CADTs in the region, comprising 350,786.91 ha with 270,830 IP rights holders, but they also have the lowest proportion of IP rights holders to an area (1 IP per 1.30 ha). This means that they have high density among these clusters of domains. Among the provinces, the highest populated area is Benguet with around 634,777 IPs while the lowest population is in Mountain Province with only 152,832 IPs. They also received the highest budget complement among the regional offices of NCIP with a cumulative amount of Php 547,824,000 from 2012 to 2019.

What is unique in this region is that 90 percent of the CAR population fall under indigenous cultural communities. As per one informant, “NCIP is not treated as a minority but as a cross-cutting agency that touches on other aspects.” This also reflects in the operations of the regional office since they have the most articulated staff which provides them a greater leverage to act in the name of cultural communities. For instance, they are able to stand their ground against

mining operations. While some IPs in the region have considered small-scale mining as an integral part of their culture, the regional office insists on maintaining their right to consent in the Minahang Bayan process through suggesting the use of two FPIC in place – one prior to declaration and one for a mining contract.

Another thing to highlight is their indigenous political structure (IPS). The decision-making body is referred to as Katarungang Barangay or the Council of Elders. The composition of the body arbitrarily changes from time to time, and these arbitrary changes should be documented by the regional office.

7.2 Davao Region

Davao region is composed of communities collectively known as Lumad, but it is particularly composed of the following major tribes: Bagobo-Klata, Bagobo-Tagabawa, Obu-Manuvu, Ata, Matigsalug, Kalagan, Blaan, Tagakaulo, Manobo, Ata-Manobo (Talaingod), Ata Manobo (Langilan), Ata-Manobo (Kaylawan), Sama, Dibabawon, Mandaya, Mangguangan, and Mansaka. The biggest share of population is found in the province of Davao del Sur with over 1.15 million IPs. Among the 43 CADT applications received, 24 are already approved and 9 were awarded and registered in the LRA. Total area delineated for the whole region amounted to 1.2 million hectares.

Table 4. Overview of CADT and CALT applications in Davao Region, as of 2018

No. of CADT Applications received	43
Approved CADTs	24
Registered and awarded CADT	9
On-process	5
New CADT Application	5
Approved CALT	2
CALT for approval	1
Total area delineated – 1,200,466.5958 has	

Source: NCIP Region XI

IP leaders usually validate their members and distinguish them from migrants through historical accounts and genealogy. IPS create the overarching structure and policy for the cultural community. For this region, their IPS composition lasts up to the members' death. They can only be replaced by their descendants, somehow resembling the structure of a political dynasty. In cases where a member of the council may be asked to leave, the replacement shall still come from the same clan or family. It is also in this region that Indigenous Peoples Organization (IPO) was brought up. Their functions vary from documenting IPS, interfacing with external agents, and facilitating for the community. It is considered as the technical arm of the IPS, but there is an emerging concern for the seemingly exchange of roles occurring between IPO and IPS.

The Davao IPs/ICCs are empowered through their networks, most particularly in the local levels, and political leverage as seen in the visibility of IP leaders in the IP Mindanao

Conference Committee. Their regional office is also considered as the “boldest” NCIP in terms of their visions and plans for development within ancestral domains. They have ongoing plans to develop the ancestral domains to provide livelihood opportunities for the community under the initiative called Integrated Ancestral Domain Development Approach to implementing Culturally Responsive Economic Programs (IADDA-CREP). The IPs themselves will identify particular activities suited to their locality and will delineate particular idle lands for investment. They are also expected to process their own FPIC and certificate of precondition (CP). There will be a need for investors, and it is suggested that the business model will follow a joint venture agreement between the former and the cultural community, reflected in a memorandum of agreement (MOA). Technological transfer shall also be included in the MOA to ensure sustainability of the project. This initiative is considered as necessary by NCIP in the region since 63 percent of their land is categorized as ancestral domains, and FPIC and CP are barriers for productivity, development, and improvement of communities. For reference, the table below juxtaposes the region’s land area and the areas for CADT delineation. In most provinces, more than 50 percent of their land are being applied for as ancestral domains. It supports the concern of the regional office on the foregone opportunity loss on economic contribution and production. While there is an existing ADSDPP for these lands, the implementation is considered to be lacking hence, why the framework for IADDA emerged. It also aims to enclose the value chain inside the ancestral domain so raw materials will remain and only come out as final products.

Table 5. Land area of Region 11 vis-à-vis applied and approved CADT areas for ICCs as of 2018

Location	Total land area (in thousand ha)	AD areas applied for CADT (target)	AD delineated areas as of October 30, 2017 (in has)	Percentage on CADT applied vis-à-vis approved CADT (in %)
Davao City	244.361	160,000 more or less	131,003.3369	53
Davao del Sur	245.613	140,000 more or less	79,666.026	32
Davao del Norte	346.282	130,000 more or less	117,686.518	34
Davao Occidental	216.345	180,000 more or less	179,562.4237	83
Davao Oriental	516.446	350,000 more or less	207,181.6488	74
Compostela Valley	466.693	333,000 more or less	299,923.1683	66

