



INDIGENOUS NAVIGATOR

Data by and for Indigenous Peoples



Policy Brief 1

Protecting and Upholding the Rights of Indigenous Peoples to Their Ancestral Lands/ Ancestral Domains

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Introduction

The Philippines has been lauded at the national and international community as the only country in Asia (and one of the few in the world) that has recognized the rights of Indigenous Peoples through a landmark national law, the Indigenous Peoples Rights Act (IPRA) of 1997. Among the bundle of rights that IPRA promises to uphold is the Indigenous Peoples' rights to their ancestral domain (AD) and ancestral land (AL) (cite specific section in the law). Through this law, the Philippine State has designated the National Commission on Indigenous Peoples (NCIP) as a major duty bearer of Indigenous Peoples' rights.

Today, after 27 years of IPRA's existence, the implementation or the recognition of the right to AD and AL has been characterized by Indigenous Peoples, scholars and development agencies like the World Bank and Asian Development Bank, and the Indigenous Navigator-Philippines, as slow/ snail-paced; wrought with long, tedious and complex bureaucratic web leading to inertia, and contested, and worse,



contradicted and undermined by other tenure claims and instruments under the watch of other government agencies like the Department of Agriculture (DA), Department of Agrarian Reform (DAR), Department of Environment and Natural Resources (DENR) and more recently, the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM).

Notwithstanding the implementation issues and challenges mentioned above, IPRA is (still) considered by many reform-oriented Indigenous Peoples' Organizations and Civil Society Organizations as potentially and actually beneficial to Indigenous Peoples. We concur with this sentiment. IPRA could continue to be an instrument for Indigenous Peoples' empowerment IF the implementation obstacles are adequately hurdled.

Methodology of the Policy Study

This policy brief is based largely on the results of the Indigenous Navigator (IN) project implementation in the Philippines. The IN has two (2) components, namely: 1) a national survey that is based on quantitative and qualitative data from published primary and secondary sources and 2) community surveys that were conducted in Palawan and Mindanao. In addition, the recent publication of the World Bank, entitled *No Data, No Story* (2024) has also been of great help.

Data/Findings

Twenty seven (27) years after the enactment of IPRA, four (4) trends have emerged. We briefly present these trends below.

TREND

01

Several claims, few titles.

Based on NCIP's ADs database, as of early 2023 there were 257 ADs with approved CADTs and only 22 percent of these are fully registered (IN-Phils, 2024 and WB, 2024). The World Bank (2024) report further reveals that:

The land under CADTs represents just 20.5 percent of the country's total land area. Mindanao alone has 142 CADTs, representing nearly 42 percent of its total land (WB, 2024). However, of the 257 CADTs approved by NCIP, only 55 (22 percent) have been fully registered and 202 (78 percent) are still pending registration with the LRA. In Mindanao, only 23 of the 142 CADTs (16 percent) are registered (WB, 2024). As of 2022, NCIP has granted 30 CADTs that cover ancestral waters (WB, 2024).

Long, tedious and bureaucratic process of AD/AL Titling.

The IN-Philippines report (2024) concurs with the World Bank (2024) findings, to wit:

The registration of ADs remains a burdensome process, with substantial delays in the issuance of CADTs and CALTs and their registration with the LRA. In the literature on CADT processing, for instance, the duration of the process is at least 4 to 15 years. The backlog of claims is partly attributed to NCIP's small budget, which reduces its capacity to close the gap in CADT titling, as well as to coordination issues with DENR, DAR, and LRA. Central, provincial, and regional offices of NCIP remain severely underfunded and understaffed. As documented by some studies, the overlapping and conflicting mandates of government as well as a lack of resources and capacity have also contributed to the slow issuance of CADTs. As a result, many IPs are still struggling to obtain secure access to their lands. Identifying and delineating ADs has proved challenging, leading to conflict with non-IP groups as well as between IP communities. (WB, 2024).

