



IP CHAMPIONS
ADVANCING
INDIGENOUS PEOPLES
RIGHTS IN THE PHILIPPINES



**INSTITUTE FOR
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CONFLICT RESOLUTION AND MEDIATION MECHANISMS IN ANCESTRAL DOMAINS



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CONFLICT RESOLUTION AND MEDIATION MECHANISMS IN ANCESTRAL DOMAINS

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1. Introduction

The Philippines' Indigenous Peoples' Rights Act (IPRA) seeks to uphold the rights of Indigenous Peoples (IPs) and/or Indigenous Cultural Communities (ICCs), to their ancestral domains. The implementation of IPRA is complex and demands a thorough evaluation of its implementation. Indigenous peoples, deeply connected to their ancestral territories, navigate challenges that stem from legal discrepancies and tensions between protecting their cultural identities and evolving to adapt to change while striving for economic advancement. Mediation and conflict transformation are pivotal, serving as channels for dialogue and negotiations amidst the complex challenges. Embedding conflict transformation into IPRA's implementation processes allows for a detailed, inclusive, and rights-focused approach to managing disputes over indigenous ancestral domains. Recommendations include legal and policy adjustments, solid conflict resolution strategies, and the incorporation of inclusive land-use and environmental management frameworks, all aimed at safeguarding ancestral domains and amplifying the voices and rights of indigenous communities in legislative and developmental directions.

2. Background

It is now 36 years since the Philippine 1987 Constitution and nearly three decades since the Indigenous Peoples Rights Act (IPRA) of 1997 were enacted. In these promulgations, the rights of IPs/ICCs to their ancestral lands were formally recognized by the Philippine government. The general principle mandated by Article XII, section 5 of the Philippine 1987 Constitution, and IPRA intends to not only safeguard the economic, social, and cultural well-being of IPs/ICCs but also to acknowledge and protect the physical space crucial for their cultural, spiritual, economic, and political life. Ancestral domains are areas considered home to ICCs/IPs and includes lands, inland waters, coastal areas, and natural resources held under a claim of ownership, occupied or possessed by ICCs/IPs. These domains are considered private but community property under the indigenous concept of ownership, immutable and transcendent across generations.

The implementation of the legal provisions for the 17 million Indigenous Peoples (IPs) across 118 groups in the Philippines has been complex and challenging. These communities have faced discrimination, economic marginalization, and political disempowerment from colonial times to the present day. Thus, enforcing these laws goes beyond procedural necessity, serving as a crucial step toward justice and recognition of historical and ongoing injustices and displacements.

The path ahead demands a strategic and holistic approach to directly tackle critical issues. This encompasses amending legal inconsistencies, mitigating impacts of significant corporate intrusions, addressing human rights violations, and enhancing governance mechanisms.

The National Commission on Indigenous Peoples (NCIP), designated as the primary government agency, holds the task of implementing policies, plans, and programs aimed at promoting and protecting the rights and well-being of ICCs/IPs. As of December 10, 2019, NCIP approved 247 Certificate of Ancestral Domain Titles (CADT), covering only 17.19% of the 1,425 Ancestral Domains, a sizeable yet considerably inadequate effort in recognizing ancestral domain rights.

Despite the comprehensive legislative frameworks, implementation has grappled with complex challenges, incited by divergent laws, economic interests, politicking, power dynamics, and zones transforming into battlegrounds between government forces and armed rebels. Various regions, like the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), also present region-specific challenges that introduce difficult challenges for IPs' assertions that intertwine with the complex interplay of legal, cultural, and political dynamics.

The path ahead demands a strategic and holistic approach to directly tackle critical issues. This encompasses amending legal inconsistencies, mitigating impacts of significant corporate intrusions, addressing human rights violations, and enhancing governance mechanisms. The IPs/ICCs, persistently navigating through various challenges including land rights disputes, resource constraints, and conflicts, necessitate a unified effort from indigenous leaders, the NCIP, government agencies, and other stakeholders. It is imperative to ensure that the laws are not merely archived bureaucratically but are transformed into actionable, tangible changes for the IPs/ICCs, steering towards a future where justice, acknowledgment, and empowerment are not merely pledged but decisively realized.

