

GENERAL FRAMEWORK FOR THE PROTECTION AND PROMOTION
OF INDIGENOUS KNOWLEDGE SYSTEMS AND PRACTICES
IN THE PHILIPPINES

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I. INTRODUCTION

The Filipino Indigenous Cultural Communities (ICCs) are referred to as a group of people sharing common bonds of language, customs, traditions and other distinguishing cultural traits and who have, under claims of ownership since time immemorial occupied, possessed and utilized a territory. They are also recognized to have lived as a community bounded and defined territory sharing common bonds of language, customs, traditions and other distinctive cultural traits and who have, through resistance to political, social and cultural inroads of colonization became historically different from the majority of Filipinos.

Numbering about 12 million, the Filipino IPs are located in different parts of the country mostly in fragile ecosystems such as uplands and coastal areas. Despite the fragility of these areas the ICCs have managed to survive being local managers of their resources employing their indigenous knowledge systems and practices. Indigenous Knowledge is defined as knowledge that people in a given community have developed over time. It could be in the form of information, practices and technologies, beliefs, tools, materials, local experimentation, biological resources, human resources, indigenous education and communication systems. It is based on experience, often tested over centuries of use adapted to local culture and environment, dynamic and changing (IIRR, 1996).

The IPs customary laws are part of their own IKSP. These are body of written or unwritten rules usages customs and practices, which they have traditionally observed accepted and recognized through the years. These indigenous laws have been and continue to be key to their harmonious dealing and relationship with each other, with other people, authorities and nature. Outside pressure and influences are however threatening the continuity and practice of these customary laws.

Indigenous Knowledge Systems and Practices (IKSPs) have been proven to contribute to the sustainability and productivity of many ecosystems, examples of which include the rice terraces and muyung (private woodlot of the Ifugao, the traditional biodiverse swidden of the Hanunuo, the fish conservation practices of the Dumagat, and the traditional herbal medicines of many Filipino ethnic communities.

Undoubtedly, IP communities have made courageous efforts to protect their indigenous knowledge systems and practices but with the rapid development around them (e.g. World Trade Organization, ASEAN Free Trade Agreement, Asia Pacific Economic Cooperation, East Asia Growth Area) and subsequent massive degradation of natural resources, those efforts are not enough. Their local initiatives need to be recognized, enhanced and supported by the government.

The survival and cultural identity of the ICC revolve largely in their IKSP. Their IKSP in turn are rooted on the ancestral domain and natural resources with which the IPs have lived for centuries. It is most appropriate then, to look at IKSP and ancestral domain under one whole context.

No one understands the intricacies of the native ecosystem deeper than do the ICCs. They understand every component of its structure and functioning as well as many of its uses so much so that many of their needs are supplied by such resource base. No wonder these people have managed to survive in these areas for many many years.

II. OVERALL ASSESSMENT AND TREND IN ANCESTRAL DOMAIN AND IKSP

A. Indigenous Peoples Outlook on their IKSP

Generally the IPs have positive regard of their IKSP as it is their means for survival and basis of cultural identity. A national IP congress held in Antipolo Rizal last November 1996 provided an opportunity for the IPs to do an inward analysis of their own IKSP as to its strengths, opportunities and threats. The result is presented below.

Strengths

Simple and easily transmitted to younger generations. It caters to the level of understanding of the local folks and that of their children and grandchildren. They are easily communicated and learned by practice and apprenticeship.

Low-cost, locally available. As these practices are rooted to local resources, these are easily within their reach and easily availed of at low cost or gratis basis.

Affinity to and harmony with nature. The IPs uphold the integrity of land, forests and natural resources. They live with nature and by nature. Their respect of sacred sites conform to environmental conservation and management. They have a system using resources without causing undue stress to such resources.

Sustainable. The employment of their IKSP in the development and management of resources has rendered such resources ecologically stable, productive through time.

Strong sense of community and cooperation. This indigenous expressions of cooperation and mutual help have helped perpetuate their IKSP. They help each other in their traditional way employing what they know and what they have.

Health and environment - friendly. As the IPs IKSP shuns from the use of external inputs like chemicals, so the resulting products are safe for the health and conservation of the environment.

Self reliant. Promotes reliance on own capacity and resources. It also encourages expression of creativity, ingenuity and spirituality.

