

The Rights of Indigenous Peoples (IPs) in Bukidnon and the Indigenous Peoples' Rights Act (IPRA)

INDIGENOUS PEOPLES IN THE COUNTRY

There are an estimated 12 to 15 million indigenous peoples (IPs) in the Philippines¹, which make up around 10 to 15 percent of the Philippine population in 2009. Philippine IPs are distributed among 110 ethno-linguistic groups and occupy 65 of the country's 78 provinces. The minority of IPs (61 percent) reside in Mindanao.

As defined by the Indigenous Peoples' Rights Act (IPRA) of 1997, IPs are "a group of people or homogeneous societies identified by self-ascription and ascription by others, who have continually lived as organized communities on community-bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, become historically differentiated from the majority of Filipinos. ICCs/IPs (Indigenous Cultural Communities/indigenous peoples) shall likewise include peoples who are regarded as indigenous on account of their descent from populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present State boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside the ancestral domains (IPRA, Chapter II, Section 3h)."

Every corner and ecosystem in the Philippines has had IP occupants for millenia. Their occupation have predated the colonizers and stewardship has been passed from their ancestors to succeeding generations, thus the term "ancestral" lands. Of the 128 identified key biodiversity areas in the country, 96, or a staggering 75 percent, fall within the boundaries of IP territories.

However, even if IPs consider themselves as designated stewards of their lands, most communities do not have legal recognition over their ancestral domains. Without a legal instrumentality as proof of "ownership", IPs are often branded as squatters on land they have been living in for generations.



They cannot move freely within their land, conduct livelihood activities, and exercise traditional resource management.

IPRA AND THE RIGHTS TO ANCESTRAL DOMAINS AND LANDS OF IPs

Republic Act 8371 or the Indigenous Peoples' Rights Act was enacted in 1997 was a landmark policy reform legislation that in effect recognizes IP "ownership" over their traditional territories. The IPRA went beyond the decades-long practice of contract-based resource management agreements by issuing ownership titles to the indigenous communities.

The IPRA enables IPs to secure proof of ownership in the form of a Certificate of Ancestral Domain Title (CADT) or Certificate of Ancestral Land Title (CALT). These documents legalize ownership of ancestral domains and puts a stop to the spurious claim of State ownership over lands in the public domain.

Ancestral domains are defined as land and water bodies that IPs have traditional access to. This includes residential and agricultural lands, forests, pastures, hunting grounds, and burial areas. Ancestral lands even include areas that even non-IPs occupy, as long as these are part of an area which IPs have traditional access to. Home ranges of nomadic tribes and shifting cultivators are also included in the definition of ancestral domains.

¹ National Commission on Indigenous Peoples (NCIP)

An ancestral domain claim may include terrestrial, coastal and aquatic resources, even airspace – depending on the ability of the ICC to present the required evidence or proof of native claim. Only certified members of the indigenous community, those that are listed on the official survey can have access to the claim.

Ownership instruments take the form of CADTs and CALTs, which are awarded to the community or clan that successfully presented their claim. There are no term limits to the effectivity of these tenurial instruments. Chosen representatives act as holders of the CADT or CALT on behalf of the community.

Four substantive rights of IPs are addressed by the IPRA, to wit: (i) right to ancestral domains and lands, (ii) right to self-governance; (iii) right to cultural integrity; and, (iv) right to social justice and human rights.

The principle of self-determination enshrined in the IPRA recognizes the right of IP communities to document and delineate their own ancestral domain claims. They are also free to formulate their own Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs), based on their indigenous knowledge systems and practices. Under the IPRA, contracts, licenses, concessions, leases and permits within the ancestral domains shall be subject to free and prior informed consent (FPIC) of the IP community, free from any external manipulation, interference or coercion, and in accordance with their respective customary laws and practices.

While the community's right to traditionally manage, control, use, protect and develop their ancestral domains is respected under the IPRA, it is subject to "consistency" with national laws. Governance over the CADT is exercised by the appropriate traditional leadership structure of the IP/ICC. However, these are subject to existing national laws.

THE PROTRACTED STRUGGLE FOR RIGHTS TO ADS

Indigenous communities have made significant headway in the struggle for recognition of IP rights over ancestral domains. They were able to change policies and move for the enactment of favorable legislation. However, serious challenges still remain before tenurial security over ADs can be accomplished.

After more than 20 years of IPRA implementation, about 221 Certificates of Ancestral Domain Titles (CADTs) have been awarded. These titles cover over 5.4 million hectares and represent 18 percent of the country's land area. However, with the continued influx of migrants as well as business interests on ADs, conflicting claims still challenge the integrity of the Native Title. State-sponsored big development projects encroach upon IP lands. Large-scale commercial mining operations threaten all ancestral domains.

