Module 2

Recognizing Rights to Land of IPs and their Contribution to Landscape Governance[1]

Presentation material web link:
https://angoc.org/wp-content/uploads/2019/09/Module-1_LG-and-IPs.pdf

INTRODUCTION

Landscape governance is not new. "Similar approaches have been practiced by indigenous communities for hundreds if not thousands of years" (Ferrari, nd).

A vast majority of the estimated 12 to 15 million indigenous peoples (IPs) in the Philippines reside in the uplands with the remaining bio-diverse ecosystems which form part of their ancestral domains. Out of the 128 initially identified key biodiversity areas, 96 or 75 percent are within the traditional territories of IPs. Most indigenous cultural communities (ICCs), however, do not have legal recognition over their traditional lands, thus limiting their ability to freely conduct their livelihood activities and exercise their traditional resource management.

Indigenous peoples have strong links to the forests. *(Photo by Dave de Vera, PAFID)*

[1] Prepared by Dave de Vera of the Philippine Association For Intercultural Development (PAFID) for the **Landscape Governance Forum and Training of Trainors** as part of the project "Improving Tenure Security of Smallholder Farmers in Select Areas in the Philippines" jointly implemented by ANGOC and XSF.

OVERALL LEARNING OBJECTIVES:

- ❑ To "re-learn" the importance and contribution of IPs in landscape governance
- ❑ To present the challenges faced by IPs and ways forward to strengthen the role and engagement of IPs in landscape governance

PRESENTATION OUTLINE:

- ❑ Features of ancestral domains and indigenous territories
- ❑ Elements and significant contributions of indigenous governance
- ❑ Challenges, concerns, and ways forward

METHODOLOGY:

Interactive presentation, using photographs and graphics, engaging the participants through question and answer format

FEATURES OF ANCESTRAL DOMAINS AND INDIGENOUS TERRITORIES

Indigenous Filipinos have occupied substantial areas of many if not all ecosystems in the Philippines since time immemorial. Their ancestors lived and died there, hence the term "ancestral" lands. They moved around unhampered anywhere in their domain; gathering food, hunting, and later on planting to meet their needs. IPs believe that they belong to the land, and are its designated stewards.

Ancestral domains are defined in the Indigenous Peoples' Rights Act of 1997 (IPRA) as:

> *all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals, corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral land, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting*

grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which their traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators;[2]

With the Philippines consisting of at least 7,100 islands, ancestral domains come in various forms and configurations. These can be found in the upland ecosystems all the way to the coastal zones of the Archipelago including the waters of the ocean. Under the IPRA, the disposition of ancestral domains can either be communal ownership or through clan or family ownership. As such, a Certificate of Ancestral Domain Title (CADT) is issued to a community while a Certificate of Ancestral Land Title (CALT) is awarded to clan or family claimants. Note that non-issuance of CADT o CALT does not mean that a territory is not held under a claim of traditional ownership and governance as CADTs/CALTs are mere recognition of claims of native title.[3]

More than two decades later, some 5.4 million hectares, constituting 18 percent of the total land area of the Philippines, is now recognized as ancestral domains owned by IPs. Few other countries in the world can make a similar claim. Some 221 CADTs have been approved as of 2018. Some 53 percent, or more than half (117) of the CADTs approved are in Mindanao, while 94 CADTs (43 percent) are in Luzon and 10 CADTs (5 percent) are in the Visayas. Moreover, given other pending ancestral domain claims (CADCs) and ongoing applications for CADTs, it is estimated that around 7.5 to 8 million hectares, or a quarter of the country's land area, could eventually be recognized as ancestral lands belonging to IPs/ICCs.

Most indigenous Filipinos still live on or near their ancestral lands, which provide them with their livelihoods and help them define their identity. IPs still adhere to the traditional view of communal ownership in regard to most of their resources, which include not only the small patches of land that serve as individual farm lots, but also forest resources found within their ancestral domains. What essentially distinguishes the IPs from the rest of the population is their concept of land as granted and entrusted by one Creator for everyone to harness, cultivate, sustain, and live on. This concept is distinct because it adheres to the spirit of collectivism and rejects the notion of land as private property.

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[2] IPRA, Chapter 2, Sec. 3, letter a.

[3] Native Title refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest (IPRA, Chapter 2, Section 3, letter l).

More traditional communities tend to allocate greater land for communal use, devoted to controlled activities, i.e. sacred areas, conservation areas, etc. The more mainstreamed ICCs adopt individual land ownership schemes, and designate fewer zones for communal use. Individual ownership gives a wider latitude to allow investments to enter and even initiate land use conversion. Hence, the demand by ICCs is for the recognition of communal ownership, as individualizing ownership of the domain may lead to fragmentation of the community.[4]

Ancestral domains go beyond political boundaries as their extents are usually defined by natural geographic features. The boundaries and extents of ADs and indigenous territories are products of lifelong relationships, historical agreements, common experiences, and shared governance of resources.

