

**INDIGENOUS PEOPLES' DECLARATION
ON THE RECOGNITION AND RESPECT OF INDIGENOUS GOVERNANCE
IN ANCESTRAL DOMAINS AFFECTED BY PROTECTED AREAS**

**National College of Public Administration and Governance
University of the Philippines
Diliman, Quezon City
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We, Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) are owners of ancestral domains, and our time immemorial possession have conserved and protected our nation's natural resources and biodiversity. We declare our position that the Implementing Rules and Regulations (IRR) of the Republic Act 11038, otherwise known as the Expanded National Integrated Protected Areas System (ENIPAS) must uphold the recognition and respect of Indigenous Peoples/ Indigenous Cultural Communities' rights to ancestral domain and customary rights.

The *Bukluran ng mga Katutubo para sa Pangangalaga ng Kalikasan sa Pilipinas* (BUKLURAN)/ Philippine Indigenous Peoples' Community Conserved Territories and Areas Consortium (Philippine ICCA Consortium) convened ICCs/IPs sharing common boundaries with Protected Areas nationwide on March 25-26, 2019. The meeting included a dialogue with the Department of Environment and Natural Resources (DENR) on the proposed IRR of ENIPAS in the presence of the National Commission on Indigenous Peoples (NCIP) and various Civil Society Organizations working on IP rights and biodiversity conservation. BUKLURAN communities and their local responsible partners have, in recent years, identified and mapped more than 128,000 hectares of Indigenous Peoples Community Conserved Areas (ICCAs) within ancestral domains with the Biodiversity and Management Bureau (BMB) of the DENR, United Nations Development Programme, (UNDP) and the Global Environment Facility (GEF). Indigenous Peoples breathed life in this innovation to further the Country's commitments to the United Nations Convention on Biological Diversity (UNCBD) Aichi Targets and the Program of Work on Protected Areas (PoWPA).

The IPs/ICCs herein present invoke national, international laws and treaty conventions that government is obliged including:

- 1) The 1987 Philippine Constitution that mandates the recognition, respect, protection, and promotion of the rights of indigenous peoples to ancestral domains.
- 2) RA 7576 or The NIPAS Law of 1991 recognizes ancestral lands and customary rights and arising interests.

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- 3) Republic Act 8371 or the Indigenous Peoples' Rights Act recognizes four bundles of rights --- the rights to ancestral domain; rights to self-governance and empowerment; rights to social justice and human rights; and, rights to cultural integrity. The law also articulates indigenous peoples' responsibility to preserve, restore and maintain balanced ecology by protecting the flora and fauna, watershed areas and other reserves as well as the responsibility to restore denuded areas.
- 4) Except for threatened species, for which it is highly prohibited, RA 9147 or the Wildlife Resource Conservation and Protection Act of 2001 allow the collection of wildlife by indigenous peoples for traditional use.
- 5) The Paris Climate Change Agreement of 2017, United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) of 1997, the UN Convention on Biological Diversity (UNCBD) of 1991, the International Covenant on Economic, Social and Cultural Rights (ICESCR) the International Covenant on Civil and Political Rights (ICCPR), both of 1976. As signatory to these, government must ensure that the IRR ensure the recognition, respect, protection and promotion of indigenous peoples rights.

The breadth and depth of indigenous peoples' contribution to biodiversity conservation and environmental protection are globally recognized by the International Scientific Community. Of note are the recommendations made by the International Union for the Conservation of Nature (IUCN) World Parks Congress of 2003 and 2014 as well as the findings of the World Bank Independent Review (2009), the UN CBD Outlook Report (2010), and the Center for International Forestry and Research (CIFOR) (2011).

In view of the aforementioned, we hereby state our position on key issues for consideration in the drafting of the IRR of the ENIPAS:

1. Section 29 (Construction and Interpretation) of the ENIPAS Law provides that "nothing in the Act shall be construed as a diminution of local autonomy and derogation of ancestral domain rights under the Indigenous Peoples' Rights Act of 1997." As such, the application of the law shall cover all ancestral domains held by IPs/ICCs through native title and not only Ancestral Domains with Certificate of Ancestral Domain Titles (CADT) and Ancestral Lands with Certificate of Ancestral Land Titles (CALT). The CADT and the CALT are only formal recognition of pre-conquest rights and time immemorial possession of lands and domains held by indigenous peoples.
2. The recognition of our ancestral domains and governance of indigenous conserved areas include the recognition of our indigenous land ownership patterns and sustainable traditional resource rights. These rights shall be recognized, respected, protected, promoted, and considered central in the formulation and implementation of all policies and programs at all times.