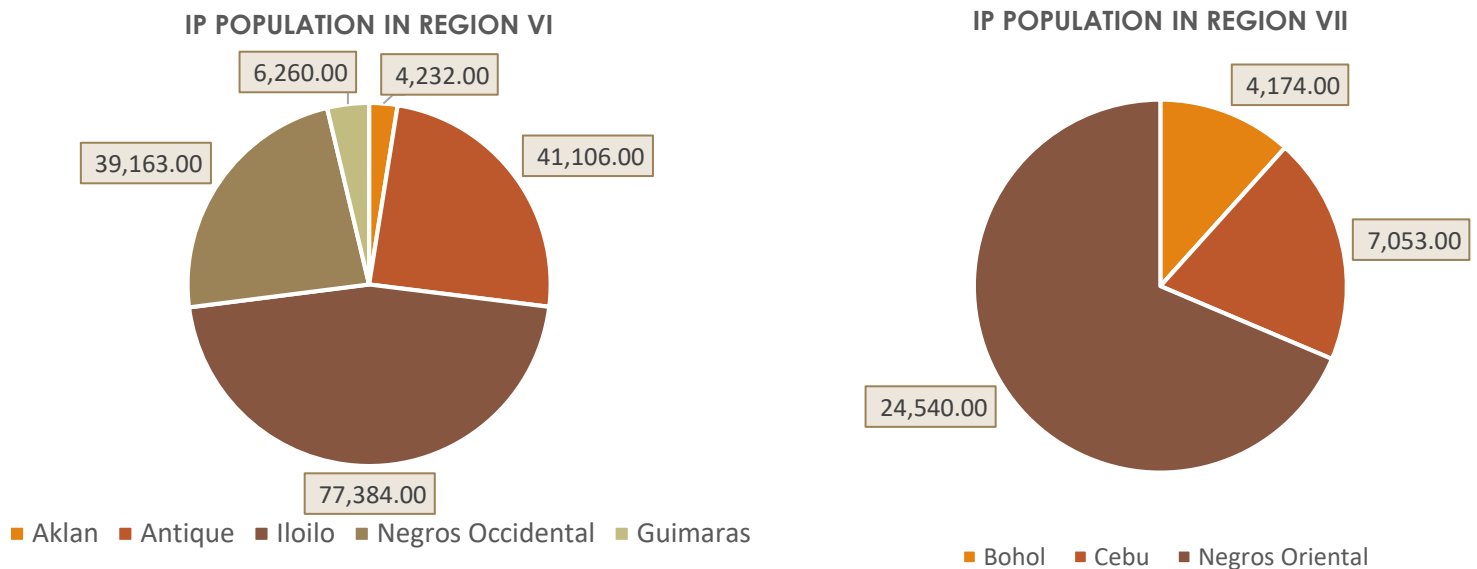
Source: NCIP Region 11 (2018)

Another good initiative found in the region is their inclusion of the indigenous peoples agenda within government levels and the mainstreaming of efforts to address the thematic issues. They require a Provincial IP Agenda to be included in the Regional IP Agenda and Regional IP Master Plan. Priority PAPs are identified per agenda to be budgeted through many sources namely, NCIP fund, one percent share per fund for IPs’ special programs from NGAs, LGUs, CSOs, academe, and private sector.

7.3 Western Visayas

Region VI is one of the regions with low populations of indigenous peoples. They are usually categorized into Suludnon and Ati groups. The former is also known as Tumandok, Panay-Bukidnon, or Panayanon Sulud. They usually reside in the mountains of Capiz-Lambunao and Antique-Iloilo. They are known for their Binanog dance and their use of bamboo musical instruments. The tradition of *binukot* is also practiced in the area. The latter, on the other hand, is a Negrito ethnic group largely concentrated in Aklan, Capiz, Antique, and Iloilo. There are also populations found in the islands of Guimaras and Negros. They are of short and lean build with kinky hair, diminutive but broad noses and round dark eyes (Noval-Morales n.d.). in terms of their IPS, they usually vote for their tribal chieftains. More often than not, lines are blurred in identifying the chieftain, barangay officials, and the elders. The LGU sees them as similar entities and not with particular responsibilities towards the community. NCIP's regional office is stretched beyond the jurisdiction of Western Visayas and also covers Central Visayas (Region 7) and Eastern Visayas (Region 8). No data on CADT and IP right holders were gathered from Region 8. Other cultural communities were Badjao, Vizcaya, Mamanwa, and Cuyonin spread across the three regions.

Figure 27. IP population per province in Regions VI and VII



Source: NCIP Central Office (2016)

Due to the scattered locations of the offices, there are also problems in manpower complement. As of August 31, only 69 employees are designated for the whole three regions, covering two other provincial offices in Cebu and Negros Oriental, six community service centers (Guimaras, Negros Occidental, Guiholnan, Bohol, Antique, and Capiz). The regional office attributed this to the decrease in budget cut, majority of the remaining were funneled to the MOOE of Region 6 which was contrary based on the funding allocations presented earlier in the discussion. The rationale given behind the small staff of the office is due to the relatively few IP population in those regions. Aside from the shortage of human resources, they are also underfunded with inadequate travel allowances for personnel who go to the field.

The absence of NCIP in upland areas of Tubungan is augmented instead by the presence of an IP focal person attached to the LGU. The repercussions for their limited presence included the

low awareness of the IPs/ICCs on the salient provisions of IPRA, CADT application, and other interventions. The community looks towards external agencies like the Department of Education, DSWD (and its social protection programs 4Ps, KALAHI-CIDSS etc), NCCA, and academe to fill in other services. The DepEd designated district coordinators to implement their IP education and frameworks. DSWD fills in the social services, and cultural agencies ensure that traditions are preserved. Academe assistance through the University of the Philippines Visayas was only focused on documenting indigenous knowledge systems and practices, and not on information campaign. Despite these interventions, the community still lacks the technical knowledge to arm them from possible encroachment and displacement.

The NCIP must be able to assert its presence through the network of local governments, other bureaucratic offices and civil society organizations, facilitating for the mainstreaming of IP concerns in the local agenda and plans. Such institutional presence must be strengthened for Iloilo, particularly for the yet-to-be-formalized IPs/ICC like the Tubungan constituents.

The NCIP's connection with the above network institutions and the IPs/ICCs must be bridged for it to be relevant, not only in grounding policy, but also in building for itself a strong representation. It must be able to work around expected organizational resistance from both government and extra-government agents, as well as address the complicated IP political structures among its constituents. Aside from ensuring apt operational funds, this necessitates appropriate investment on human capital as the selling of NCIPs mandate can only be effectively done by technically competent, sensible and articulate personnel.

Across the study site, ancestral domain applications remain active. IPs/ICC applications are in process, but there are sites and legitimate IP communities yet to be reached by NCIP. In such instances, the community is left to organize and act on their own, usually at a very slow pace and limited chance of success. The differences in IP political structures in Luzon Visayas and Mindanao make the organization and recognition processes even more complicated. The Boracay case in Aklan was singled out as a success story due to the Ati community's effort to protect and maintain their claimed ancestral domain, even against the backdrop of competing individual private petitioners and the stewardship overlap with DENR's forestland mandate.

7.4 IPs/ICC Rights Under IPRA

All of the case studies are subjected under the analysis of the four core rights as provided for by IPRA namely, (a) rights to ancestral domains, (b) self-governance and empowerment, (c) social justice and human rights, and (d) cultural integrity. The given narratives and anecdotal information are differentiated between positive and negative perceptions under each core right.