In Northern Mindanao, 15 CADTs have been approved as of 2012. Covering a total area of 242,361.53 hectares, these CADTs have benefitted at least 57,210 individuals from various

tribes of the region. However, only four have been registered with the Land Registration Authority (LRA), which means that these four are the only ones considered legitimate by other contending sectors.

In the years since 2013, only five CALTs have been approved in the region, which benefitted at least 2,106 rights-holders. No information is available as to whether any of these CALTs have been registered with the LRA.

The succeeding stories of two IP organizations in Bukidnon province illustrate how the slow-paced processing of CADTs continue to plague the IPs in their quest to redeem their ancestral lands.

THE UPHILL BATTLE TO RECLAIM THE ANCESTRAL LAND OF MANOBO AND TALAANDIG IN MT. KALATUNGAN²

The Manobo and Talaandig tribes of Bukidnon in the Philippines' southern island of Mindanao have always called the Mt. Kalatungan and Mt. Kitanglad mountain ranges their home. These tribes have always lived in peace alongside each other, with their boundaries firmly established through kinship and agreements cemented through rituals and mutual respect for each other's rights to land. But colonialism would change all that, as government ownership appropriated their lands for commercial and other purposes.

Around Mt. Kalatungan, large patches of IP lands became logging concessions and the tribes were driven to hamlets in and around the town centers established by the newcomers. Aside from the dispossession of their lands, forced integration with migrants also resulted to the erosion of their indigenous traditions and practices.

By the 1970s, logging operations slowed down due to lack of trees. In 1975, the Manobo of Bacusanon returned to their homes and proceeded to rebuild their community. Ironically, so as not to be accused of being illegal settlers on their ancestral land, the *barangay* leadership at that time created the *sitio* or hamlet (San Guinto) where the Manobos settled.

Although the Manobo cut trees for building their houses and the like, they implemented a self-imposed moratorium on logging to allow the trees to regenerate. They planted crops instead. While still poor, the Manobo were content because they were back on their ancestral land.

In 1987, the logging company resumed operations under the ruse that they would first rehabilitate the forests. But the sound of chainsaws day and night and the number of trucks hauling logs passing through the *sitio* convinced the Manobos that trees were once again being cut.

Alarmed, the tribe sought the help of the village council, which in turn brought it to provincial officials who decided

² Drawn heavily from Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and Xavier Science Foundation, Inc. (XSF). (2020). Stories of hope from Mt. Kalatungan: The Manobo and Talaandig experience in defending and conserving their ancestral lands. ANGOC and XSF.

Table 1. Ancestral Domain Titles Awarded (as of 2012)

CADT No.	Indigenous Community	No. of Rights holders	Area (hectares)
1. R10-TAL-0703-00110	Talaandig	4,922	11,105.57
2. R10-KIT-0703-0011	Matigsalug-Manobo	24,405	102,324.82
3. R10-QUE-0204-018	Manobo	1,398	1,595.29
4. R10-BAL-1005-036	Higaonon	1,247	14,872.42
5. R10-IMP-1206-054	Higaonon	1,484	14,313.76
6. R10-MLY-0906-049	Bukidnon	1,154	4,536.05
7. R10-MLY-1008-083	Bukidnon	2,867	466.74
8. R10-CLA-1008-084	Higaonon	404	18,028.64
9. R10-ORO-0309-105	Subanen	2360	6,980.00
10. R10-MLY-0309-106	Bukidnon	833	4,203.09
11. R10-IMP-0309-107	Higaonon	237	113.68
12. R10-MLY-0609-110	Bukidnon-Higaonon	8,853	36,464.71
13. R10-CAB-0709-124	Bukidnon Umayamnon	1,483	8,106.13
14. R10-CLA-0709-126	Higa-onon (MAMACILA)	1,977	17,588.28
15. R10-MLY-0110-152	Bukidnon-Pulangiyen	1,586	1,662.35
Total		57,210	242,361.53

Source: De Vera, 2017

that the area was no longer fit for logging and that the company immediately cease its operations.

But the harassment began. After the order was handed down, company guards started harassing the residents. Some men in the village were beaten, bullets were found scattered near the houses, and combat-boot prints were seen around the houses of identified community leaders. When threats did not work, the logging firm resorted to bribes.

One day, the tribal elders got a letter from the Timber Industries of the Philippines, Inc. (TIPI). Written in English, the letter essentially said that if the group did not withdraw its complaint about logging activities, violence would likely escalate. It was a threat, pure and simple.

