



A Critique on the Implementing Rules and Regulations of the Expanded National Integrated Protected Areas System Act and its Implications to the Rights of Indigenous Peoples



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Prepared by

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Bukluran ng mga Katutubo para sa Pangangalaga ng Kalikasan
sa Pilipinas (BUKLURAN)

Philippine Association For Intercultural Development (PAFID)

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Overview and Acknowledgements

On 25-26 March 2019, community leaders from 28 indigenous peoples groups in the Philippines were convened to assert their right to self-governance in the “National Indigenous Peoples’ Dialogue on the Expanded National Integrated Protected Areas System (ENIPAS)” at the Assembly Hall of the National College of Public Administration and Governance, University of the Philippines, Diliman, Quezon City. The event was organized by the Bukluran ng mga Katutubo para sa Pangangalaga ng Kalikasan sa Pilipinas (BUKLURAN), in partnership with the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), Philippine Association For Intercultural Development (PAFID), the Non-Timber Forest Products-Exchange Program (NTFP-EP), and the Project Management Unit of the Philippine ICCA project under the Biodiversity Management Bureau of the Department of Environment and Natural Resources (DENR-BMB) with the support of Global Environment Facility (GEF) of the United Nations Development Programme (UNDP) and the Forest Foundation Philippines (Forest Foundation).

The community leaders of indigenous peoples groups discussed and provided comments for the formulation of implementing rules and regulations (IRR) of the ENIPAS. A number of concerns were raised and summarized in the indigenous peoples’ statement which was formally transmitted to the DENR-BMB on 28 March 2019. The DENR-BMB replied that such inputs shall be “seriously considered.”

On 30 May 2019, the DENR released Department Administrative Order 2019-05 containing the IRR of the ENIPAS. Unfortunately, recommendations made by indigenous peoples during the 26 March 2019 dialogue were not included.

Issues with the ENIPAS IRR were raised during the 3rd ICCA Conference on 8-12 July 2019. The IP leaders lamented that certain provisions of the ENIPAS IRR are prejudicial to the interests of indigenous cultural communities/indigenous peoples (ICCs/IPs) and can potentially further exacerbate existing conflicts between the traditional governance of indigenous peoples and actions taken by Protected Area Management Boards (PAMBs) nationwide.

To push the process forward, BUKLURAN having authored observations and comments, articulating these into an intervention statement, requested its CSO partners to collaborate in crafting a formal critique on the IRR of ENIPAS. Building on the BUKLURAN statement, a pool of writers was constituted.

The National Commission on Indigenous Peoples (NCIP) throughout the whole process has been included through their participation in the 28 March 2019 Dialogue and the 8-12 July 2019 National ICCA Conference, and on numerous occasions through the Office of the Executive Director of the NCIP, apprised on the situation of partner ICCs/IPs in relation to the ENIPAS IRR.

The pool of writers decided to formally engage with the NCIP En Banc to present its Critique on the ENIPAS IRR and its implications on the rights of ICCs/IPs. On 19 October 2019, the NCIP provided the opportunity to the pool of writers represented by Atty. Reuben Lingating, Legal Adviser, and Mr. Dave de Vera, Lead Writer, to make a presentation to the Commission En Banc at Canoe Beach Resort, Barangay Pundaquit, San Antonio, Zambales. The NCIP took the recommendations of the pool of writers and since then have pursued action. These actions include the establishment of a Technical Working Group on the ENIPAS IRR which members are officials of the NCIP and representatives from the pool of writers, and the pursuit of further consultations with ICCs/IPs on the ENIPAS IRR that will serve as input to forthcoming collaborative actions with the DENR to review the ENIPAS IRR.

In summary, the authors acknowledge the following agencies, organizations, and individuals contributed to the discussion and refinement of the contents of this review:

- *the National Commission on Indigenous Peoples (NCIP);*
- *BUKLURAN;*
- *the Philippine CSO Working Group on ICCA;*
- *the Global ICCA Consortium; and,*
- *ANGOC, ALG, Kaisahan, LRC/KSK/FOE-PH, NTFP-EP, and PAFID.*

ANGOC, BUKLURAN, and PAFID are sincerely grateful for the support for this review provided by the Forest Foundation Philippines.

Acronyms

| | |
|----------|---|
| AD | Ancestral Domain |
| ADSDPP | Ancestral Domain Sustainable Development and Protection Plan |
| AL | Ancestral Land |
| ALG | Alternative Law Group |
| ANGOC | Asian NGO Coalition for Agrarian Reform and Rural Development |
| AO | Administrative Order |
| BMB | Biodiversity Management Bureau |
| BUKLURAN | Bukluran ng mga Katutubo para sa Pangangalaga ng Kalikasan sa Pilipinas |
| CADC | Certificate of Ancestral Domain Claim |
| CADT | Certificate of Ancestral Domain Title |
| CALT | Certificate of Ancestral Land Title |
| CBD | Convention on Biological Diversity |
| CSO | civil society organization |
| DENR | Department of Environment and Natural Resources |
| ENIPAS | Expanded National Integrated Protected Areas System |
| EO | Executive Order |
| FPIC | free, prior and informed consent |
| ICCs | indigenous cultural communities |
| ICCA | indigenous community conserved areas |
| IKSPs | indigenous knowledge systems and practices |
| IPs | indigenous peoples |
| IPLCs | indigenous peoples and local communities |
| IPRA | Indigenous Peoples' Rights Act of 1997 |
| IRR | Implementing Rules and Regulations |
| Kaisahan | Kaisahan tungo sa Repormang Agraryo at Kaunlaran sa Kanayunan |

| | |
|--------------|--|
| LGU | local government unit |
| LRC/KSK/FOEP | Legal Rights and Natural Resources Center/Kasama sa Kalikasan/Friends of the Earth Philippines |
| NCIP | National Commission on Indigenous Peoples |
| NIPAS | National Integrated Protected Areas System |
| NGO | non-government organization |
| NTFP-EP | Non-Timber Forest Products-Exchange Programme |
| PA | Protected Area |
| PAFID | Philippine Association For Intercultural Development |
| PAMB | Protected Area Management Board |
| PAMP | Protected Area Management Plan |
| PD | Presidential Decree |
| RA | Republic Act |
| SAPA | Special Use Agreement in Protected Area |

Introduction

On 22 June 2018, Republic Act 11038 or the Expanded National Integrated Protected Areas System (ENIPAS) was enacted into law and has declared in policy that the traditional resource governance of Indigenous Cultural Communities and Indigenous Peoples (ICCs/IPs) shall be recognized within Protected Areas (PAs). Other critical provisions in this law is setting forth a process for the establishment of an additional 94 PAs and an enhanced governance structure of the Protected Area Management Board (PAMB) including the requirement of having one to three IP representative/s per ICC when necessary. The implementation of said law shall be led by the Department of Environment and Natural Resources (DENR) through the Biodiversity Management Bureau (BMB).