3. Analysis

The Indigenous Peoples' Rights Act (IPRA) of 1997 in the Philippines was a significant step towards legally recognizing and safeguarding the rights and cultural identities of IPs and ICCs. While the law provides a comprehensive legal framework to protect indigenous communities and their lands, cultural, and natural resources, its promises have been significantly hindered, leading to a continuous struggle for IPs/ICCs over their ancestral domains.

Legal Overlaps and Conflicts. The implementation of IPRA has been hampered by legal overlaps and contradictory legislation, particularly concerning environmental and natural resource management. Conflicts between IPRA and other national laws create substantial barriers. The robust enforcement of mining laws often endangers the sanctity and environmental stability of ancestral domains, threatening indigenous communities' livelihoods and cultural practices. This situation highlights a delicate balance between economic development and indigenous rights, often tilted in favor of corporations and political entities.

Ancestral Domain Issues. Despite IPRA's provision for recognizing and protecting ancestral domains, enforcement and actualization of these protective measures face persistent barriers. IPs' battles for rightful ownership and control are often entangled with bureaucratic obstacles, negotiations, and sometimes, outright denial or substantial reduction of domain claims by authorities. The insufficient delineation of ancestral domains and corporate entities' intrusion into these territories frequently lead to displacement, cultural erosion, and socio-economic challenges for IPs.

Environmental Management and Sustainability. While IPRA emphasizes IPs/ICCs' role in environmental stewardship, its

Conflicts between IPRA and other national laws create substantial barriers.

implementation often lacks in providing communities with tangible resources and support. Overlapping jurisdictions and management of protected areas, often imposed on ancestral lands, result in tensions and misalignments in conservation and usage practices between governmental agencies and indigenous communities.

Cultural Integrity and Knowledge Preservation. IPs, crucial in preserving biodiversity and traditional knowledge, often find themselves marginalized in practical decision-making processes related to environmental management and the use of their traditional knowledge. The vital incorporation of indigenous knowledge into the national conservation and sustainable development agenda remains lukewarm and structurally unsupported.

While IPRA ostensibly provides IPs/ICCs legal means to enforce their rights, practical implementation is often hindered by conflicting laws, bureaucratization, and a lack of genuine representation in decision-making platforms.

Human Rights and Social Justice. From a socio-political perspective, issues of human rights violations, including militarization, forced displacements, and harassment within their ancestral domains, highlight a stark discrepancy between IPRA's theoretical promises and the tangible experiences of IPs. Cases of disrespect towards sacred sites and unauthorized resource extraction also in these areas underscore the prevalent breaches of rights, revealing a significant gap between legislated rights and actual respect for and adherence to these rights.

Harmonization Challenges. The harmonization of IPRA with other existing laws is a complex issue. While IPRA ostensibly provides IPs/ICCs legal means to enforce their rights, practical implementation is often hindered by conflicting laws, bureaucratization, and a lack of genuine representation in decision-making platforms. Challenges in harmonizing the act with existing and future policies present substantial barriers to realizing the full spectrum of rights and protections envisaged by the IPRA. In this regard, the Local Government Units are ideal partners to the national agencies and other institutions in facilitation, implementation and creating platforms locally, where appropriate, for dialoguing and conflict resolutions.

4. The Vital Role of Conflict Transformation and Mediation in IPs' Struggle

In the context of IPRA and its challenging implementation in the Philippines, conflict transformation and mediation mechanisms can have a substantial role. Given the complex of issues confronting indigenous communities, the application of conflict transformation is not merely beneficial; it is imperative.

Conflict transformation and mediation are pivotal in navigating disputes and forging dialogic spaces, and they can serve as channels for negotiating the competing interests, rights, and obligations entwined in the IPRA's implementation. Mechanisms such as dialogic platforms, community mediation, and legal arbitration can be instrumental in dissecting and addressing the multi-dimensional conflicts indigenous communities face.

- Dialogic platforms space offers an equitable space where all voices, regardless of power structures, are valued and heard. This is especially relevant since IPs/ICCs are usually inhibited and insecure in expressing their positions relative to an issue when faced with powerful corporations and institutions.
- Community mediations that recognize the ways and means how IPs/ICCs discuss and settle conflicts are essential. IPs/ICCs while sharing common struggles, navigate through a complex intrapersonal relations and coordination challenges, both internally and with external entities.
- Legal arbitration provides a structured and legally binding method to resolve disputes over ancestral domains, potentially offering a quicker and more private alternative to litigation, while ensuring that the resolution is in compliance with applicable laws and respects the cultural significance of the lands in question.