7.4.1. Rights to ancestral domains

On the first core mandate, the number and extent of approved CADTs and CALTs in the regions is a significant manifestation of the NCIP's performance. The identified concerns regarding ancestral domains and tenurial security encompassed conflicting land ownership claims, non-representative IP political structures, poor anthropological and demographic documentation of recognized IPs/ICC, and unrecognized rights of IPs/ICCs still yet to be reached by NCIP.

Although the AD application and approval processes still need to be perfected, and certain integral issues in domain delineation and IP and cultural community representation need to be addressed, the current reported numbers are already an indication of relative success.

An articulated weakness is the seemingly poor anthropological documentation of IP culture and heritage and the lack of masterplan toward eventual program conclusion in ancestral domain coverage. The IP ancestral domain universe needs to be defined as there is still no clear estimate on full coverage. Still undocumented IPs/ICCs and their respective ancestral domains need to be looked into with urgency. The NCIP must not only be dependent on CADT/CALT applications, rather, proactivity in terms of covering unsurveyed areas need to be manifested. Appropriate anthropological research, and demographic and geodetic leg work need to be initiated at the level of the commission even without prompts from its constituents.

Tenurial concerns, due to conflicting policy and ownership claims, for both government and non-government entities, need to be addressed. The IPs/ICCs' cultural integrity is bound to their respective ancestral domains and all the resources therein, hence this core mandate is inviolable.

7.4.2. Rights to self-governance and empowerment

On the second core right, strong representation in bureaucratic platforms is a good indicator for self-governance and empowerment of indigenous peoples and ICCs. This is seen especially in platforms covering regulatory functions, program implementation and governance councils where there are opportunities for decision-making roles and/or avenues to contribute. The NCIP's leverage is also enhanced when it is represented in bodies significant to furthering development at both local and national levels. However, the Commission must recognize and play up its innate institutional strength and authority to effectively manifest such leverage.

The above platforms also allow IPs and indigenous cultural communities to mainstream their interests or at the very least, have their concerns heard. The strength and spectrum of IP representation greatly varied among the visited sites: in CAR, there is an empowered NCIP regional office and IP population as they are able to effectively articulate and leverage; in Region XI, there is commendable multi-level IP representation through the IPMR, the Mindanao Conference Committee, and the NCIP; and, in Region VI, the same NCIP and IP representations were visibly weak with an apparent disconnect between the bureaucratic arm and its local constituents. Such varied institutional translation and success only point to the still hugely unexplored authority and strength of the Commission.

The IPRA upholds the IP/ICC's right to self-determination, including the right to decide on development priorities affecting their lives, beliefs, institutions, spiritual well-being, and the lands they own, occupy or use. Recent events at the national and sub-national levels seem to disrespect this core mandate with the imposition of key infrastructure projects that would disrupt the integrity of awarded ADs. It is given that the state has the inherent power eminent domain and expropriation when public interest is at stake. But great caution must be exercised by the national government and concerned stakeholders in resorting to this, lest the accorded right to IPs/ICCs with respect to their ADs is unjustly violated. Ultimately, the courts may have to decide on an acceptable conclusion to this dilemma, but the institutional processes that are already in place like the FPIC must first be exhausted.

7.4.3. Rights to social justice and human rights

The third core right is social justice and human rights. Enshrined in the IPRA is the ICCs/IPs' equal protection to the rights and privileges enjoyed by the rest of the citizenry. They have the

right to be free from discrimination and to have access to immediate, effective and continuing improvement of their economic and social conditions, including in the areas of education and training, employment, settlement, sanitation and health, social protection and security.

The Commission on Human Rights of the Philippines recognized the IPS, IPOs and IPMRs as conduits to empower the IPs, as well as protect their rights and promote social justice. But, like the more entrenched legal defenders in the system, these select groups and individuals suffer threats and unjust retribution when engaged in talks about IP rights to ancestral domain, self-governance, social justice, and cultural integrity. The mainstream legal and governance system of the Philippines, need to manifest its protection over the more vulnerable members of the population, including the IPs/ICCs.

The discussion becomes more current and complex when viewed through the lens of national security and ant-insurgency efforts. As extra-legal elements have made home the uplands, comingling in certain cases with the ancestral domain inhabitants, the possibility of misinterpretations, false assumptions and blame transfers come into the mix. Some IP personalities or groups have been unfairly tagged as leftists or separatists, compromising the security and welfare of a greater majority of their people. Settlements and educational institutions catering to IPs have been closed by the government under the premise of such fear. Whether there are certain truths to the allegations, it is never wise to rid a community of its access to basic services like education. The impressionable minds of the young would carry over the same misinterpretations and negative sentiments intergenerationally, making it more difficult to achieve lasting order and peace. And without structured thinking to process the stresses around them, the quest for social justice and human rights may mutate a different interpretation. The tenets of social justice and human rights must be clear: as with the rest of the citizenry, IPs/ICCs must enjoy equal protection, opportunities, and rights and privileges.

While encompassing, as well as abstract in certain aspects, the above are best manifested in the IPs/ICCs awareness of and capability to take advantage of their fundamental rights and entitlements, including the NCIP's ability to leverage them. Among the study sites, CAR showcased an IP population that is educated, institutionally empowered, and already assimilated to the mainstream culture, while keeping their identity and essential traditions. For Davao, the IP/ICC leaderships' access to mainstream bureaucratic institutions, including the NCIP, ensures their access to economic and social development opportunities and heritage protection. In Iloilo, the case of the IPs/ICCs that are yet to be benefitted with bureaucratic assistance, highlighted the potential to accord more protection and social justice to the people through expanded service coverage and policy grounding.

7.4.4. Rights to cultural integrity

The last core right to cultural integrity particularly refers to the protection of indigenous culture, traditions and institutions. IPs/ICCs are accorded under the IPRA the freedom to exercise their indigenous traditions and customs, with the State supposedly respecting such in the formulation and grounding of national policies and programs. They are also given the right to education, without prejudice to their preferred systems and institutions consistent with their language, and cultural methods of teaching and learning.

Inconsistencies abound in ensuring this core right across the regions. Developments within ancestral domains seem to be driven more by chance and external influences, rather than a well thought out road map to preserve cultural integrity. As the only IP-dominated region in the

country, CAR exhibits commendable leveraging of IP/ICC interests in almost all levels of governance and civil organization. However, the increasing non-marginalization of IP contribution/participation to local social and economic activities lead to continued exposure to the culture of commercialization and the possible gentrification of cultural communities. Stakeholders within and outside government and cultural communities, must therefore endeavor to nurture and protect the dignity and diversity of their traditions, customs and history.