Said law is in consonance with the vital role ICCs/IPs play in the conservation of nature as underlined in the May 2019 landmark report by the Inter-government Science-Policy Platform on Biodiversity and Ecosystems Services (IPBES).¹ The IPBES rang loud that:

“indigenous peoples and local communities (IPLCs) are often better placed than scientists to provide detailed information on local biodiversity, environmental change and management practices, and are important contributors to the governance of biodiversity from local to global levels. IPLCs are also among the most threatened on Earth by the impacts of climate change.” (emphasis supplied)

In many areas in fact, IPLCs have been able to mitigate or altogether prevent the impacts of climate change on biodiversity.

Legal Framework on Protected Areas and Conserved Areas

International Commitments on Inclusive Biodiversity Conservation. The Philippines is signatory to international treaties, conventions and accords that put global recognition and imperative to promote and protect the rights of ICCs/IPs to self-determined development in the context of making efforts towards biodiversity conservation inclusive. Among which are:

- the Paris Climate Change Agreement of 2015;²

¹ Summary of Policymakers, Global Assessment Report on Biodiversity and Ecosystem Services, IPBES. May 2019.

² Paris Accord. Art 7, Par. 5. “take into consideration the knowledge of indigenous peoples in environmental policies where appropriate.” UNFCCC 2015.

- the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) of 1997;³
- the UN Convention on Biological Diversity (UNCBD) of 1991;⁴
- the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1976;⁵ and,
- the International Covenant on Civil and Political Rights (ICCPR) of 1976.⁶

The International Union for the Conservation of Nature (IUCN) World Parks Congress of 2003⁷ and 2014⁸ acknowledged the depth of ICCs/IPs' contribution to the "existence" of parks including their skills and roles in conservation of environment, and that such roles have been affirmed by a World Bank Independent Review,⁹ the UN CBD Outlook Report,¹⁰ and a book published by the Center for International Forestry and Research (CIFOR).¹¹

The Constitution and the NIPAS. The Philippine Constitution enshrines the State's ownership over lands of the public domain, waters, minerals, coal, petroleum and other mineral oils, forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources,¹² and to protect and promote the right of people to a balanced and healthful ecology.¹³ To realize this policy, the Congress enacted the National Integrated Protected Areas System Act (NIPAS)¹⁴ in 1992, which was amended six years after by the ENIPAS.

³ Sections 12, 25 and 29, UNDRIP, provide IP rights to the "conservation and protection of the environment and exhorts States to implement assistance programs for such conservation and protection." UNFPII. 1997.

⁴ Article 8 (j) and Article 10 (c) direct parties to the Convention to respect and support traditional lifestyles and promote the desirability of sharing of benefits arising from use of traditional knowledge, innovations and practices relevant for biodiversity conservation. areas." CIFOR, 2012.

⁵ Article 1, ICESCR, states "all peoples to self-determination. By virtue of that right, they freely determine their own political status and freely pursue their economic, social and cultural development." UN General Assembly, 3 January 1976.

⁶ Article 1 ICCPR also states, the same provision as Art 1, ICESCR that "all peoples have the right of self determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. UN General Assembly, 23 March 1976.

⁷ Durban Accord. IUCN World Parks Congress "acknowledged that indigenous peoples contributed much to the existence of Parks." The Accord called for guarantees in the "recognition of the rights and role of indigenous peoples in environmental conservation" and reminded the world that "in governing Parks and Protected Areas, it must ensure that the rights and interests of indigenous peoples to their ancestral domains be recognized and protected." South Africa, 2003.

⁸ Promise of Sydney. IUCN World Parks Congress said that in order to maximize capacity development in the next decades, it necessitates "state of the art knowledge, skills and best practices to effectively manage and equitably govern all types of protected areas, **including territories governed by indigenous peoples and local communities.**" IUCN-WPC. Sydney, 2014.

⁹ Nelson and Chomitz, "traditional resource management are more effective in protecting the forests than strict government protection alone." World Bank Independent Review, Washington D.C 2009.

¹⁰ Secretariat, UNCBD. "Across the world, levels of protection are actually higher under indigenous conservation than under government management alone." UN CBD Outlook Report, Montreal, 2010.

¹¹ Guarigata, Manuel R. Forest Ecology and Management: "Levels of forest destruction are higher in areas that have been declared as strict protection parks by the Government compared to traditionally protected areas." CIFOR, 2012.

¹² Philippine Constitution, Article XII, Section 2

¹³ Philippine Constitution, Article II, Section 16.

¹⁴ Republic Act No. 7586, 01 June 1992 [hereinafter "NIPAS"].

NIPAS was enacted to secure the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated PAs. As the Supreme Court describes it in the case of *Resident Marine Mammals vs. Reyes*,¹⁵ it classifies and administers all the designated PAs to maintain essential ecological processes and life-support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein, and to maintain their natural conditions to the greatest extent possible.

The Country's Legal and Regulatory Framework on Protected and Conserved Areas. Philippine laws on forests initially focused on the forest as a resource for utilization and exploration.¹⁶ Furthermore, the Philippine population hitting its 100 million mark in 2014 meant increased demand for water and greater pressure on natural ecosystems and its services,¹⁷ resulting in the massive exploitation of natural resources beyond what has been allocated for the present generation.¹⁸

In 1992, the Philippine Congress enacted the National Integrated Protected Areas System (NIPAS) Act to enable the DENR, related institutions, and agencies to set, administer, and manage established protected areas, focusing particularly on biodiversity conservation and sustainable development. It was the legal framework which established a mechanism to conserve the biodiversity of the Philippines with preservation, maintenance, and sustainability as key considerations.

Section 13 of the NIPAS recognizes the inherent right of ICCs/IPs to self-governance and self-determination, and guarantees the right of ICCs/IPs to freely pursue their economic, social, and cultural development.

Legal Recognition of Ancestral Domains and Traditional Governance. Article XII, Section 5 of the Constitution states:

*The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.*¹⁹

To realize this policy, Congress enacted the Indigenous People's Rights Act (IPRA).²⁰

¹⁵ G.R. No. 180771, 21 April 2015.

¹⁶ Haribon Position Paper, CY 2008.

¹⁷ Magbanua, L. *Trapping trains like forests do*, Haribon Foundation, 2015.

¹⁸ De la Paz, B., *Overdrawing from our environmental future*, Haribon Foundation, 2015.

¹⁹ Philippine Constitution, Article XII, Section 5.

²⁰ R.A. No. 8371, 29 October 1997 [hereinafter "IPRA"].