Conflict transformation and mediation are pivotal in navigating disputes and forging dialogic spaces, and they can serve as channels for negotiating the competing interests, rights, and obligations entwined in the IPRA's implementation.

Conflict transformation and mediation mechanisms provide platforms for addressing grievances, restoring justice, and forging pathways toward reconciliation and respectful coexistence.

Where environmental management and sustainability are concerned, indigenous communities and governmental entities often navigate through tensions and conflicting agendas. Employing conflict transformation strategies, such as establishing co-management frameworks and participative decision-making processes, could ameliorate these tensions, weaving collaborative, sustainable environmental stewardship that aligns with both indigenous wisdom and contemporary conservation needs.

Moreover, in the sphere of cultural integrity and human rights, where instances of rights violations and cultural disrespect are prevalent, conflict transformation and mediation mechanisms provide platforms for addressing grievances, restoring justice, and forging pathways toward reconciliation and respectful coexistence. This enables centering the voices, rights, and dignities of indigenous communities within the discourse.

5. Conclusion and Policy Recommendations Amidst Historical and Present Challenges in IPRA Implementation

The IPRA marked a significant milestone in the historical context of the Philippines, intending to safeguard the rights and cultural identities of IPs/ICCs. However, the journey from its enactment to its practical implementation has been anything but smooth.

The IPRA, while comprehensive on paper, has been substantially hindered in its on-the-ground realization. Overlapping laws have created numerous conflicts, often positioning indigenous communities at a challenging intersection of their own survival as a people and economic development. Furthermore, issues related

to environmental management, sustainability, cultural integrity, and human rights have been prevalent, indicating a gap between legislated rights and actionable respect for, and adherence to, these rights.

1. Legal and Policy Reform

Pursue a thorough review and reform of existing laws and policies, ensuring they are synergistic and do not contradict IPRA provisions. Acknowledge and incorporate the diverse and unique challenges faced by various IP groups into legal frameworks and policy-making processes, providing tailored solutions that resonate with their distinct circumstances and needs.

2. Legal Harmonization

Address conflicting statutes between the IPRA and other laws, through comprehensive legal reviews and amendments. Employ mediation to reconcile divergent interests.

3. Strengthen NCIP and Local Government Units (LGUs)

Enhance the operational capability, transparency, and accountability of the NCIP and LGUs. Facilitate regular training and capacity-building programs to ensure that these entities are equipped to effectively implement, monitor, and enforce IPRA provisions, and to facilitate constructive dialogues among stakeholders.

4. Capacity of IPs

Implement comprehensive programs aimed at enhancing the capacity of IPs to engage in formal legal, environmental, and negotiation processes. Provide education, training, and resources to empower indigenous communities in safeguarding their rights.

5. Amplifying IP Voices

Create platforms and mechanisms that amplify IP voices in national and local policy-making. Ensure that IPs are not only participants but are active decision-makers in processes that directly affect them.

6. Resource Allocation

Ensure equitable and adequate allocation of resources for the documentation, validation, and issuance of Certificates of Ancestral Domain Titles (CADT). This involves not only financial allocation but also technological and human resources to expedite the process and enhance accuracy and reliability.

7. Comprehensive Conflict Resolution Mechanisms

Institute comprehensive, culturally-sensitive, and accessible conflict resolution mechanisms that cater to the unique contexts and disputes within and across IP communities and between IPs and external entities. Employ mediators who comprehend the cultural, historical, and socio-economic nuances of IP communities, ensuring relevant and empathetic mediation processes.

8. Sustainable Development and Partnership

Encourage and facilitate the formation of partnerships between IPs, government entities, non-governmental organizations, and the private sector. Foster sustainable development that respects and incorporates IP rights, wisdom, and sustainability practices, thus ensuring that development initiatives are both empowering and non-exploitative.

9. Human Rights Protections

Formulate and enforce stringent mechanisms to protect IPs from human rights violations, with particular attention to safeguarding them from exploitation and violence spurred by corporate and political interests. Establish a robust framework for accountability and redress.

10. Land Use and Environmental Management

Adopt an inclusive and sustainable land-use and environmental management framework that recognizes and prioritizes the rights of IPs over their ancestral domains, ensuring that their practices and wisdom shape conservation and utilization initiatives.

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