Weaknesses

Displacement of IPs from their ancestral domains. Since the IPs IKSP are rooted in their land and resources, their displacement from such or disruption due to intrusions by so called development projects are tantamount to threatening them and their IKSP.

Death of old folks who are holders of their original IKSP. While IKSP documentations have been done sporadically, there are a lot more areas that have remained undocumented while the old folks who hold them are passing away one by one.

Low appreciation of IKSP among younger generations. Time and people are changing in the ICCs. With the advent of so called modernization more and more younger generations of IPs are losing appreciation for IKSP. They tend to regard them at lower level as compared to western introduced knowledge systems and practices.

Younger generation of IPs in culture crisis. With various external aculturative forces, the younger generations of IPs are in a culture crisis. They are caught between imbibing "seemingly better" ways of seeing and doing things over and above the traditions and practices that they were born with.

Lack of organization among IPs. While they have traditional informal organizational structure and leadership patterns, these appear to be insufficient to help promote and monitor IKSP appreciation. This void is much felt at the macro level with weak national formation among IPs.

Opportunities

Conducive environment recognizing role and rights of IPs. This is evident both at the global and local level specially with the declaration of 1995 to 2005 as Decade of the IPs. ILO Convention 169 and other general declarations for IPs are helping a lot to focus attention on the IPs and their plight.

Government's Social Reform Agenda. This thrust of the government has particularly focused greater attention and action for the IP sector specially along the line of empowerment and poverty alleviation.

Institutions and organizations supportive for IPs. These include international funding institutions, government and nongovernment organizations. IP oriented projects initiated or supported by these institutions have significantly helped in addressing pressing needs of ICCs.

Legislations and issuances favoring IPs. These include the DENR DAO 2 and the proposed Senate Bill No. 1728 (Indigenous People's Rights Act). Other proposed bills however like the Intellectual Property Rights Code need to have explicit provisions for protection of IPs IKSP.

Remaining lands and Natural Resources as base for IKSP. While there have been many cases of IP displacements and oppressive intrusions, there are still significant land and resources held by the IPs where their IKSP can be applied and promoted. They just need to be secured and guaranteed occupancy by the deserving ICCs.

Access to fund sources for promotion of IKSP. There are increasing number of institutions willing and ready to support initiatives for IKSP protection and promotion. These include the UNDP, ILO-INDISCO, DANIDA, and the Asian Development Bank, among others.

Inclusion of IP Concerns in School Curricula. With the openness of the Philippine Education System to curricular changes, inclusion of IP concerns is worth pushing.

Infrastructure. Infrastructure projects like roads, bridges, school buildings and the like are helping improve the plight of the IPs. However, subsequent projects of the government should first undertake adequate consultation with local dwellers to ensure that the IPs are not disadvantaged.

Threats

Influx of outsiders into IPs Ancestral Domains. This brings mounting pressure on limited land and natural resources to the extent of marginalization of the land and afterwards its original IP occupants.

Exposure to outside culture and other influences. This may later lead to change of thinking and doing which undermines continuity of their own IKSP. It can lead to abandonment of own IKSP in favor of foreign practices.

Political intervention from people in power. Some of these people use their position and influence to exploit Ancestral Domain resources.

Destructive modernization programs. These includes Pasture Lease Agreements (PLAs), Timber License Agreement (TLAs), mining, and megadevelopment projects. Aside from displacing the IPs and denying them access, many projects like these destroy the IPs resources and livelihood base.

Abusive laws and policies. These include laws granting rights to outsiders to exploit resources within the ancestral domains without consent of the IP. These are threatening not only the IKSP but the very existence of the IPs. Included to this are the Mining Act and the Forestry and land Codes.

Violation of IPs Intellectual Property Rights. This is happening with the taking out by outsiders of artifacts and documented IKSP without prior informal consent from the community.

Presence of IPs in environmentally unstable areas. This is a stressful situation where the concerned IPs not only struggle for a secure space to live but with having to modify their IKSP to adjust to the changing environmental condition. These maybe associated with natural calamities as in the case of the Aetas in Zambales.

Armed conflict affecting ancestral domains. The threat comes not only in uncertainties for free practice of their IKSP but from their constant exposure to armed conflict.

Lack of a system that ensures protection of IKSP. This arises from lack of policy to this effect. The proposed intellectual property rights code is not even clear on this.