The IPRA recognizes and protects the bundle of rights of ICCs: (a) right to ancestral domains;²¹ (b) right to cultural integrity;²² (c) right to self-governance and empowerment;²³ and, (d) the right to social justice and human rights.²⁴ Particularly on the bundle of rights to ancestral domains, Section 7 enumerates the rights of ICCs/IPs over their ADs, such as the right of ownership under Section 7(a); the preferential right to develop natural resources within their AD under Sec. 7(b), which includes the right to give their informed and intelligent participation in the formulation and implementation of projects that will affect or impact ADs; and the right to stay in the territories under Sec. 7(c). Other provisions in the IPRA shows other rights granted to ICCs/IPs, such as participation in decision-making which may affect their rights, lives and destinies,²⁵ and, to determine and decide priorities for development.²⁶

In the IPRA, ADs belong to ICCs/IPs held under a communal claim of ownership, occupied and possessed **since time immemorial**, continuously to the present,²⁷ while Ancestral Lands (ALs) refer to land occupied, possessed, and utilized by ICCs/IPs since time immemorial under claims of traditional group or individual ownership.²⁸ These rights are formally recognized through a Certificate of Ancestral Domain Title (CADT) and Certificate of Ancestral Land Title (CALT), respectively. However, the absence of these titles do not negate the ICCs/IPs' ownership of their respective ADs/ALs and the rights given to them, being merely an embodiment of their rights²⁹ as enforced in decisions even pre-dating the IPRA.³⁰

An important distinction that needs to be made is that though the IPRA recognizes the time immemorial right of ICCs/IPs to govern over their ADs and ALs per their Native Title, they must still adhere to the policies of the State on the utilization, harvesting, exploitation, and development of natural resources therein. This necessarily includes State policies on PAs sharing common areas with ADs/ALs hence, mandating ICCs/IPs' adherence to the NIPAS as amended by the ENIPAS. Within this framework, the IPRA³¹ provides priority rights for ICCs/IPs on the utilization, harvesting, exploitation, and development of natural resources within their ADs/ALs, including within PAs.

²¹ IPRA, §2(b).

²² *Id.*, §2(e).

²³ *Id.*, §2(c).

²⁴ *Id.*, §2(f).

²⁵ *Id.*, §16.

²⁶ *Id.*, §17.

²⁷ *Id.*, §3(a).

²⁸ *Id.*, §3(b).

²⁹ *Id.*, §11; *Cruz v. DENR*, G.R. No. 135385, 06 December 2000

³⁰ *Id.*, *Carino VS Insular Government*, G.R. No. 2829, 25 March 1907.

³¹ IPRA, §57.

Spatial Overview of Overlap of Ancestral Domains and Protected Areas

To date, there are a total of 221 approved CADTs covering 5,413,772.71 hectares of ancestral lands and waters. This consists of 16 percent of the total territory of the Philippines. On top of this, all territories under claim of Native Title is estimated to be seven to eight million hectares or a quarter of the territory of the country.

When the full extent of State recognition of ancestral domains and the existing PA estates are plotted together, it was revealed that there are at least 99 ancestral domains (ADs) that fall within 56 PAs affecting a total of 1,208,199.01 hectares of ADs. The breakdown of the total overlap area is presented in the table below.³²

Table 1: Overlap of PAs with CADTs

| Region | No. of Affected CADTs | No. of PAs with Overlaps with ADs | Total Overlap Area (in hectares) |
|----------------|-----------------------|-----------------------------------|----------------------------------|
| Luzon | 42 | 30 | 836,157.52 |
| Island Regions | 18 | 8 | 164,793.11 |
| Mindanao | 39 | 18 | 207,248.38 |
| TOTAL | 99 | 56 | 1,208,199.01 |

Source: Overlay data of Protected Areas from the DENR-BMB and Ancestral Domains of the NCIP

This analysis does not include areas without CADT with a claim of Native Title as well as proposed PAs to be pursued for enactment through procedures set forth in the ENIPAS.

Another layer of analysis reveals that 75 percent (96 of 128) of Key Biodiversity Areas in the Philippines are within the traditional territories of ICCs/IPs. These findings strongly confirm the inherent inter-dependency of nature conservation with the recognition and respect for the traditional governance of ICCs/IPs.

Further, it was found that many of the Sacred, Sanctuary, and Collectively-Managed Forests of ICCs/IPs share areas with the “Core Zones” or “Strict

³² Analysis was conducted by the Philippine Association for Intercultural Development (PAFID) using data from the DENR-BMB and data on CADTs/CALTs from the NCIP.

Protected Zones” of PAs,³³ where State policy declares no activities should take place. These are the same areas/places that are of most importance to ICCs/IPs as they sustain culture and in many instances, their livelihoods. It is in these areas/places that conflicts in State and customary law have historically emerged, are expected to persist, or may potentially emerge.

Why the need for the ENIPAS? Since the NIPAS Act took effect, 113 (out of 240) protected areas have been declared through presidential proclamations. However, the NIPAS Act only protects 13 areas through legislation out of the numerous key biodiversity areas across the Philippines including open seas, coastal areas, wetlands, and tropical forests.

The Philippines is one of the megadiverse countries in the world, being 25th among countries with the highest number of bird, mammal, reptile, amphibian, and vascular plant species.³⁴ Being a country that is both a hotspot and a megadiverse nation, Conservation International stated that the Philippines is placed among the top priority hotspots for global conservation.³⁵ Despite this, the Philippines is also among the top ten most threatened forest hotspots in the world.³⁶

The safeguards regarded under the NIPAS Act have proved to be inadequate and still many of the country’s natural resources remain beyond the scope of the law’s protections.

Thus, the Philippine Congress enacted the Expanded National Integrated Protected Areas System (ENIPAS) Act in 2018, to identify 97 more protected areas. Its enactment created the legal mechanism to protect these identified critical areas and prevent biodiversity loss, and to mandate the creation of a Protected Area Management Plan, executed by a Protected Area Management Board composed of local government units, environmental officials, indigenous peoples’ representatives, academe, and civil society. Moreover, the expanded system shall recognize conservation areas and the management regimes being implemented by local government units (LGUs), local communities and indigenous peoples (IPs).

³³ Referred to as “Strict Nature Reserve” in the NIPAS as amended by the ENIPAS and is defined as “an area possessing some outstanding ecosystem, features, and species of flora and fauna of national scientific importance that should be maintained to protect and preserve nature in its undisturbed state and to preserve ecologically representative examples of the natural environment to ensure their availability for scientific study, environmental monitoring, education, and for maintenance of genetic resources in a dynamic and evolutionary state” per ENIPAS, §3(jj).

³⁴ Panela, S., *The Philippines: where ‘megadiversity’ meets mega deforestation*, available at <https://news.mongabay.com/2014/07/the-philippines-where-megadiversity-meets-mega-deforestation/>, 2014.

³⁵ *Id.*

³⁶ *Id.*

Key Provisions of the ENIPAS

Protected Areas as defined by the ENIPAS are:

Identified portions of land and/or water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protect against destructive human exploitation.³⁷

This is in consonance with the global definition for PAs as set forth by the IUCN:

A protected area is a clearly defined geographical space, recognized, dedicated, and managed, through legal or other effective means, to achieve the long term conservation of nature with associated ecosystem services and cultural values.³⁸

Prior to the enactment of the ENIPAS, there were 240 PAs covering 5.45 million hectares nationwide governed through the NIPAS. The PA estate is equivalent to 14.2 percent of the total territory of the Philippines, of which, 4.07 million hectares are terrestrial (13.57 percent of the terrestrial area of the country) while 1.38 million hectares are marine (0.63 percent of the marine area of the country). This covers 26 percent of the total forest cover of the country.