ELEMENTS AND SIGNIFICANT CONTRIBUTION OF INDIGENOUS GOVERNANCE

Prior to the onset of the Spanish colonization, it has been widely documented that early Filipinos had fairly developed indigenous property laws and customs for more than 20,000 years (Lynch, 1982). Customary tenure systems are often based on traditional norms and defined oral agreements. Examples of these include the communal Patagonan lands of the Higaonon in Mindanao and the Faganuon Furuhayo of the Buhid in Mindoro and the individual Tawid lots of the Ikalahan in Northern Luzon. These customary land tenure arrangements have no term limits and are respected by the community in perpetuity.

Governance in customary lands is exercised by the appropriate traditional structures such as *Gaop* in the Manobo and Higaonon Communities in Mindanao, the *Dap-ay* in the Cordillera, and the *Mamepet* of the Tagbanwa in the Calamianes Islands in Palawan.

Indigenous territories have a range of diverse but inter-related ecological systems (Ferrari, nd). Some examples include the *Awuyuk,* the sacred lakes and waters of the ancestral domains of the Tagbanwa of Coron in Palawan and the *Tayan,* the community micro-watershed in Mt. Province as well as the *Muyong* of the Ifugao.

Indigenous governance does not focus on one aspect of an ecosystem, but on the entire system or landscape, and IPs consider themselves to be part of it. Most importantly, the relationship between the natural environment and human communities plays a central role in the governance of the indigenous landscape (Ferrari, nd).

[4] Report of IP leaders, Workshop on Land Ownership, UP University Hotel, 17 May 2017.

***Awuyuk;* Sacred lakes and waters of the Ancestral Domains of the Tagbanwa in Coron.**
(Photo by Dave de Vera, PAFID)

Traditional governance is exercised by ICCs in accordance with customary laws that are enforced by communal decision-making processes led by traditional leaders such as chieftains and elders exercising power over designated constituents. These customary laws provide rules and procedures for various aspects of life including family, land ownership, natural resources, dispute settlement, justice, among others. Often, ICCs form pacts and agreements with other ICCs that ensure inter-tribal peace and order. These form the Indigenous Political Structure (IPS) of ICCs that have been held and transmitted through time immemorial.

The traditional knowledge of ICCs are embedded in their day-to-day practices and way of life. These have been formed through generations of interaction with their environment and its natural resources, and with other communities. Often, these traditional knowledge systems and practices have been passed down through oral tradition; in their material culture;[5] and through various cultural and spiritual activities such as dances, songs, poetry, celebrations, among others.

[5] This includes all tangible objects that ICCs have made and use for their day-to-day living such as houses, communal structures, tools, clothing, food, among others.

Aforementioned traditional governance and traditional knowledge guide the lives of ICCs as they harmoniously relate with nature. The very fact that the natural resources within ancestral domains have remained intact, flourishing with biodiversity while supporting the way of life of their communities is testament to the sustainability of their traditional governance and resource rights.

Among the significant contributions of IPs to landscape governance include:

Indigenous peoples bring knowledge diversity to landscape governance as traditional knowledge brings new levels of definition or understanding of the landscape approach. Traditional knowledge highlights the very close and balanced relationship between the various values and dimensions (physical, social, political, spiritual) of managing a territory in a holistic way (Ferrari, nd).

The indigenous, traditional and local knowledge systems are increasingly being recognized as sources of understanding on ecosystem dynamics, sustainable practices, and relationships between people and nature. The indigenous governance has served as the main driver in the protection and conservation of the environment and a value for the assertion of traditional knowledge.

A very significant statistic that shows the critical role that the IPs play in landscape governance is the geographical distribution of Environmentally Critical Areas such as Key Biodiversity Areas (KBAs), Protected Areas and Important Bird Areas in the Philippines. KBAs are defined by the International Union for Conservation of Nature (IUCN) as areas that represent the most important sites for biodiversity conservation worldwide. Key biodiversity areas are places of international importance for the conservation of biodiversity through protected areas and other governance mechanisms (IUCN, 2013). Protected Areas (PAs) on the other hand, are areas of high environmental significance that have been reserved through executive edict or legislation, while Important Bird Areas (IBAs) are defined as areas recognized as being globally important habitat for the conservation of bird populations. Currently there are about 10,000 IBAs worldwide and form part of a country's existing protected area network, and so are protected under national legislation.