B. Outsiders View of IPs and their IKSP

Generally members of the mainstream society had low regard for IPs and their IKSP. Thus past educational assistance missionary outreaches and other developmental assistance tended to encourage departure from the IPs traditional knowledge systems and practices. Earlier policies and laws also tended to favor resource exploitation and extraction by outsiders rather than allowing these resources to be managed by the IPs for their own benefit. These included Timber License Agreement (TLA), Pasture Lease Agreement and Large Scale Mining Concessions there was on the other hand, attraction to what they have or their resources. These include forest products like rattan, honey, orchid, resins, timber, fishes, and even raw lands. As these are interconnected with and are infact part of their indigenous knowledge systems and practices, the encroachment and exploitation of these resources have also led to the deterioration of their IKSP.

It is among scientists and development workers where a noticeable turn around is taking place in the current decade. Whereas in the past the study of ICCs and their IKSP have been done only by to some foreign and local anthropologists, such interest has widened to more and more scientists and development workers with increasing recognition of IKSPs contribution to sustainable development. It is along this concerns that efforts are now being pursued by concerned sectors to harness IKSP for sustainable development.

C. History of Government Approaches and Programs for IPs

The Philippine government approaches and programs for IPs have evolved through the years. During the American regime, the Filipino IPs were referred to as "non-Christian Tribes" and the colonial government sought their integration into the main body politic. A special government body known as the Bureau of Non-Christian Tribes was created for the purpose. This was afterwards replaced by the Office of the Commissioner for Mindanao and Sulu when the Commonwealth government was established. The view then was that on account of centuries-long isolation, the Filipino IPs have generally fallen behind the mainstream population in terms of socioeconomic development, thus they need to be integrated to the mainstream society.

After the grant of Philippine independence in 1946, the Congress created the Commission on National Integration (CNI) by virtue of Republic Act No. 1888. Among its programs was the sponsorship of scholarship to deserving IP youth to help catalize the ICC integration process. The Commission existed for about ten years and was able to make some significant gains in its bid to attain its objectives before its functions, in so far as the Non-Muslim Minorities were concerned, were transferred to the Office of Presidential Assistant on National Minorities (PANAMIN) an agency created under P.D. 719. The CNI continued to operate for sometime but only for the Muslim communities. Not long after, its remaining functions were absorbed by the Southern Philippines Development Authority (SPDA) and, later, by the Ministry of Muslim Affairs (MMA).

The PANAMIN pushed the same policy of integration with respect to the Non-Muslim tribes until it was itself abolished in 1984. It was supplanted by the Office of Muslim Affairs and Cultural Communities (OMACC) which was created by virtue of Executive Order No. 969. The OMACC was structured after the CNI. It had both Muslim and non-Muslim communities as its clientele. But again, this office did not last long because following the 1986 February Revolution, the agency was among those which were abolished during the government reorganization. In its stead, three distinct offices all attached to the Office of the President were created, namely, the Office on Muslim Affairs (OMA), the Office for Northern Cultural Communities (ONCC) and the Office of Southern Cultural Communities (OSCC). These offices were created by virtue of Executive Orders 122-A, 122-B, and 122-C, respectively. Priority programs pursued by these three agencies include livelihood assistance, agro-industrial technology transfer, capability building, adult education, child care assistance, preservation and promotion of cultural heritage, medical assistance, and legal services.

It must be emphasize that starting 1987 there was a radical shift from integrationist policy to one that recognizes the IPs right to self determination.

A parallel development has been the incorporation of provision in the Cooperative Code of the Philippines which allows the ICCs to form their own cooperative by-laws consistent with their culture and indigenous practices.

The present Administration's Social Reform Agenda (SRA) caps all the previous and current efforts for the ICCs. The SRA programmatic attention focuses on poor sectors of the Filipinos Society including the indigenous cultural communities, urban poor, and fisher folks.

D. History of Ancestral Domain Policy

Closely interlinked with the concerns on IKSP and indigenous cultural communities (ICCs) is the issue of ancestral domain. Historically this is marked with heated arguments and at times, bloodshed on the part of the IPs who continue to struggle for supremacy and control over their ancestral lands. The struggle stems from the sweeping government policy of State ownership over all public domain as declared by the Regalian Doctrine. This was promulgated during the Spanish Colony period and continues to be enforced today.