In Mindanao where the Lumads predominate, concerns on local development, political leveraging, and insurgency have resulted to IP population displacements and the closure of learning institutions. The closure of 54 Lumad schools in 2019 has huge impact on the education of the young, while continued large and small-scale mineral extraction operations in the uplands have encroached on and tested the indigenous political structures of ancestral domains. The anti-insurgency drive of the government had also led to conflicts and misunderstandings with the local law enforcers and the military. Albeit the region boasts of institutional leverage on the part of the IP/ICC leadership, it seemed that the root of many of their concerns is also institutional in origin. It will also have to be through key institutional machinations that they will be able to lobby for learning avenues for the youth, and protect the integrity of their culture.

In the Visayas, preserving the cultural integrity of IPs/ICCs necessitate the initiation of discovery research and documentation processes. Most of the documented populations of IPs/ICCs are in the Northern Philippines and Mindanao regions, as such, more resources are funneled to these areas. In contrast, only one NCIP office manage the IP/ICC requirements and demands for Regions VI and VII. It will not serve the local IP constituents well if a small NCIP field office with limited operational funding caters to the varied concerns of two regions, particularly in the presence of still undocumented IPs/ICCs and their ancestral domains.

The above discussions highlight the different positive and negative themes existing in each region for every core right. It is expected that there are varying issues emerging for each area, as well as variable structures and networks in place. The next section discusses the overall emerging concerns that covers not only regional offices and IP groups, but national governments and other stakeholders as well.

Table 6. Analysis of four core rights over case study sites

CORE RIGHTS	CAR		DAVAO		ILOILO	
	Positive	Negative	Positive	Negative	Positive	Negative
Rights to ancestral domains	High number of approved CADTs (20 as of 2018)	Many overlaps with patented mining claims (e.g. BCI) and LGU lands	24 approved CADTs as of 2019, has an active NCIP	Manifestation of fake IPS, implying false ownership	Boracay as landmark example; Active community engagement in CADT process	Numerous invisible ancestral domains and IP right holders
Self-governance and empowerment	IPs not treated as a minority, comprise 90 percent of CAR population	IPS is arbitrary, difficult to document from time to time	Strong local network among IP leaders and with agencies, mainstreaming of main IP concerns with local agenda and plans	IPS is based on lineage, susceptible to abuse and centralization of power. Proliferation of migrant IPs and fake IPS.	Strong local linkage and representation with the LGU; ride-on mechanisms with external agencies	Contesting political structures across barangays, blurred lines with barangay structures, and lacking technical knowledge on IPRA and CADT
Social justice and human rights	NCIP well-articulated to leverage IPs	Non-compliance of extractive industries with policies and regulations	From the perspective of the IPs, IADDA is an opportunity for development; maintenance of Pusaka philosophy in the community	Widespread presence of insurgency and militarization, accompanies displacement of IPs; closing down of Lumad schools, no alternative to education	High awareness on possible human rights foregone without CADT	Lack of access to EAP and visibility to services provided for by NCIP.
Cultural integrity	Able to maintain traditional culture especially in Kalinga areas	Commercialization as a cause for watering down practices and tradition	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

8. Issues and Concerns

8.1 Policy provisions

The gathered information were codified into major themes and arranged into word clouds to identify emerging and similar topics that range across informants regardless of their particular situations, capacities, and structures in place.

For the policy provisions, legislations related to tenurial security was a uniform concern, especially with interface on mining policies vis-à-vis ancestral ownership rights offered by with or without CADT. This is connected with the concept of regalian doctrine as well as the rights of the IPs/ICCs are limited only at the surface of the lands. The state was also heavily mentioned along with ineffective, process, and consent. This pointedly describes FPIC and how it cannot facilitate for the rights of IPs and ICCs, considering how prevalent the issues on conflicting ownership still are.

The *bakwit* Lumad communities currently staying in University of the Philippines Diliman believe that the provisions of IPRA are contradictory to customary laws; the concept of land ownership in the policy is treated as similar to private ownership through the issuances of CADTs and CALTs which is strongly linked to regalian doctrine. It was discussed earlier that guidelines for FPIC and ADSDPP were issued a decade after the passage of IPRA. There was an evident delay in policy grounding with their guidelines first released in 2006 and revised in 2012, the effects of which will be compounded later on in relation with extractive industries. In practice, guidelines of the FPIC were costly and difficult to follow. It would seem that most indigenous cultural communities are unaware of the importance of CADT and some salient features of IPRA, contributing to the delay in the progress of the application. One of the crucial phases is the presentation of proof, the burden of which falls on indigenous cultural communities who are not equipped with technical knowledge and capacity to accomplish all the requirements, especially without constant assistance from NCIP. In some regions, NCIP offices are not functional to leverage the communities, particularly when it comes to legal support.

There have been instances when contested indigenous political structures compromise the validity of community assemblies and the FPIC process in general. The NCIP's role in validating and accrediting the legitimacy of the IPS is paramount, while according due respect to the cultural heritage of the IPs/ICCs. The IPS is in the core of the consent-giving and decision-making processes, oftentimes only requiring only the presence the council of elders and not the whole community. The role of IPOs is also highlighted in terms of providing the necessary check in the integrity of the political structure and the consent-giving process.

The rigidity of the FPIC requirement invites resistance and negative sentiments from outside stakeholders intending to operate within ancestral domains. There is a semblance of non-acceptance and a negativity toward the importance of FPIC and its role in government and private processes. But it is clear that the FPIC is a necessary instrument in ensuring IP/ICC's rights to empowerment, self-determination and cultural integrity.

8.2 Institutional structure and services

As for this major theme, the dominant concern was regional in scope and service provision in nature. Key informants mentioned the lack of institutional support at the regional levels,

weakening the commission's mandates to deliver services and leverage IP/ICC interests. People, leaders, technical, and resources also emerged in the theme, hinting at the needs of the Commission to enable them in carrying out their mandates on coordination, education, delineation, and community welfare in particular. NCIP may look into augmenting their staffing personnel based on the technical needs of those on the ground: geodetic engineers for AD delineation, and anthropologists for genealogical surveys and IPS documentation among others. Negative terms that were identified were absence, limited, and faulty – referring not only to the institution's perception of insufficient resources, but also to the community's general sentiment towards NCIP and related bureaucratic institutions in general.