Process of enactment of new Protected Areas. Upon the enactment of the ENIPAS, a process for the establishment of an additional 94 PAs has been set forth. Per the ENIPAS, Suitability Assessments³⁹ shall be conducted by the DENR in coordination with government agencies and stakeholders to determine the area covered by the aforesaid 94 PAs. Said Suitability Assessment shall include the following:

- a protected area occupants survey;
- an ethnographic study;
- a protected area resource profile;
- land and water use plans; and,
- other background studies.

Public consultations⁴⁰ shall also be held to ascertain the social acceptability of the establishment of PAs among local government units (LGUs), national government agencies concerned, People's Organizations (POs), Non-Government Organizations (NGOs), and other important stakeholders.

³⁷ ENIPAS, §3(bb).

³⁸ IUCN, 2008.

³⁹ ENIPAS, §4(c).

⁴⁰ *Id.*, §4(d).

Based on recommendations gathered during public consultations, the DENR shall prepare recommendations to the President for the issuance of a Proclamation establishing the proposed PA and for transmittal to the Senate and the House of Representatives for legislative action.⁴¹

The “Suitability Assessment” should be conducted with due recognition of Section 58 of the IPRA on environmental considerations:

“Ancestral Domains or portions thereof, which are found to be necessary for critical watersheds, mangroves, wildlife sanctuaries, wilderness, protected areas, forest cover, or reforestation as determined by appropriate agencies with the full participation of the ICCs/IPs concerned shall be maintained, managed, and developed for such purposes. The ICCs/IPs concerned shall be given the responsibility to maintain, develop, protect, and conserve such areas with the full and effective assistance of government agencies⁴²”

Hence, it is therefore crucial that the meaningful participation of ICCs/IPs and the NCIP is ensured in the Suitability Assessment as well as the public consultations to be conducted.

Key provisions on recognition and respect of traditional governance of ICCs/IPs. Now nearly three decades later, after the enactment of the NIPAS, the contribution of ICCs/IPs to conservation and biodiversity breathes in more life into the country’s constitutional and legal mandate with the passage of the ENIPAS or Republic Act 11308 of 2018, by recognizing and respecting management regimes of IPs.

ENIPAS in a Nutshell

The ENIPAS was enacted in July 2018, strengthening NIPAS and expanding its scope by adding 94 protected areas throughout the country. It also pushes the policy recognizing the common ecological values of the identified areas which may be incorporated into a holistic plan to conserve and protect natural heritage. It created a Protected Area Management Office (PAMO), the qualifications and disqualifications of its members, and its powers and functions. It is worth noting that the Office for each protected area comes with the appointment of a Protected Area Superintendent and regular staff with planitilla positions. The Act also provides for an exhaustive list of prohibited acts and its corresponding penalties to violators. While these mechanisms are in place, it is commendable to note that the ENIPAS nevertheless guarantees that any interpretation of the law will not diminish the rights accorded to indigenous peoples under the Indigenous Peoples’ Rights Act (IPRA), and recognizes the governance rights vested in indigenous peoples within their ancestral domains, and pursuant to their customary rights and processes, including the recognition of Indigenous Community Conserved Areas (ICCAs).

⁴¹ *Id.*, §4(e-f).

⁴² IPRA, §58

Several progressive provisions have been enacted in the ENIPAS on the recognition of the traditional governance of ICCs/IPs over their ADs/ALs when they share common areas with PAs. At the very fundamental principles of the law, Section 2 on the Declaration of Policy of the ENIPAS states:

“The System shall recognize conservation areas and management regimes being implemented by LGUs, local communities and Indigenous Cultural Communities.”⁴³

This is strongly affirmed in Section 13 on Ancestral Domains and Customary Rights:

“Ancestral domains and customary rights shall be accorded due recognition.

*As part of heritage preservation and pursuant to the need to conserve biologically significant area, **the territories occupied and conserved for and by IPs and local communities shall be recognized, respected, developed, and promoted.***

*The ICCs and IPs concerned shall have the responsibility to **GOVERN, maintain, develop, protect such areas in accordance with their indigenous knowledge systems and practices (IKSP)⁴⁴ and customary law**, with the full and effective assistance from the NCIP, DENR, and other concerned Government Agencies.⁴⁵” (emphasis supplied)*

Various mechanisms have been mandated by the ENIPAS to ensure the implementation of key provisions on the recognition and respect of traditional governance of ICCs/IPs over their ADs/ALs when they share common areas with PAs. Paragraph 4 of Section 13 stipulates:

“A mechanism for coordination and complementation between the indigenous traditional leadership and governance structures and the NCIP, DENR, government agencies, concerned LGUs and civil society organizations shall be created.”⁴⁶

⁴³ ENIPAS, §2, Par. 3.

⁴⁴ Indigenous Knowledge Systems and Practices

⁴⁵ ENIPAS, §13, Par. 1-3.

⁴⁶ *Id.*, §13, Par. 4.

As well, Section 9 on the Management Plan of the PAMB states

*“Within one year from the establishment of a Protected Area, there shall be a Management Plan formulated... **the Plan shall be harmonized with the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) required under RA 8371 or the IPRA.**”⁴⁷ (emphasis supplied)*

Finally, Section 29, provides a guarantee that:

“Nothing in this act shall be construed as a diminution of local autonomy or in derogation of ancestral domain rights under RA 8371 or the IPRA.”⁴⁸

Stance of Indigenous Peoples on the ENIPAS IRR

On 25 March 2019, a National Orientation on the ENIPAS was organized by the Philippine Indigenous Community Conserved Areas Consortium (Philippine ICCA Consortium) to inform leaders of ICCs and CSOs nationwide on key provisions of the ENIPAS as well as to gather their inputs for consideration in the formulation of the Implementing Rules and Regulations (IRR) of the law. On the next day, inputs of the IP leaders were presented to the DENR with the presence of Executive Director Rogelio Bantayan of the NCIP. The inputs of the ICCs/IPs are as follows:

- The ENIPAS IRR should not reduce self-determination of ICCs/IPs as stated in the IPRA, in that native titles of ICCs/IPs must be recognized regardless if the State has been able to issue CADTs/CALTs;
- Indigenous governance, land ownership patterns and sustainable traditional resource rights should be recognized, respected, protected, promoted, and remain central to formulating and implementing policies and programs on biodiversity conservation within ADs/ALs;
- Indigenous governance and customary law shall prevail where ADs/ALs share boundaries with PAs, and that indigenous political structures and customary decision-making, conflict resolution and traditional justice systems should be recognized and adopted, and that delineation of zones should be a joint undertaking of ICCs/IPs, the DENR, and others stakeholders;

⁴⁷*Id.*, §9, Par. 3

⁴⁸*Id.*, §29.