Though very slow, there have been, through the years some positive evolutionary changes in this state policy. Recognizing the uplanders as partners instead of enemies in upland development, the DENR, through its Integrated Social Forestry Program (ISFP) began in the early 80's to award Stewardship Contracts to deserving families providing a 25-year renewable Certificate of Stewardship Contract for the land. During this time the occupant can freely use the land, subject to compliance with conservation measures with most of the produce of the land going to his family. This was followed in 1993 by a better policy pronouncement on the delineation and recognition of ancestral land and domain claims. Hopefully with the likely approval of the Indigenous Peoples Rights Act (Senate Bill 1476) the IPs will come closer to their dreamed of supremacy and eventual ownership of their ancestral domain.

Relative to unrest and insurgency among ICCs it is important to link peace in the whole agenda of sustainability in the development process. The protection of IPs IKSP should be connected to the recognition that marginalization of the IPs is a basic issue in terms of insurgency and armed conflict. Thus swift action towards recognition and respect of their ancestral domain and empowerment for the development and management of their own resources are themselves concrete steps leading to peace and development for the IPs.

E. Review of Legislations Pertaining to IKSP Ancestral Domains and Natural Resources

On international level, two Conventions are of relevance to IKSP, namely the ILO Convention 169 on "Indigenous and Tribal People" and the Convention on Biological Diversity.

Seen in the light of the requirements of these conventions in relation to IPs and in particular IKSP relevant Philippine legal instruments have been analysed to identify gaps and

conflicts. Relevant parts of the instruments are quoted and recommendations for actions and follow up are given.

ILO no. 169 "Indigenous and Tribal Peoples Convention, 1989"

Content of the ILO Convention 169

The convention revises the Indigenous and Tribal Peoples Convention, no.107 of 1957.

The convention covers human - and equal rights issues, and access to employment, training and education, social security and health. Only in article 5 and 27 directly references to IKSP are found. However the convention covers a number of other issues that directly or indirectly are related to the IKSP issue. The Preamble of the convention calls the attention to "the distinctive contributions of indigenous and tribal peoples to the cultural diversity and social and ecological harmony of humankind".

According to article 2 the governments shall have the responsibility for ensuring the IP participation and for protecting and promoting their rights among others in relation to "their customs and traditions".

Article 4 emphasize that special measures shall be adopted for safeguarding among others the IP's cultures and environment and article 5 point out that "the social, cultural, religious and spiritual values and practices of these peoples shall be recognised and protected."

According to article 14 the IP's right of ownership and possession of lands traditionally occupied or to which they traditionally had access for their subsistence and traditional activities is emphasized. Particular attention is called for regarding the nomadic people and shifting cultivators. It is particularly emphasized that procedures shall be established within the legal system to resolve land claims by IP's.

Article 15 specifies that the rights of the IP's to the natural resources pertaining to their lands shall be safeguarded. It is outlined that this includes the rights of the people to participate in the use, management and conservation of these resources.

According to article 23 "Handicrafts, rural and community-based industries, and subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognised as important factors in the maintenance of their cultures and their economic self-reliance and development. Governments shall, with the participation of these people and whenever appropriate, ensure that these activities are strengthened and promoted."

In relation to health services it is in article 25 among others specified that it shall take into account "traditional preventive care, healing practices and medicines".

Related to education article 27 emphasize that " Education programmes and services for the people concerned shall be developed and implemented in co-operation with them to address their special needs, and shall incorporate their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspirations".

Further to this article 29 specifies that "The imparting of general knowledge and skills that will help children belonging to the peoples concerned to participate fully and on equal footing in their own community and in the national community shall be an aim of education for these people".

Status in relation to the Phillipines

The Philippines has not yet ratified the ILO Convention 169. A number of the requirements of the Convention are however already implemented in various laws and other legal instruments.

Presidential Decree no.410 of 1974 on "Declaring Ancestral Lands Occupied and Cultivated by National Cultural Communities as Alienable and Disposal, and for Other Purposes". It is the first legislative instrument that refer to IPs right to ancestral lands. The preamble of the decree state the equality for all citizens of the republic, who incl. cultural minorities should be given the opportunity to own lands occupied and cultivated by them. The occupants of ancestral lands were according to section 8 of the decree given 10 years to file applications for a Land Occupancy Certificate(LOC). If applications were not filed the right to the land would be lost. The Decree did however not have any positive effect for the IPs since no LOC were issued for ICCs.