Strengthening legal support services for both NCIP personnel and IPs/ICCs was also verbalized. It was asked whether the NCIP has separate legal offices and plantilla positions for lawyers and staff. Regions 11 and CAR mentioned the need for lawyers and legal support to ensure the safety and welfare of their personnel, as well as cater to the legal demands of their constituents. The IPs/ICCs usually have no formal legal support outside of the NCIP.

8.3 Tenurial security

In relation to the issues revolving on policy provisions earlier, tenurial issues and ownership were brought up. The protection of ancestral lands equates to the protection of environment, political life, and socio-economic life. Then again, there is the persistent connection with extractive projects and displacement, most commonly brought up with Lumad communities. It is hinted that encroachment is related with tenurial security albeit perceived negatively. Development either through government or private entities also emerged, but the relationship with the theme remain contentious and difficult to determine. The passage of IPRA as a response to the call of the IPs and ICCs was seen as a recognition of tenure rights and entirely ignored pressing concerns on autonomy and self-determination (Gatmaytan 2004). The latter term was thought of as 'threatening' by the state as it prompts a separation of the people from the State itself (Eligio 2011).

One way for IPs/ICCs to defend their right of ownership is to invoke the process of FPIC as it is a representation of their rights to land and self-determination. However, even FPIC has leakages that range from having an unvalidated IPS, power struggle between ICCs – migrant and natives, the majority or only the council, lack of technical knowledge and capacity, and non-recognition of agencies of the process. For instance, the signatures needed for FPIC are usually taken through attendance sheets in events like barangay assembly. This facilitated the way for encroachment of Hydroelectric Corporation under the Energy Development Corporation in Mount Apo back in 2016.

8.4 Welfare and compensation

Community development remains an integral indicator for welfare and compensation across data sources. It is a process which opens up opportunities for membership, influence, and emotional ties and support; the stronger the sense of community, the easier it is to achieve community development (McMillian and Chavis 1986). What is related to this process is the existence and repercussions of extractive industries and dams in particular. Note that IPs/ICCs have the right to demand compensation from development projects that fall within their domains, but there are two sides to this story: one which claims that there is no equitable distribution of royalties among community members and one which states that mining

companies never paid for compensation, outside the legally mandated royalties and fees. It is apparent that there is absence of a monitoring mechanism or body to promote transparency and check the validity of concerns. Even the NCIP is powerless to institute auditing and accounting structures within ICCs as this falls within the broad scope IPS/ICC self-governance.

8.5 Security, Militarization, Insurgence

At the center of this discussion were the Lumad communities whose tenurial rights and peace and security are besieged by concerns for insurgency and militarization. In particular, paramilitary forces like Bagani was brought up. The KIIs also yielded concerns on indigenous peoples being red-tagged, bringing down the welfare of IPs instead of leveraging it. Anecdotally relayed were security concerns including the intimidation and misinformation of IPs/ICC in applications for FPIC relating to major project developments. Such applies to major development projects and extractive industries. For instance, chieftains whose areas were to be covered by Kaliwa Dam project publicly manifested complaints about certain irregular methods in securing their consent during the height of the dam project development issue. The FPIC securing process, although with plenty of room for improvement, is meticulous by design. Conforming to its guideline provisions safeguards not only the rights of IPs/ICCs to self-determination, but also ensures prudent stewardship of their ancestral domain. Development project within and outside government, regardless of intention, must always proceed within the bounds of legislated tenets under IPRA.

8.6 Access to services

The most prevalent services in this theme were education and medical. Several factors are in play which acted as barriers for their accessibility. One is the distance and logistical concerns, considering the trip to get to the community would entail passing through mountains on foot and rivers; the other is probably due to threats of militarization and insurgency.

Internal communities suffer the absence of free, public education due to logistic concerns and travel time. As a consequence of being displaced from their local communities, Lumad communities are currently being educated in *bakwit* schools. The other option is filled in by alternative learning systems like Save Our Schools Network in Mindanao, but their school establishments were eventually shut down by DepEd.

As for health, the concrete evidence was the incidence of the measles outbreak among the Dumagat in the provinces of Rizal and Quezon during the period of July to August 2018 with fatalities amounting to around 20 people. Kalipunan ng mga Katutubong Mamamayan ng Pilipinas (KATRIBU) filled in the vacancy left by health services by conducting inter-community consultations and participating in a dialogue with the LGU of Tanay for hastened and immediate medical assistance to the community. Contributing factors to the said absence of health services are the lack of medical facilities, limited medicines and/or medical practitioners, lack of vehicles and funds. Further aggravating this is the discrimination experienced by IPs in health institutions since they did not understand the instructions, where to ask assistance, and where to find money, given also that some of them were not formally educated.

9. Recommendations and ways forward

The recommendations and ways forward here are presented as a response to the thematic concerns of the indigenous peoples and cultural communities. To review, there are over eight issues listed in this study as a result of combining certain themes from the original 14 namely, recognition, control, and management of ancestral domains; NCIP's capacity to deliver its mandate; destruction of ecosystems within ancestral domains; non-compliance and violation of FPIC; weak IP governance; impact of government services are not felt; low awareness on IP rights; and self-determination and right to culture of IPs.

For the first thematic concern pertaining on recognition, awarding, and management of ancestral domains, this remains the most critical MFO indicator for the NCIP and relates directly to its institutional success. An articulated weakness is the seemingly poor anthropological documentation of IP culture and heritage and the lack of masterplan toward eventual program conclusion in ancestral domain coverage. The IP ancestral domain universe needs to be defined as there is still no clear estimate on full coverage. Still, undocumented IPs/ICCs and their respective ancestral domains need to be looked into with urgency. The NCIP must not only be dependent on CADT/CALT applications, rather, proactivity in terms of covering unsurveyed areas need to be manifested. Appropriate anthropological research, and demographic and geodetic leg work need to be initiated at the level of the commission even without prompts from its constituents. The integrity of IPs/ICCs cultural heritage and indigenous political structures need to be assured, the awarded CADTs need to be filed with the Registry of Deeds; and, tenurial conflicts and policy overlaps must be addressed among the NCIP, DENR, DILG, and DAR.