- ADSDPPs should prevail over management plans in ancestral domains sharing boundaries with PAs, and shall form part of the Protected Area Management Plan (PAMP) and thus be allocated resources for the implementation thereof;
- Voices of IPs should be meaningfully and well-represented in the PAMB with at least one to three representatives **per ICC affected** by PA/s selected through legitimate and recognized processes per their customary governance systems;
- Enforcement of environment and natural resources laws within ADs affected by PAs such as through *Bantay Gubat* and other programs should be solely deputized to ICCs/IPs in due recognition of their right to govern their traditional territories; and,
- Technical assistance from DENR should be provided only if beneficial and meaningful to ICCs/IPs with the guarantee that their IKSPs should be recognized, respected and acknowledged, and should follow modes of support that they identified and approved.

These recommendations were articulated in a statement here attached as Annex A that was delivered during the 26 March 2019 dialogue and formally transmitted letter to the DENR-BMB. The letter was duly acknowledged by the DENR-BMB saying that these shall be “*seriously considered.*”

However, despite recommendations provided by the ICCs/IPs, the DENR, through Department Administrative Order 2019-05, formulated and issued an IRR on 30 May 2019 that disregarded recommendations made by the ICCs/IPs and goes contrary to the spirit of its mother law, the ENIPAS and the IPRA.⁴⁹

The Implementing Rules and Regulations of the ENIPAS and its Contentious Provisions

Issues with the ENIPAS IRR were raised during the 3rd ICCA Conference on 8 to 12 July 2019 where the NCIP was likewise represented by Executive Director Rogelio Bantayan. The IP leaders represented therein lamented that certain provisions of the ENIPAS IRR are prejudicial to the interests of ICCs/IPs and altogether disregards recommendations made during the 26 March 2019 dialogue.

Recognition of the traditional governance of ICCs/IPs. The most critical provisions in the IRR that can potentially exacerbate existing conflicts between the traditional governance of IPs and actions taken by PAMBs are provisions in Section 13 of the ENIPAS IRR. Existing provisions in the IPRA, NIPAS, and ENIPAS are compared with contentious provisions in Section 13 of the ENIPAS IRR as well as inconsistencies with the IPRA and its implications to the rights of ICCs/IPs are laid out in the Table 2.

⁴⁹ DENR Administrative Order No. 201905

Table 2: Legal Critique on Section 13 of the ENIPAS IRR

| Existing provisions in law | Contentious provisions in the ENIPAS IRR | Inconsistencies with IPRA | Implications |
|---|--|---|--|
| <p>The IPRA and NIPAS as amended by the ENIPAS guarantee recognition of IPs' traditional territories and their governance over AD areas affected by PAs in recognition of their de facto presence since time immemorial by virtue of native title (Section 13 of the ENIPAS law).</p> | <p><i>ENIPAS IRR Section 13.1. The ancestral territories covered by CADT and CALT that share common areas with protected areas, shall be recognized and respected.</i></p> <p>This implies that ADs without CADT/ CALT shall not be recognized and respected if it shares common areas with PAs.</p> | <p>State recognition of Native Title under Section 11 of the IPRA is effectively negated by this provision. Such recognition is mandatory with or without a CADT because a CADT is only a formality when solicited based on Native Title. Above all, the substantive law, the ENIPAS did not require for a formal AD title, whether CADT or CALT. To require it in the IRR negates the spirit and intent of the law recognizing the IPRA and its guarantees of non-diminution and non-derogation.</p> <p>Section 58 also guarantees that ADs which overlap with PAs shall be maintained by the ICCs along with the active participation of government agencies concerned regardless if they are in possession of CADT/CALT.</p> | <p>This disenfranchises their right to exercise traditional governance over their territories and may serve as basis for the State through the PAMB to displace ICCs from their traditional territories and/or to criminalize their existing access and use of resources within areas affected by PAs.</p> |
| | <p><i>ENIPAS IRR Section 13.2. The ICCs/IPs concerned shall govern, maintain, develop, protect, and conserve</i></p> | <p>Objections in this provision is similar to those above.</p> <p>The option for co-management</p> | |

| Existing provisions in law | Contentious provisions in the ENIPAS IRR | Inconsistencies with IPRA | Implications |
|----------------------------|---|---|--------------|
| | <p><i>ancestral territories covered by CADT/ CALT, that share common areas with protected areas, in accordance with their ADSDPP or Community Conservation Plan (CCP), except upon submission to the DENR of written notice of their intent to co-manage with or relinquish management to the PAMB.</i></p> | <p>should come from the DENR, and not from IPs because the right to manage is conferred by law with the ICCs/IPs (Section 13 of the ENIPAS).</p> <p>This goes against Section 58 of the IPRA which states that any transfer of authority must be:</p> <ol style="list-style-type: none"> (1) determined by the appropriate agencies with the full participation of concerned ICCs/IPs; (2) in accordance with customary laws; (3) without prejudice to exercising Free, Prior, Informed Consent (FPIC); (4) emphasizing that such transfer must be temporary and shall ultimately revert back to ICCs/IPs in accordance with a program of technology transfer; and, (5) ensuring that no displacement or relocation of ICCs/IPs shall take place. | |

To address contentious provisions in the ENIPAS IRR, particularly in Section 13, prior to formulation of management plans and establishment of governance mechanisms pursuant of the operation of a protected area, DENR-BMB should verify with the NCIP if pending AD claims share common areas with any of the PAs. If there are none, a field-based investigation shall nevertheless be conducted by the NCIP.

Provisions on Land Use. Two contentious provisions on land use in the ENIPAS IRR have been identified in the context of ADs/ALs sharing common areas with PAs.

Per Section 3 on Definition of terms, paragraph m of ENIPAS IRR, a Special Use Agreement in Protected Areas (SAPA) refers to:

A binding instrument between the DENR, as the first party, and the project proponent as the second party, in relation to the use and/or development of land, resources or facilities within protected areas, pursuant to the NIPAS Act, as amended.

In addition, paragraph m of Rule 10 on Administration and Management of the System provides that:

“Within the limits allowed by existing laws, rules, and regulations, ensure that settlement areas inside the protected area shall not be expanded and that coverage shall only be limited to the original areas occupied by tenured migrants and indigenous communities.”

These provisions must be qualified in the context of ADs/ALs sharing common areas with PAs as ADs/ALs are private community property of the ICCs/IPs and hence are not part of the public domain. Hence, with or without CADT/CALT, DENR has no jurisdiction to determine the “*use and/or development of the land*” within ADs/ALs. Their jurisdiction only applies to resource use, ecological, and environmental regulations of lands within ADs/ALs.

In all instances, especially the issuance of Special Use Agreement in Protected Area (SAPA) and all development interventions within ADs/ALs, FPIC process must be facilitated by NCIP in accordance with its rules.