The Ancestral Domains of ICCs in the Philippines cover nearly 25 percent of the country's total land area. There are 128 terrestrial sites designated as KBAs covering at least 7,610,943 hectares in the country. Seventy-one of these KBAs or 55 percent of all KBAs overlap with ancestral domain titles. Further, almost

Traditional Resource Governance of Indigenous Peoples in the Philippines

Muyong of the Ifugao. In the Province of Ifugao in the Cordillera Administrative Region, the Ifugao Rice Terraces are world-renowned for their aesthetic value as a UNESCO World Heritage Site. This is governed by the *Muyong* or traditional landscape governance of the upland ecosystem of the Cordillera mountains that enabled rice farming, which otherwise necessitate flat wetlands. The *Muyong* system is an age-old landscape innovation that enabled the Ifugaos and other ICCs in the Cordillera region to carve out the mountains forming stairs of farmlands while conserving forest cover that supported the watersheds that sustained the flow of waters to the stairs of farm plots. This is testament to the wisdom of the traditional management of natural resources that have enabled sustainable farming vis-à-vis the conservation of forests and watersheds.

The Ikalahan and Climate Change Mitigation. The Ikalahans of Nueva Vizcaya have been conserving vast areas of forests since time immemorial. They are the first ICC in the world that participated in the carbon market having been able to generate scientific data providing evidence that the forests they govern keep nearly three million tonnes of carbon. This is equivalent to annual emissions of 2.3 million cars. Aside from this, their forests provide steady water supply to the highest rice producing provinces in the Philippines. They are able to this through their traditional systems of forest protection and the provision of biodiversity-friendly livelihoods such as fruit plantations and sustainable farming practices for their community members.

Conservation of the Philippine Eagle and the Role of IPs. The Islands of Mindanao are home to the critical habitat of the majestic Philippine Eagle, the tallest and heaviest known raptor in the world. It is also considered the national bird of the Philippines. It is critical in ensuring the balance of forest ecosystem by regulating the population of small to medium-sized forest-dwelling mammals. According to the Philippine Eagle Foundation, all habitats of the Philippine Eagle in the Island Region of Mindanao fall within the ancestral domains of lumads.[6] The case is also similar in the Island Region of Luzon where majority of the habitats of the Philippine Eagle are also found in ancestral domains in the Sierra Madre, Caraballo and Cordillera Mountain Ranges. The role of ICCs is very critical not only for protecting the habitats where the Philippine Eagle lays dominion, but ICCs also play a major role in the conduct of scientific research on this majestic raptor. This is because close to all reports and existing leads of the known habitats of the Philippine Eagle were gathered through information provided by IPs. To date, it is common understanding among the scientific and conservation communities that it is the IPs who are most capable of providing the exact location of the habitats of the Philippine Eagle.

[6] A collective term for non-Muslim indigenous peoples in Mindanao

90 percent of all the remaining forest cover in the country can also be found in ancestral domain areas and 90 percent of headwaters of critical watersheds.

Clearly, with the aforementioned data, a case could be made that the ICCs in the Philippines through their traditional resource management systems are the actual stewards who provide de-facto governance to the most important and environmentally significant areas in the country. The evidence is clear that the role they play in order to ensure the survival of the country has to be respected and recognized.

CHALLENGES AND CONCERNS IN RECOGNIZING THE ROLE OF IPs IN LANDSCAPE GOVERNANCE

Today, the Philippines is losing a very broad range of traditional knowledge systems along with a lifestyle and culture that has been successful in managing natural resources and environmentally critical areas for a very long time. Government policies, programs, and our political system play a major role in further eroding the weakening of IP governance. Essentially, these challenges are attributed to two major factors:

- Limited understanding of IP governance and traditional knowledge
    - Indigenous knowledge often is not fully understood and not taken seriously by scientists and policymakers;
    - Limits the power of the IPs to effectively participate in landscape studies that shape policy decisions; and,
    - Often, participation of IPs in collaborative planning is more a function of tokenism rather than of genuine belief and recognition

- Harmonization of competing interests, plans and structures
    - The rush to "harmonize" plans forces State actors to generalize which tend to minimize the role and rights of IPs in the governance of the landscape; and,
    - Structures that are established to facilitate co-management and joint planning often introduce a system alien to IPs and result in the dilution of their right and capacity to exercise their traditional governance of their ancestral domains.

WAY FORWARD

In the context of global efforts to protect the environment and mitigate climate change, we need to recognize that IPs play an important role for our collective future. IPs have in-depth, varied and locally rooted knowledge of the natural world. Thus, in order to address the identified challenges, engagement with various stakeholders is critical to:

- ❑ facilitate activities that generate more information on traditional knowledge and governance;
- ❑ advocate for legal and policy measures, most crucially towards recognizing IPs' and local communities' rights to territory, natural resources, and collective governance, respect of customary knowledge and practices;
- ❑ support and initiate activities and policies towards recognizing traditional governance and knowledge as valid conservation initiatives;
- ❑ promote social recognition of conservation, cultural, and livelihood values of traditional governance of ancestral domains, through public exposure, awards, media coverage and other such actions;
- ❑ facilitation for advocacy and networking, both among indigenous peoples governing their AD and among support groups; and,
- ❑ conduct and initiate joint activities with IPs to educate, inform and sensitize planners and policymakers on traditional knowledge governance. ❑

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