The second thematic concern particularly points to addressing the bureaucratic weaknesses of the NCIP in delivering its mandate. Institutional limitations in funds and technical capacity need to be rectified through institutional and fiscal restructuring. The NCIP's manpower complement must be strengthened with appropriate expertise in the fields of social sciences, engineering, and law. One possible method to augment this is to beef-up and restructure the EAP to allow graduated scholars to render professional service to NCIP and IP communities. The financial resources must also be channeled to technical operations focusing on enhancing the four core rights of IPs/ICCs. Appropriated funds as indicated in the annual GAA seemed substantial, but the Commission needs to strictly comply with COA guidelines, observations and audit recommendations. Harnessing the strengths of their mother agency seemed to work when they were with the DENR—the same can be done under the DSWD's social protection programs.

The next thematic concern refers to the protection from the destruction of ecosystems within ancestral domains, highlighting the relationship of indigenous peoples to their environment and outside entities operating within ADs. The IPs/ICCs are given traditional sustainable resource rights under IPRA to manage resources with awarded domains. The same rights entail accountability in ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws. IPs/ICCs have sustainably harvested their respective domains for centuries. The issue on environmental destruction becomes pressing when talking about the grounding major development projects including the operation of extractive industries like mining and logging. It is also in this instance that the importance of the permitting process is highlighted. IPs/ICCs and their respective IPS' must be able to

intelligently assess project proposals and make informed decisions. The NCIP must therefore ensure the integrity of the documentation, consultation, and consensus building processes within FPIC applications. That being said, all extractive activities even in IP controlled domains still have to comply with the oversight requirements of the DENR, as well as conform to principles affecting public welfare. Therefore, the accountability for ensuring ecological integrity in ADs not only rests with the IP/ICC stewards, but also with relevant government agencies, LGUs, CSOs and the general public. An applicable platform for multi-stake holder consultation must be established without prejudicing the stewardship rights of IPs/ICCs.

To address the non-compliance to and violations of the FPIC process, there is a need to strengthen IP/ICC organization, including IPS representation, and augment legal and adjudication support to NCIP offices. The permitting process should also be explained to the IPs for them to be aware of the activity flow and their respective roles at each stage in the process. This particularly applies to the conduct of community assemblies and consultations. IPs/ICCs must be made aware of their bundle rights under IPRA. In the same light, proper orientation on the provisions of IPRA and other relevant policies should be given to government agencies, and relevant stakeholders including the academe and the private sector.

The IP/ICC political structure and institutional representation impact self-governance and empowerment. The integrity of the IPS composition has direct bearing on AD stewardship and community representation. Its ability to voice out the sentiments of the community and decide on key issues pertaining to the AD stewardship, are integral in cultural community's ability to self-govern. Strong representations in bureaucratic platforms on the part of NCIP and the IPs/ICCs is a good indicator of empowerment. This is seen especially in platforms covering regulatory functions, program implementation and governance councils where there are opportunities for decision-making roles and/or avenues to contribute. The NCIP's leverage is also enhanced when it is represented in bodies significant to furthering development at both local and national levels. However, the Commission must recognize and play up its innate institutional strength and authority to effectively manifest such leverage. As such, capacity augmentation has to be done in two fronts: for the NCIP to effectively project authority and fully own its mandate, and for the IPS to proficiently serve as stewards and representatives of their respective ICCs.

In addressing the accessibility of government services, the NCIP must be able to serve as channel and /or conduit between relevant government offices and the IPs/ICCs in tapping support programs and services. This would require appropriate institutional networking, and apt understanding of IP/ICCs needs and requirements. Part from the Commission believes PIPES Program will address this as it will be able to identify gap in access to services per ethnographic region, and fully document cultural communities as well.

The IPRA safeguards the right of IPs/ICCs to self-determination and cultural integrity. Explicit provisions give IPs the freedom to exercise their indigenous traditions and customs, with the State supposedly respecting such in the formulation and grounding of national policies and programs. Self-governance and empowerment of indigenous peoples and ICCs are seen especially in platforms covering regulatory functions, program implementation and governance councils where there are opportunities for decision-making roles and/or avenues to contribute. The IPs and indigenous cultural communities are also able to mainstream their interests or at the very least, have their concerns heard in such platforms. As such, compliance must be ensured regarding the mandatory representation of IPs in all levels of governance, and relevant regulatory bodies. The NCIP's leverage is also enhanced when it is represented in bodies

significant to furthering development at both local and national levels. The Commission must, however, recognize and play up its innate institutional strength and authority to effectively manifest such leverage. The IPs/ICCs and their respective ancestral domains must be also insulated against the state's anti-insurgency drive, allowing them to truly pursue self-determination. ADs can be declared as areas of neutrality, minimizing the instances of redtagging and lessening security concerns and potential conflicts with both the military and insurgents.

10. Conclusion

The Philippines is composed of various ethnolinguistic groups with unique characteristics, culture, and way of life. Their cultural zones, reportedly take up 44 percent of the country's land area. Cognizant of the IP/ICC rights, the government passed in 1997 the Indigenous Peoples Rights Act, together with key enabling provisions.

Issues on the implementation of the IPRA includes delayed grounding of policy, resource limitations on the part of the NCIP, specifically on funding and human resources; limited understanding among IPs/ICCs on the empowering provisions of the law; non-recognition of policy among outside stakeholders and interest groups; policy overlaps and tenurial conflicts; and weak process and anthropological documentation in ancestral domains. The IPs/ICCs have also limited understanding of the. This has given rise to 14 thematic concerns plaguing the IPs/ICCs and the NCIP, which this study narrowed down into eight, pertaining mostly to tenurial security, weak self-determination, and protection of cultural integrity and human rights.

The IPRA created the NCIP, a well-endowed institution mandated to leverage and safeguard the interests on the IPs/ICCs. This dedicated institution plays a critical role in realizing the aspirations of the framers of IPRA. It is this mandated role that also demands so much of the NCIP. Its optimal functioning requires apt resource complement, which includes manpower with technical expertise anthropological, engineering and legal capacity. Augmenting fund availability for the NCIP offices may be through increased congressional allocation, or as simple as responsive fiscal administration. The NCIP must be able to capitalize on its encompassing mandate and effectively cater to the its IP/ICC constituents.

The landmark legislation safeguarded four core rights of the IPs/ICCs: rights to ancestral domains, self-governance and empowerment, social justice and human rights, and cultural integrity. Although seemingly apt protection to IP/ICC rights is accorded by IPRA, the protection of these rights remained contentious on the ground. The IPs/ICCs true empowerment is visible only through their claim and stewardship of ancestral domains, preservation of the integrity of their cultural heritage, and the protection of their basic human rights and social entitlements.