Presidential Decree no.705, 1975, and amendment by Presidential Decree no.1559 of 1981, "Revised Forestry Code of the Philippines". Under definitions in the 1975 decree IPs and Kaiñgin are referred to and ICCs right to a license for ownership to places of abode and worship, burial grounds and old clearings are specified but only when no commercial interest for that forest area exists. The Forestry Code thereby is in immediate conflict with the above decree of 1974.

Section 5 specifies that in protected areas measures to prevent kaiñgin and occupancy should be undertaken and it is indirectly specified that laws such as on game and wildlife will override the rights of ICCs. Both section 15 and 16 refer to that areas falling under any of specified categories for protection and use and when public interest so requires land can be expropriated and occupants can be ejected. Section 51 to 53 addresses directly the ICCs and management of occupancy in forest lands. In areas above 50% in slope occupants are obliged to undertake conservation and tree planting measures as specified by the authorities.

A census will be undertaken by the authorities to show the extent of occupation and use. Those undertaking kaiñgin before the code came into force will not be prosecuted provided that they do not increase clearings and that they within two months undertake to implement the authorities management plan to conserve the area and protect forest resources. According to section 55 wildlife may be killed and consumed among others for the convenience of people, but the Director can regulate the killing in order to ensure the

ecological balance. Section 68 refers to that cutting, gathering/ and/or collecting of timber or other products is prohibited without a license in alienable and disposable public lands(that is according to the decree areas not needed for forest purposes) or private lands. This means that the IPs who according to the above decree of 1974 have not obtained a certificate of landownership cannot legally without licence make use of the forest resources. This conflict largely will be solved by the CADC system, though there are differences in legal wording which can be the source of legal confusion. Section 71 refers among others to illegal occupation of national park systems and recreation areas. The section is aimed at those who enter after the decree came into force, however since no specific reference to exemption for ICCs already occupying the area is made conflict may arise. The decree of 1981 section 53 reiterates that ICCs who entered into forest or grazing lands before the 1975 Forestry Code came into force shall not be prosecuted provided that they do not increase their clearings and that they within two months undertake any measures specified by the authority in order to conserve and protect forest resources. It is however also specified that ICCs shall whenever the best land use of the area so demands, be ejected and relocated to the nearest accessible government resettlement area. Section 68 and 71 of the 1975 Decree are reiterated in the 1981 Decree, and again unfavourable to ICCs. Since 1981 a number of legislative instruments overriding the for the ICCs unfortunate rules of the Forestry Code have been introduced. For ICCs the content of the Forestry Code is of outmost importance and therefore in order to avoid conflicts and misunderstandings it is important to revise and update these two decrees to bring them in line with later regulatory measures.

Republic Act no.7611 of 1992 on "Adopting the Strategic Environmental Plan (SEP) for Palawan, Creating the Administrative Machinery for its Implementation, Converting the Palawan Integrated Area Development Project Office to its Support Staff, Providing Funds Therefore, and for Other Purposes".

In section 3 covering definitions a specific reference is made to tribal land areas as areas comprising both land and sea that are traditionally occupied by cultural minorities. Section 7 refers to establishment of an Environmentally Critical Areas Network that among others shall ensure protection of tribal people and preservation of their culture. Section 9 covers areas of maximum protection or core zones where it is specified that exeptions may be granted to traditional use of tribal communities of these areas for minimal and soft impact gathering of forest species for ceremonial and medical purposes. Section 9 further refers to buffer zones as:

- a) restricted use areas where limited and nonconsumptive activities may be allowed,
- b) controlled use areas, where controlled forest extraction, like collecting of minor forest products, and strictly controlled logging and mining may be allowed, and
- c) traditional use areas as edges of intact forests where traditional land use is already stabilized or is being stabilized and where management and control shall be carried out with the other supporting programs of SEP. Section 10 covers coastal and marine zones and it is underlined that equitable access to the resource and management responsibility by the local community shall be the underlying management philosophy. In section 11 Tribal Ancestral Lands are covered, as being areas, traditionally occupied by cultural minorities, comprising both land and sea areas. It is specified that these areas shall be treated in the same graded

system of control and prohibition as in the others above mentioned except for stronger emphasis in cultural considerations. It is underlined that the SEP, therefore, shall define a special kind of zonation to fulfill the material and cultural needs for the tribes using consultative processes and cultural mapping of the ancestral lands.