The Protected Area Management Board (PAMB). Finally, the composition of the PAMB per the ENIPAS IRR may potentially prevent ICCs/IPs to effectively participate in the governance of their ADs affected by PAs as an overwhelming majority of the members shall be heads of regional agencies and local government officials as well as representatives from the private sector while ICCs/IPs are only provided one to three representatives.⁵⁰ This is especially prejudicial to the rightful representation due ICCs/IPs as many PAs largely overlap with traditional territories with some up to 100 percent of total area of the PA. The limited representation afforded ICCs/IPs also disregards the cultural diversity among IPs as many PAs have more than one and up to five ICCs affected in a single PA.

⁵⁰ ENIPAS IRR, §11.

In addition, the NCIP is not part of the list of mandated agencies that should be part of the PAMB. For certain cases, the NCIP should assert that it serve as co-convenor for activities, particularly, consultations where ICCs/IPs are among the major stakeholders.

Recommendations

Given these issues, IP leaders of BUKLURAN have called for action to address these contentious provisions in the ENIPAS IRR. To which end, the BUKLURAN requested assistance from the CSO Technical Working Group—a group of CSOs united in the pursuit of inclusive conservation through defending the rights and ensuring the meaningful participation of ICCs/IPs in the conservation of biodiversity—to pursue action to address issues with the ENIPAS IRR.

Arising hence, the CSO Technical Working Group recommend the following courses of action to be pursued on the ENIPAS IRR:

- immediately convene an ENIPAS IRR Review Team composed of officials of the NCIP and CSO representatives to review the ENIPAS IRR and to set forth further courses of action;
- for the ENIPAS IRR Review Team to present their findings to the NCIP En Banc; and,
- for the NCIP En Banc to issue a Notice to Suspend the implementation of the IRR of the ENIPAS subject to a NCIP-DENR conference on the ENIPAS with representation from concerned ICCs/IPs;

In the interim, the following may be considered by the NCIP:

- inform NCIP local officers that there is an effort by the Commission to engage the DENR on the matter;
- task NCIP local officers to relay to ICCs that the matter has reached the attention of the NCIP En Banc and are advised to communicate the matter to their counterparts in the DENR; and,
- engage ICCs to submit letters to the Office of the NCIP Executive Director substantiating their issues with the ENIPAS.

Further, the following action agenda are recommended:

- determine the effect of section 52i of the IPRA invoked by former Chairperson Leonor Oralde-Quintayo in a letter to the Secretary of the DENR dated 24 November 2017 terminating the Jurisdiction of the DENR over ADs. The relevance of this is that the DENR has been notified prior the passage of the ENIPAS and the formulation of its IRR;
- enjoin Congress to activate the Joint Congressional Oversight Committee on the ENIPAS to review the IRR and to recommend remedies to ensure that the ENIPAS is implemented in accordance with the intent of its passage; and,
- as part of its mandate per the IPRA, fast-track the issuance of CADTs/ CALTs as well as the formulation, approval and adoption of ADSDPPs to enable ICCs/IPs to have legally-recognized documentation for their ADs as well as the necessary tools to competently exercise self-governance and to effectively participate in the PAMB.

Conclusion

The writers wish to commend the NCIP under the current leadership of Chairperson Allen Capuyan who decisively and with unprecedented determination pursued actions herein recommended. We look forward to a productive partnership with the NCIP towards effectively protecting and promoting the rights of ICCs/IPs as enshrined and guaranteed in the IPRA and the ENIPAS.

As actions are taken to review the ENIPAS IRR, the ICCs/IPs remain at the forefront of the conservation of biodiversity. Many ICCs/IPs have come forward and manifested their struggle to have the State recognize their rights to self-determination over their ADs as affected by PAs. We particularly wish to bear witness to the concerns of the ICCs/IPs who have come forward and actively engaged the writers' group and the NCIP on the effect of the implementation of ENIPAS to their respective communities:

- T'boli-Ubo communities affected by the Allah Valley Watershed Forest Reserve in South Cotabato;
- Buhid and Bangon Mangyan communities affected by Mts. Iglit-Baco Nature Park in Mindoro Island;
- Manobo communities affected by the proposed Tinuy-An Waterfalls Nature Park in Surigao del Sur;

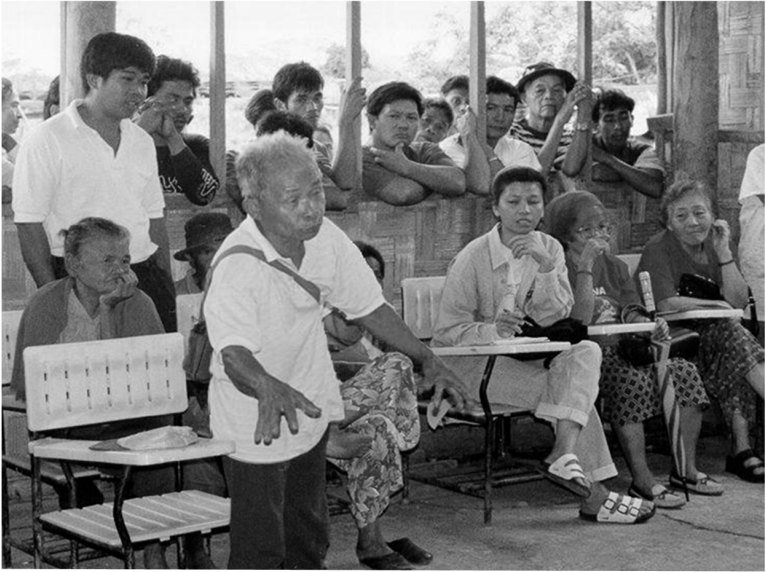
- Talaandig and Manobo communities affected by the Mt. Kalatungan Range Natural Park in Bukidnon;
- Ayta communities affected by the Mariveles Watershed Forest Reserve and Bataan National Park in Bataan;
- Egongot and Alta communities affected by the Casecnan Protected Landscape, Dipaculao Watershed Forest Reserve and the Aurora Memorial Natural Park in the province of Aurora; and,
- Obo-Menuvu and Bagobo-Klata communities affected by Mt. Apo National Park in various Provinces in the Davao Region and North Cotabato.

Despite the passage of progressive laws and the growing global recognition on the critical role that ICCs/IPs play in protecting and conserving the very systems that enable life, certain elements of the State, locally and globally, still desire to lay exclusive claim to exercise mandates to do what is already effectively being done by ICCs/IPs. And though this is a welcome initiative, it must be informed that ICCs/IPs have already effectively practiced this mandate since time immemorial, before the State recognized such mandate, and before the State as it is now even existed. To imagine displacing, let alone replacing the traditional governance of ICCs/IPs that sustained the biodiversity that still remains is as unimaginable as it is unwise. And it is in this context that ICCs/IPs call for respect, not only emanating from their rights, but moreover, respect for their voluntary actions to continue protecting the rights of everyone to a clean and healthy environment today and for generations to come. □

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Annex A:

Indigenous Peoples' Declaration on Respect and Recognition of Traditional Governance in Ancestral Domains Affected by Protected Areas

We, Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) who have, since time immemorial, through our customary laws and traditional governance systems, conserved and protected our nation's natural resources and biodiversity, and acknowledging the growing recognition of our role as indigenous peoples in the protected area estate, declare our position that key provisions pertaining to the recognition of ancestral domains and respect for customary rights and traditional governance of indigenous peoples in the recently enacted Expanded National Integrated Protected Areas System (ENIPAS), must be upheld.