IPs/ICCs must assume their rightful place as empowered stewards of their historical domains, and mainstream their interests and advocacies. The Commission, as the enabling agency, would have to review its bureaucratic functions and address the roots of certain weaknesses to better deliver mandated services to IPs/ICCs, and own its critical role in safeguarding the welfare of IPs/ICCs.

11. Bibliography

- Ballard, C. & G. Banks. 2003. Resource wars: The anthropology of mining. *Annual Review of Anthropology* 32:287-313.
- Cohen, D.M. 1996. Amateur government: When political appointees manage the federal bureaucracy. CPM Working Paper 1996-01. Washington D.C., USA: The Brookings Institution.
- Constitution of the Republic of the Philippines. 1987. Manila, Philippines: Congress. <https://www.officialgazette.gov.ph/constitutions/1987-constitution/> (accessed on November 20, 2019)
- Department of Education (DepEd) Department Order No. 2011-62. Adopting the national indigenous peoples (IP) education policy framework. Pasig City, Manila: Department of Education. deped.gov.ph/2011/08/08/do-62-s-2011-adopting-the-national-indigenous-peoples-ip-education-policy-framework/
- Department of Education (DepEd) Department Order No. 2015-32. Adopting the Indigenous Peoples Education Curriculum Framework. deped.gov.ph/wp-content/uploads/2015/07/DO_s2015_32.pdf
- DENR Memorandum Circular No. 2013-06. Guidelines and procedure for plantation development for the National Greening Program with area coverage of 100 hectares ad above within public forestlands through the engagement of services of private sectors, civil society organizations, non-government organizations, people's organizations/indigenous people, local government units and other government entities. <https://forestry.denr.gov.ph/images/policies/2013/dmc/dmc-2013-06.pdf> (accessed on November 20, 2019)
- Department of Social Welfare and Development (DSWD) Memorandum Circular No. 2014-19. Guidelines for the pilot implementation of the modified conditional cash transfer program for indigenous peoples in geographically isolated and disadvantaged areas. https://www.dswd.gov.ph/issuances/MCs/MC_2014-019.pdf (accessed on December 26, 2019)
- Eligio, A.M.J.E. 2012. Communication imperatives for indigenous peoples' representation in policy making: Lessons from the IPRA (Indigenous Peoples Rights Act) experience. *Telematics and Informatics* 29:324-334
- Executive Order No. 70. 2018. Institutionalizing the whole-of-nation approach in attaining inclusive and sustainable peace, creating a National Task Force to end local communist armed conflict, and directing the adoption of a national peace framework. officialgazette.gov.ph/downloads/2018/12dec/20181204-EO-70-RRD.pdf (accessed on November 20, 2019).
- Executive Order No. 969. 1984. Creating the Office of Muslim Affairs and Cultural Communities. Manila, Philippines: Office of the President. <https://www.officialgazette.gov.ph/1984/06/30/executive-order-no-969-s-1984/> (accessed on November 19, 2019).

- Gatmaytan, A.B. 2004. Political implications of Banwaon indigenous law. *Philippine Natural Resources Law Journal* 12(1):15-42.
- Gavilan, J. 2018. From Hello Garci to ‘Big Brother’: Who is Allen Capuyan?, Rappler.com. <https://www.rappler.com/newsbreak/iq/181794-hello-garci-big-brother-allen-capuyan-fast-facts> (accessed on November 19, 2019).
- Hanson, E. n.d. UN Declaration on the Rights of Indigenous Peoples: What is the UNDRIP? indigenousfoundations.arts.ubc.ca/un_declaration_on_the_rights_of_indigenous_peoples/ (accessed on November 20, 2019).
- Holden, W., K. Nadeau, & R.D. Jacobson. 2011. Exemplifying accumulation by dispossession: Mining and indigenous peoples in the Philippines. *Human Geography* 93(2):141-161.
- Joint DENR-NCIP Administrative Order No. 2008-01. Guidelines and procedures for the recognition, documentation, registration and confirmation of all sustainable traditional and indigenous forest resources management systems and practices (STIFRMSP) of indigenous cultural communities or indigenous peoples in ancestral domain/land. https://server2.denr.gov.ph/uploads/rmdd/jointao-denr-ncip-2008-01_634.pdf (accessed on November 20, 2019).
- Joint DENR-NCIP Memorandum Circular No. 2003-01. Harmonization of the implementation of the Indigenous Peoples Rights Act (IPRA) and Environment and Natural Resources (ENR) laws and policies. Quezon City, Philippines: NCIP. <http://www.bmb.gov.ph/index.php/e-library/laws-and-policies/denr-memorandum-circular-order/dmc-dmo-1997-2006?download=215:joint-denr-ncip-memorandum-circular-2003-01> (accessed on November 20, 2019).
- Joint DOH-NCIP-DILG Memorandum Circular No. 2013-01. Guidelines on the delivery of basic health services for indigenous cultural communities/indigenous peoples. Manila, Philippines: Department of Health. ncipcar.ph/images/pdfs/DOH-NCIP-DILG-JMC-2013-01-s-2013.pdf (accessed on November 20, 2019).
- Kapunan, J. 2001. Separate opinion. In: Ballesteros, A.G.G. (Ed), *A Divided Court: Case materials from the constitutional challenge to the Indigenous Peoples’ Rights Act of 1997*, Phils, LRC-KSK/Friends of the Earth-Philippines.
- Lalata, D.M. 2003. Indigenous peoples: In pursuit of their freedom and security. *Tan-awan* 6(1):4-9.
- Malayao, P. M. 2016. IPs remember Marcos atrocities. *Philippine Daily Inquirer*. <https://opinion.inquirer.net/100336/ips-remember-marcos-atrocities> (accessed on November 19, 2019).
- Manlupig, K. 2015. Timeline: Attacks on the Lumad of Mindanao. Rappler.com. rappler.com/nation/105847-timeline-attacks-lumad-mindanao (accessed on August 6, 2019).