After meeting with the tribe's members, the elders, accompanied by the parish priest, went to Malaybalay, the province's capital, for an audience with the bishop. The bishop then accompanied the group to Cagayan de Oro City, the regional center, where they handed over the letter to the regional director of the Department of Environment and Natural Resources (DENR). As a result, the DENR enforced its order for the cessation of logging operations in the area.

Still, the Manobo of Bacusanon faced threats to their land. During the time they were driven from their ancestral land by logging activities, settlers were able to move in and claim large portions of it. This was exacerbated by the resettlement efforts of succeeding government administrations, which encouraged people from Luzon and the Visayas to move to Mindanao, starting in the 1950s.

Although the Manobo reclaimed some portions – by purchase, the owners voluntarily giving back the land, or the

land was simply abandoned – a large part of their ancestral domain was forever lost to private individuals and agribusiness companies.

When the IPRA was implemented in 1997, the group formally organized and started the process for a CADT, with support from the Philippine Association for Intercultural Development (PAFID). On 10 October 2001, they formally submitted their papers to the NCIP-Bukidnon provincial office. Their documents were received by NCIP but had not been issued a petition number. Without a petition number, the claim could not be processed since the NCIP could deny that they received NAMAMAYUK's documents.

With the help of church organizations and NGOs, NAMAMAYUK has brought its case to the attention of the NCIP regional and national offices.

The same thing happened when NAMAMAYUK attempted to submit their ancestral domain sustainable development and protection plan (ADSDPP), which they were able to complete with the help of the Xavier Science Foundation, Inc. (XSF), in 2017. When they brought the document to the NCIP provincial office, they were told that there was nobody there to receive it since the staff were attending the seminar.

Table 2. Ancestral Land Titles Awarded

CADT No.	No. of Rights holders	Area (hectares)
1. R10-MLI-0906-000142	55	102.7400
2. R10-MLY-0906-000143	67	257.9450
3. R10-OPO-0709-000225	427	52.0000
4. R10-VAL-0110-000249	1,487	944.5276
5. R10-MAR-0210-000259	70	567.7188
Total	2,106	1,924.9314

Source: De Vera, 2017

They tried to submit a week later but were told that the seminar was for two weeks. They were told to just leave the document, but they did not for fear that it will suffer the same fate as their CADT application, which the NCIP provincial office claims was not filed because there was no petition number.

In a recent radio interview (January 2021), the new NCIP Community Service Center (CSC) Head for the municipality of Talakag said that NAMAMAYUK's claim papers are already at the provincial level and that some requirements are still pending for the tribe's submission. He also stated that the NCIP will be conducting a delineation and titling activity this February 2021 (Demit, 2021).

PORTULIN TALAANDIG IN THE SAME BOAT

While the Portulin Talaandig Tribal Association's (PTTA) ancestral domain claim status is no less different, the means by which they reclaimed their land is a different story.

Unlike the Manobo, the Talaandig of Portulin and surrounding *barangays* had the advantage of having firearms, as they were conscripted during the Marcos administration as Civilian Armed Forces Geographical Units (CAFGU) to fight the Communist New People's Army guerillas operating in Mt. Kalatungan.

One of their notable commanders was the tribe's leader, who used this advantage to drive away outsiders from their land. However, the *datu* exercised benevolence when he allowed settlers to retain five hectares of land as long as they gave up their other claims. But he is not as accommodating to abuses, such as the time when the son of the mayor built a climbers' lodge using timber gathered from the forest, without asking for the tribe's permission. The PTTA appropriated it for the use of the climbers since, technically, it is on their land and is theirs.

The PTTA was organized in 1998, also in preparation for their ancestral domain claim under the IPRA. Even if they do not

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"officially" own their land, PTTA can take consolation in the fact that they have control over it. They claim that even the DENR, which oversees all public lands, cannot come into the area without the tribe's permission. While this may be true to some extent, not having "official" ownership status means that threats are more imminent.

In the same radio interview conducted last January 2021, the new NCIP CSC Head informed that his office will conduct an information and education campaign in Portulin to discuss with PTTA if whether other documents that need to be submitted. (Demit, 2021).

ENTER IRR OF ENIPAS

Enacted on 22 June 2018, the Republic Act 11038 or the Expanded National Integrated Protected Areas System (ENIPAS) which reinforces the rights of IPs. Unfortunately, the spirit of the law was not translated in its Implementing Rules and Regulations (IRR) drafted by DENR. In particular, Section 13 of the ENIPAS IRR stipulates that only ancestral domains with instrumentalities of ownership, i.e. CADT or CALT will be exempt from coverage. This is contrary to Sections 13 and 29 of ENIPAS as the there was no distinction of treatment between ICCs/IPs with or without CADT/CALT. If this law is implemented using its current IRR, then the IPs of Mt. Kalatungan will be dispossessed of their ancestral lands once more. ■

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