The Philippine Indigenous Peoples' Community Conserved Territories and Areas Consortium (Philippine ICCA Consortium) or BUKLURAN (Bukluran ng mga Katutubo para sa Pangangalaga ng Kalikasan ng Pilipinas)⁵¹ has convened ICCs/IPs whose ancestral domains interface with Protected Areas on the 26th of March 2019 to engage in dialogue with the Department of Environment and Natural Resources (DENR) on the IRR of the ENIPAS together with civil society organizations⁵² and intergovernmental agencies, led by the Biodiversity Management Bureau (BMB) of the DENR, and UNDP-Philippines. These ICCs/IPs and their support groups have, in recent years, identified and mapped more than 128,000 hectares of Indigenous Peoples Community-Conserved Areas (ICCAs) thereby strengthening the country's commitments under the United Nations Convention on Biological Diversity (UNCBD) Aichi Targets and the Program of Work on Protected Areas (PoWPA). Through ICCAs, what were once opposing forces between the indigenous peoples communities and formal parks are in harmony. We seek the sustenance of such harmony.

Aware that the 1987 Philippine Constitution provides at least six⁵³ provisions that brought national recognition and respect of our rights as indigenous peoples, and also stipulated in four (4) bundles of rights⁵⁴ under the Indigenous Peoples Rights Act (IPRA), particularly encouraging support on our responsibility to conserve areas critical for watersheds and wildlife sanctuaries.⁵⁵

⁵¹ Bukluran has been formed from different ethnographic regions nationwide to identify, map and conserve traditionally protected land and seascapes

⁵² Philippine Association for Intercultural Development (PAFID), Non-Timber Forest Products Exchange Program (NTFP-EP), Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC), Alternative Law Groups (ALG), Forest Foundation Philippines, Foundation for Philippine Environment (FPE), and Legal Rights and Natural Resources Center/Kasama sa Kalikasan/Friends of the Earth Philippines (LRC/KSK/FOE-P).

⁵³ Art II, sec. 22; Art VI, sec. 5, par.2; Art XII, sec. 5; Art XIII, sec. 6; Art XIV, sec. 17; Art XVI, sec 12

⁵⁴ Right to ancestral domain; Right to selfgovernance and empowerment; Right to Social Justice and Human Rights; and, Right to Cultural Integrity. IPRA

⁵⁵ Sec. 58, RA 8371 or IPRA.

Recalling that the Philippines is signatory to international treaties, conventions and accords that put global recognition and imperative to promote and protect Philippine indigenous peoples rights to self-determined development, including the Paris Climate Change Agreement of 2017,⁵⁶ the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)⁵⁷ of 1997, the UN Convention on Biological Diversity (UNCBD)⁵⁸ of 1991, the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁵⁹ and the International Covenant on Civil and Political Rights (ICCPR),⁶⁰ both, of 1976.

Recalling further that the International Union for the Conservation of Nature (IUCN) World Parks Congress of 2003⁶¹ and 2014⁶² respectively acknowledged the depth of indigenous peoples' contribution to the existence of parks including indigenous peoples' skills and roles in conservation of environment, and that such roles have been affirmed by reports from international institutions including a World Bank Independent Review,⁶³ the UN CBD Outlook Report,⁶⁴ and a book published by the Center for International Forestry and Research (CIFOR).⁶⁵

Now nearly three decades later, indigenous peoples continue to breathe in life into the country's constitutional and legal mandate with ENIPAS providing the latest law in furtherance of recognition and respect for indigenous peoples' management regimes;⁶⁶

⁵⁶ Paris Accord. Art 7, Par. 5. "take into consideration the knowledge of indigenous peoples in environmental policies where appropriate.." UNFCCC 2017.

⁵⁷ Section 12, 25 and 29, UNDRIP, provides IP right to the "conservation and protection of the environment and exhorts States to implement assistance programs for such conservation and protection." UNFPII. 1997.

⁵⁸ Article 8 (j) and Article 10 (c) direct parties to the Convention to respect and support traditional lifestyles and promote the desirability of sharing of benefits arising from use of traditional knowledge, innovations and practices relevant for biodiversity conservation.

⁵⁹ Art 1, ICESCR, states "all peoples to self-determination. By virtue of that right, they freely determine their own political status and freely pursue their economic, social and cultural development." UN General Assembly, Jan. 3, 1976.

⁶⁰ Art. 1 ICCPR also states, the same provision as Art 1, ICESCR that "all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. UN General Assembly, March 23, 1976.

⁶¹ Durban Accord. IUCN World Parks Congress "acknowledged that Indigenous Peoples contributed much to the existence of Parks." The Accord called for guarantees in the "recognition of the rights and role of indigenous peoples in environmental conservation" and reminded the world that "in governing Parks and Protected Areas, it must ensure that the rights and interests of indigenous peoples to their ancestral domains be recognized and protected." South Africa, 2003.

⁶² Promise of Sydney. IUCN World Parks Congress said that in order to maximize capacity development in the next decades, it necessitates "state of the art knowledge, skills and best practices to effectively manage and equitably govern all types of protected areas, **including territories governed by indigenous peoples and local communities.**" IUCN-WPC. Sydney, 2014.

⁶³ Nelson and Chomitz, "traditional resource management are more effective in protecting the forests than strict government protection alone." World Bank Independent Review, Washington D.C 2009.

⁶⁴ Secretariat, UNCBD. "Across the world, levels of protection are actually higher under indigenous conservation than under government management alone." UN CBD Outlook Report, Montreal, 2010.

⁶⁵ Guarigata, Manuel R. Forest Ecology and Management: "Levels of forest destruction are higher in areas that have been declared as strict protection parks by the Government compared to traditionally protected areas. CIFOR, 2011.

⁶⁶ Sec. 2, Par. 3; Sec. 9, Par 3; and, Sec. 13, Par 1, ENIPAS.

In view of the above, we hereby state our position on key provisions of ENIPAS for consideration in the law's Implementing Rules and Regulation (IRR):

1. Where Protected Areas interface with ancestral domains, recognition of "conservation areas and the management regimes," **shall mean that traditional governance and customary law prevail.**

Thus, Paragraph 3, Article 2 on Declaration of Policy states: "...*The system shall recognize conservation areas and the management regimes being implemented by LGUs, local communities and Indigenous Peoples (IPs).*"

Further, Paragraph 4, Article 2 on Declaration of Policy asserts that: "*The State shall ensure the full implementation of this Act, the mobilization of resources for the institutional mechanisms herein established, and the full scientific and technical support needed for the conservation of biodiversity and integrity of the ecosystems, culture, and indigenous practices.*"

It is our view that "full and scientific and technical support needed for the conservation of biodiversity" mean that the technical assistance from DENR's Biodiversity Management Bureau (BMB) is beneficial to ICCs/IPs when indigenous knowledge, systems and practices are recognized and acknowledged. Assistance may include appropriate training programs, seminars information, education, communication planning workshops, inventory of flora and fauna, and protection of natural resources within ancestral domains.