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Indigenous ways of accessing and using conserved areas for sustenance and well-being and biodiversity-friendly livelihoods of ICCs/IPs, such as hunting, indigenous swidden agriculture, and gathering of non-timber forest products shall be recognized and respected.

3. In Section 13, Ancestral Domains and Customary Rights where it states, “the territories and areas occupied and conserved for and by IPs and community shall be recognized, respected, developed, and promoted,” we assert that indigenous peoples’ governance and customary law shall prevail in cases where Protected Areas overlap with Ancestral Domains. The indigenous political structure (IPS), customary means of decision-making through consensus building, conflict resolution through indigenous conciliatory processes, and traditional justice system shall be recognized and adopted. Furthermore, identification, mapping and delineation of zones should be a joint undertaking of the IPs, the DENR and other stakeholders.
4. For Section 9, which provides that the “PA Management Plan shall be harmonized with ADSDPP,” we reiterate that the ADSDPP shall prevail, and be adopted into the Protected Area Management Plan (PAMP). The allocation of funds for ICCAs overlapping with PAs in the Work and Financial Plan of the PA shall be ensured.
5. In the Protected Area Management Board, we assert that there should be least one (1) to three indigenous representative/s for every ICC affected by the PA. The selection of IP representatives shall be done by the community through their own processes and institutions of self-rule.
6. With respect to “technical support needed for the conservation of biodiversity” (Par 3, Sec 2), technical assistance from DENR’s Biodiversity Management Bureau (BMB) will be beneficial and meaningful to ICCs/IPs when indigenous knowledge, systems and practices (IKSPs) are recognized and acknowledged.
7. “Full and effective assistance ” shall include:
 - a) Provision of technical and financial support for identification, documentation, mapping, delineation, resource inventory, community conservation planning, declaration, recognition of, and biodiversity monitoring in indigenous conserved areas to IPs/ICCs and/or their indigenous peoples organization (IPO) and their assisting organization/ local responsible partner (LRPs);
 - b) Provision of technical and financial support for biodiversity friendly livelihoods;

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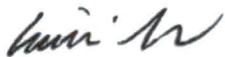
- c) Establishment of native tree species nurseries for reforestation and support for tree planting and maintenance activities;
- d) Training, deputization of IP coast guards/ forest guards at each entry and exit point in Ancestral Domains. They should also be given proper compensation and incentives, as well as equipment and materials for the conduct of their job.
- e) Provision of capacity building to help reduce the threats in their ancestral domains.
- f) Filing of legal cases and protection of IP witnesses.
- g) Support for Information, Communication, and Education of IKSPs, customary laws, and indigenous policies on the governance of conserved areas to non-IPs.

We call on the Department of Environment and Natural Resources (DENR) to adopt the abovementioned recommendations to the ENIPAS IRR recognizing that Indigenous Community Conserved Areas (ICCAs) are a key strategy now embedded in the National Protected Area (PA) System Master Plan. The experience in Mt. Kalatungan have shown that recognition of ICCAs improves PA management effectiveness. Studies by the World Bank Also show that ICCA governance is comparable, if not superior to formal protected area management due to the innate relationships of ICCs/IPs communities with the environment.

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 and strengthen connectivity between formal PAs and IPs/ICCAs.

It is our hope that our position be adopted in the final formulation of the ENIPAS IRR.

Respectfully submitted.



Giovanni B. Reyes

President, BUKLURAN/
The Philippine ICCA Consortium



Teodoro B. Baguilat, Jr.

HOR Representative,
Lone District of Ifugao
Author, HB 115 – The Philippine ICCA Act
President, Global ICCA Consortium

Samuel G. Balinghaway

MOISES O. PINDOG

KID ^{spunk} ~~Q.~~ ~~BRSD~~

~~General~~
CARLOS D. PILARON

MATIGON MATIGON
MATIGON ti SULIGAN

~~Crisa~~ ~~Chap~~

JOHNNY B. GUINIA

TEOFILO ^{Mr.} ~~BLANDAC~~ - OUN VIR.

Danilo ~~Mr.~~ ~~Lirkitan~~

I ~~Reverend~~ ~~Mr.~~ ~~Verde~~

Virgilio ^{Mr.} ~~Verdader~~

Noel ~~Mr.~~ ~~Abalang~~

Marcelino ~~Mr.~~ ~~S. Tena~~
Emely ~~Mr.~~ ~~Samsco~~

Gerardo ~~Mr.~~ ~~Donato~~

~~Mr.~~ ~~Schuney~~

Laguna ~~Mr.~~ ~~Pasay~~

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