TREND

02

TREND

03

Capacity needs of Indigenous Peoples.

Most Indigenous Peoples/Communities do not have the capacity to craft the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP), which is an alien concept to most of them. As per the IPRA, the ADSDPP is a prerequisite to their application for the claims and titling of AD/AL.

Overlapping claims continue to hinder the full realization of IPs' land rights.

The WB study illustrates this problem, thus:

There are 4.05 million hectares of protected areas in the Philippines. DENR data in 2014 showed that 1.38 million hectares of these protected areas overlap with ADs and 1.44 million hectares overlap with CADT areas. Likewise, approximately 29 percent of the country's key biodiversity areas (KBAs) are in IP territories, with 1.35 million hectares of KBAs overlapping with CADTs. Other parts of the country not listed as protected areas are managed by IP community conservation groups. In terms of natural resources, ADs overlap with 75 percent of the Philippines' remaining forest cover. From this figure, the estimated ecosystem value of ADs with forest resources stands at around Php1.1 trillion, including carbon capture (Php738 billion), water provisioning (Php249 billion), soil conservation (Php14 billion), and non-timber forest productivity (Php86 billion). (WB, 2024; also in IN-Philippines, 2024).

TREND

04

In the BARMM areas, both Muslim and Non-Muslim indigenous peoples have not secured their rights to their ancestral domain and lands due to the apparent non-recognition of the IPRA in this autonomous region (IN-Philippines, 2024).

These issues and problems have resulted in conflicts in indigenous territories, as seen in increasing human rights violations particularly in contested domains (see IN-Philippines Report, 2024).

As posited by the IN-Philippines Study and other related literature, the non-recognition of Indigenous Peoples' right to own and control their ancestral land and domains is of the main causes of under-development of IP communities and poverty of Indigenous Peoples (see IN-Philippines, 2024; WB, 2024).

Recommendations:

Based on the findings and conclusion of the IN-Philippines Study, which is bolstered by the recently released study of by the World Bank, we recommend the following, particularly addressed to the Philippine State:

1. Strengthen the NCIP by allotting more adequate funds for its operations, particularly its department/division that is in charge of AD/AL titling processes;
2. Empower the NCIP by boosting its personnel/staff by hiring competent IP professionals and/or enhancing the capacity of its current personnel/staff;
3. Stop all initiatives on IPs AD/AL (not related to titling of ADs and ALs) to facilitate resolution of conflicts and processing of CADTs and CALTs first;



4. Institute a more efficient, effective and responsive titling process in order to expedite the processing of AD/AL titles;
5. Extend (in partnership with other supporters of IPs, like the academe and NGOs) more financial and technical assistance to IPs in the formulation of their Ancestral Domain Sustainable Development Plan (ADSDPP);
6. Revisit the inter-agency collaboration among NCIP, DA, DAR, DENR and now, to include BARMM, in judiciously resolving overlapping land claims, towards the recognition of the Indigenous Peoples' right to their AD/AL. The Joint Administrative Order (DAR-DENR-LRA-NCIP) No. 01-12 "Clarifying, Restating and Interfacing the Respective Jurisdictions, Policies, Programs and Projects of the Department of Agrarian Reform (DAR), Department of Environment and Natural Resources (DENR), Land Registration Authority (LRA) and the National Commission on Indigenous Peoples (NCIP) in Order to Address Jurisdictional and Operational Issues Between and Among the Agencies," issued on January 27, 2012, should be reviewed and its operational guidelines improved.

The IN-Philippines believes that the full and proper implementation of IPRA, especially the provision on the rights of Indigenous Peoples' rights to land and resources, is pivotal in the realization of the other bundle of rights under this truly landmark legislation. Moreover, the full implementation of IPRA is key to poverty alleviation and overall development of the country.

References Cited

World Bank. 2024. *No Data, No Story. Indigenous Peoples in the Philippines*. Final Report.

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