2. Where ADSDPPs are harmonized with other plans, indigenous peoples' consent processes shall be undertaken, with full and effective participation of the concerned IPs/ICCs. Thus, Paragraph 3, Section 9 on Management Plan states: "*The plan shall be harmonized with the ADSDPP required under RA 8371, the respective CLUPs of local governments required under RA 7160 or the Local Government Code of 1991 and other local plans.*"

As a rule, a harmonizing team composed of representatives of the following agencies, shall be formed:

- One (1) representative per tribe or clan or depending on the geographical area of the IPs/ICCs;

- One (1) representative from the Mayor's office: Municipal Planning and Development Coordinator (MPDC);
- Two (2) representatives from DENR: City Environment and Natural Resources Officer (CENRO) & Provincial Environment and Natural Resources Officer (PENRO);
- One (1) representative from NCIP: Indigenous Peoples Mandatory Representative or IPMR (provincial, municipal, or barangay, depending on number of barangays);
- One (1) representative from the Department of Education (DepEd), on IPED to teach children about IP plans and raise awareness among children; and,
- Two (2) representatives from civil society or community organization: 1 each from an NGO/Church

3. Where indigenous ways of conserving lands are used by indigenous peoples as sacred sites, burial grounds, hunting grounds, critical watersheds, caves, sanctuaries, and harvesting/production areas, provincial, municipal and barangay units shall pass ordinances declaring support and protection of such areas as heritage sites and biologically significant areas.

Thus, Paragraph 1, Section 13 on recognition of Ancestral Domains and Customary Rights states that: *“As part of heritage preservation and pursuant to the need to conserve biologically significant areas, the territories and areas occupied and conserved for and by IPs and community shall be recognized, respected, developed, and promoted.”*

To implement the above, support programs for customary rights of IPs/ICCs shall include:

- Deputization of IP community-based coast guards and forest guards at each entry and exit point in Ancestral Domains, complete with necessary equipment like patrol boats in the case of ancestral waters and motor vehicles in the case of protected landscapes;
- Establishment of native tree species nurseries in all ancestral domains for forest rehabilitation and reforestation purposes;
- Establishment of Schools of Living Traditions (SLTs) in ancestral domains to serve as a strategy to preserve traditional governance and mastery of indigenous peoples in conservation as a national treasure and to propagate

ethnic memory and indigenous knowledge in pursuit of heritage preservation and integrity of ecosystems; and,

- Delineation and demarcation survey of ancestral domains shall be done jointly by the National Commission on Indigenous Peoples (NCIP), DENR, and ICCs/IPs.

We call for the adoption of the above in the ENIPAS IRR given that ancestral domains and indigenous peoples community conserved areas (ICCAs) found therein are a key strategy now embedded in the National Protected Area (PA) System Master Plan, and:

- Recognition of ICCAs improves PA management effectiveness, if done within confines of PAs. ICCA effectiveness as conservation measures is comparable, if not superior to formal PAs, due to the innate relationships of IP communities with their resources;
- Since ICCAs are considered Other Effective area-based Conservation Measures (OECMs) in the PA System, the National PA Master Plan will greatly accelerate conservation coverage, strengthen connectivity between formal PAs and IPs/ICCAs; and,
- Adoption will attract international organizations and groups involved in strengthening and diversifying governance to share their experiences and contribute in strengthening the Registry of the United Nations Environment Program-World Conservation Monitoring Centre (UNEP-WCMC) to include ICCAs.

This declaration is an Outcome Document following three subnational consultations held 20-24 August 2018 for Luzon (Subic), 27-31 August 2018 for Mindanao (Davao) and 22-26 October 2018 for the Island Group (Palawan). These subnational consultations culminated in the Bukluran General Assembly last 20 November 2018. Furthermore, this reiterates proposed rules by the BUKLURAN for adoption and sent earlier to the DENR-BMB last 03 December 2018 and the Manila Declaration on ICCAs.⁶⁷

It is our hope that our position be adopted in the final formulation of the ENIPAS IRR as we pursue the nation's interest in protecting and conserving our remaining natural resources and biodiversity.

Quezon City, Philippines
26 March 2019

⁶⁷ Adopted during the 1st National Conference on Indigenous Peoples Community Conserved Areas that provide guidelines on the role of Government, Non-Government Organizations and Indigenous Peoples Organization on biodiversity conservation. National College of Public Administration – UP Diliman, 20 March 2012.



The Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) is a regional association of national and regional networks of civil society organizations (CSOs) in Asia actively engaged in promoting food sovereignty, land rights and agrarian reform, sustainable agriculture, participatory governance, and rural development.

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The formation of Bukluran ng mga Katutubo para sa Pangangalaga ng Kalikasan ng Pilipinas (BUKLURAN, Inc.) or the Philippine Indigenous Peoples Community Conserved Territories and Areas Consortium (Philippine ICCA Consortium) is a nationwide network of community membership-based indigenous people's organizations (IPOs) of all ethnographic types. It is premised on bringing together indigenous peoples who assert and utilize traditional governance to protect community-conserved areas. Common to its members is the shared view that indigenous peoples' survival depends on the protection of valuable knowledge systems and the ancestral lands on which we thrive and persist. Our community-conserved areas can become the ultimate driving force in the conservation of biodiversity when our rights to our land and resources are respected and recognized.

Our main purpose is to carry out and realize the full recognition and respect for the rights, governance and self-management of our ancestral lands.

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Philippine Association For Intercultural Development, Inc. (PAFID) is a social development organization which has been assisting Philippine indigenous communities to secure or recover traditional lands and waters since 1967. It forms institutional partnerships with indigenous communities to secure legal ownership over ancestral domains and to shape government policy over indigenous peoples' issues. PAFID works exclusively with the indigenous peoples' sector, specifically upon written or signed requests for assistance from indigenous communities or their representatives. PAFID envisions indigenous communities as responsible stewards of their resources.

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Founded in 2002, under two bilateral agreements between the governments of the United States of America and the Philippines, the Forest Foundation Philippines is a nonprofit organization that provides grants to organizations that empower the people to protect the forests.

Since its inception, the Forest Foundation Philippines has supported over 450 projects that improved the management of approximately 1.5 million hectares of forest lands, restored approximately 4,200 hectares of forests by reintroducing appropriate native species, established over 40 community-conserved areas, and built more than 60 community enterprises.

Guided by the Forest Foundation Philippines Program Plan 2017–2021, the Foundation has allocated PHP 480 million to protect the country's most critical forest landscapes: Sierra Madre, Palawan, Samar and Leyte, Bukidnon, and Misamis Oriental.

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