- McMillan, D. W., and Chavis, D. M. 1986. Sense of community: A definition and theory. *Journal of Community Psychology* 14:6-23.
- Molintas, J. M. 2004. The Philippine Indigenous Peoples' Struggle for Land and Life: Challenging Legal Texts. *Arizona Journal of International and Comparative Law* 21(1):269-306.
- NCIP Administrative Circular No. 2003-01. Rules on pleadings and procedure before the National Commission on Indigenous Peoples. <http://ncipcar.ph/images/pdfs/ncip-admin-circular-no-1-s-2003-rules-on-pleadings.pdf> (accessed on November 23, 2019).
- NCIP Administrative Order No. 1998-01. Rules and regulations implementing RA No. 8371, otherwise known as "The Indigenous Peoples Rights Act of 1997". <https://www.wipo.int/edocs/lexdocs/laws/en/ph/ph083en.pdf> (accessed on December 26, 2019).
- NCIP Administrative Order No. 2003-01. Guidelines for the constitution and operationalization of the consultative body as provided for in Section 50, RA No. 8371. <http://www.ncipcar.ph/images/pdfs/ncip-ao-no-1-s-2003-consultative-body.pdf> (accessed on November 25, 2019).
- NCIP Administrative Order No. 2004-01. Guidelines on the formulation of the ancestral domain sustainable development and protection plan (ADSDPP). <http://ncipcar.ph/images/pdfs/ncip-ao-no-1-s-2004-adsdpp-guidelines.pdf> (accessed on November 25, 2019).
- NCIP Administrative Order No. 2012-01. The indigenous knowledge systems and practices (IKSPs) and customary laws (CLs) research and documentation guidelines of 2012. <https://www.wipo.int/edocs/lexdocs/laws/en/ph/ph190en.pdf> (accessed on December 26, 2019).
- NCIP Administrative Order No. 2012-02. The general guidelines on the confirmation of indigenous political structures and the registration of indigenous peoples' organizations. <http://ncipcar.ph/images/pdfs/ncip-ao-no-2-s-2012-ips.pdf> (accessed on December 26, 2019).
- NCIP Administrative Order No. 2012-04. Revised omnibus rules on delineation and recognition of ancestral domains and lands of 2012. <http://ncipcar.ph/images/pdfs/ncip-ao-no-4-s-2012-revised-omnibus.pdf> (accessed on December 26, 2019).
- NCIP Administrative Order No. 2018-03. Revised national guidelines for the mandatory representation of indigenous peoples in local legislative councils and policy-making bodies. <http://ncipcar.ph/images/pdfs/ncip-ao-no-3-s-2018-ipmr.pdf> (accessed on November 26, 2019).
- NCIP Region 6 & 7. n.d. Mandate, Vision, and Mission. <https://www.ncipro67.com.ph/mandate-vision-and-mission/> (accessed on November 26, 2019)

Noval-Morales, D. Y. n.d. The Ati of Negros and Panay. <https://ncca.gov.ph/about-ncca-3/subcommissions/subcommission-on-cultural-communities-and-traditional-arts-sccta/central-cultural-communities/the-ati-of-negros-and-panay/> (accessed on December 9, 2019).

Official Gazette. n.d. Official week in review: September 20-September 26, 1968. <https://www.officialgazette.gov.ph/1968/09/30/official-week-in-review-september-20-september-26-1968/> (accessed on November 19, 2019).

Presidential Decree No. 690. 1975. Creating the Southern Philippines Development Administration and abolishing the Commission on National Integration, the Mindanao Development Authority, the Presidential Task Force for the reconstruction and development of Mindanao, and the Special Program of Assistance for the Rehabilitation of Evacuees (SPARE), appropriating funds therefor, and for other purposes. Manila, Philippines: Office of the President. https://www.lawphil.net/statutes/presdecs/pd1975/pd_690_1975.html (accessed on November 19, 2019).

Ranada, P. 2019. Allen Capuyan appointed indigenous peoples' commission chairman. Rappler.com. <https://www.rappler.com/nation/232236-allen-capuyan-appointed-indigenous-peoples-commission-chairman> (accessed on November 19, 2019).

Republic Act No. 1888. 1957. An act to effectuate in a more rapid and complete manner the economic, social, moral and political and advancement of the non-Christian Filipinos or national cultural minorities and to render real, complete and permanent in the integration of all said national cultural minorities into the body politic, creating the Commission on National Integration charged with said functions. Manila, Philippines: Congress. <http://www.chanrobles.com/republicacts/republicactno1888.html#.XdORNVczaUk> (accessed on November 19, 2019).

Republic Act No. 9997. 2009. An act creating the National Commission on Muslim Filipinos, defining its powers, functions and responsibilities and appropriating funds therefor and for other purposes. Manila, Philippines: Congress. https://www.senate.gov.ph/republic_acts/ra%209997.pdf (accessed on November 19, 2019).

Rola, A. C., Abansi, C. L., Arcala-Hall, R., Lizada, J. C., Siason, I. M. L., & Araral Jr, E. K. 2015. Drivers of water governance reforms in the Philippines. *International Journal of Water Resources Development* 32(1):135-152.

Schult, V. 1997. Mindoro and North Luzon under American colonial rule. *Philippine Studies* 45(4):447-449.

Special Rapporteur on the rights of indigenous peoples. n.d. <https://www.ohchr.org/en/issues/ipeoples/srindigenouseoples/pages/sripeopleindex.aspx> (accessed on December 4, 2019).

- Spiller, P.T., & S. Urbiztondo. 1994. Political appointees vs. career civil servants: A multiple principals theory of political bureaucracies. *European Journal of Political Economy* 10(3):465-497.
- Tan, M. L. 2015. Who are the 'lumad'? Philippine Daily Inquirer. https://opinion.inquirer.net/89846/who-are-the-lumad?utm_expnid=.XqNwTug2W6nwDVUSgFJXed.1 (accessed on September 8, 2019)
- Tan, M. L. 2019. DepEd formally shuts down 55 Lumad schools in Davao. Rappler.com. <https://www.rappler.com/nation/242052-deped-shuts-down-lumad-schools-davao-region> (accessed on November 26, 2019).
- United Nations (UN). n.d. Indigenous Peoples at the UN. UN.org. <https://www.un.org/development/desa/indigenouspeoples/about-us.html> (accessed on November 19, 2019)
- United Nations. 2007. United Nations Declaration of Rights of Indigenous Peoples.
- United Nations Development Programme (UNDP). 2010. Indigenous Peoples in the Philippines. Makati City, Philippines: UNDP. https://www.ph.undp.org/content/philippines/en/home/library/democratic_governance/FastFacts-IPs.html (accessed on November 19, 2019).