The CDA Board Resolution no. 372,S-1995 dated October 5,1995 was amended by Resolution no.469,S-1995 dated December 11, 1995, giving "Guidelines on the Formulation of Articles of Cooperation and By-Laws for Indigenous People's Cooperatives (IPCs). In paragraph 4 it is specified that among others the objective is to develop a system of cooperatives among members of the IPs founded on their indigenous traditions, customs, knowledge systems and practices. DAR Administrative Order 04, series 1996 on "Rules and Regulations Governing the Issuance of CARP Beneficiary Certificates (CBCs) to Indigenous Cultural Communities and Peoples Pursuant to Section 9 of Republic Act No. 6657", which clearly recognize the ICCs and IPs right to ancestral domain/land.

DOH Administrative Order no.12 9.,1993 on "Traditional Medicine Program", which covers the preservation and promotion of the use of traditional medicine.

Republic Act no.7586, "An Act Providing for the Establishment and Management of National Integrated Protected Areas System, Defining its Scope and Coverage, and for Other Purposes" also called the NIPAS Act of 1992. The Act specifically in section 4 refers to ICCs and in section 5 it formalizes a system of hearing procedures which directly refers to involvement of People Organizations. Section 9 emphasize that the management planning strategy shall also provide guidelines for the protection of ICCs. There is however no mentioning on how Ancestral Domain Management Plans will be integrated in the overall park management plan.

Section 10 outlines the administration and management of the system. The Act allows for issuing permits for a certain utilization in some protected areas/zones and (f) of section 10 provides DENR with the competence to fix and prescribe fees in this relation. It is recommended to amend the Act to read "when permitting the sale and/or export of flora and fauna and other utilisation of natural resources from an area covered by NIPAS, DENR should where feasible give priority to ICCs and other communities that according to existing legislation occupy the area. DENR should where deemed necessary by ICCs lend support to communities in establishing such small scale enterprises". Section 11 elaborates on establishment of a Protected Area Management Board for each protected area in which among others a representative from each tribal community in that area should have a seat.

Section 13 is the most important in this relation since it specifies that Ancestral lands and customary rights and interest arising shall be accorded due recognition. It obliges DENR to prescribe rules and regulations to govern ancestral lands within protected areas, providing that DENR have no power to evict ICCs from their present occupancy nor resettle them to another area without their consent. It is further provided that all rules and regulations, whether adversely affecting ICCs or not, shall be subject to notice and hearing to be participated in by members of concerned ICCs.

The NIPAS Act is implemented by DENR Administrative Order no.25 of 1992.

The involvement of ICCs in the planning procedure and the importance in providing livelihood opportunities based on sustainable resource utilization is reiterated throughout the Order. In section 6 (d) it is specified that in cases where there is conflict in the classification of buffer zone, such classification shall not impair the traditional livelihood of ICCs. According to section 10 (b) it is for the sustainable use zones specified, that they are natural areas where the habitat and its associated biodiversity shall be conserved but where consistent with the management plan and with PAMB approval, ICC members may be allowed to collect and utilize natural resources using traditional sustainable methods that are not in conflict with biodiversity conservation requirements. In (e) it is specified that in Multiple-Use zones settlements, traditional and/or sustainable land use may be allowed to the extent described in the management plan. According to section 70 (a) it is prohibited to hunt, destroy, disturb, or mere possess any plant or animal or products derived therefrom without a permit, specifically authorizing such activity, from the Board or in the case of ICCs without a mutually agreed policy. Taking into consideration the severe threat that habitats and endemic or rare biodiversity are under the prohibition is required. It would however be important to develop some guidelines on when agreement on utilisation can be given to ICCs. To this end further studies on the use of wild flora and fauna and the potential impact as well as consideration for how to improve sustainability and providing alternative livelihood possibilities including f.ex. promoting the ICCs cultivation of wild flora for use in traditional medicine.

DENR Administrative Order no.02, series of 1993 on "Rules and Regulations for the Identification, Delineation and Recognition of Ancestral Land and Domain Claims, which recognize not only the rights of ICCS to the said lands and domains but also their right to general supervision and control over the management of these.

DENR Administrative Order no.96-34 on "Guidelines on the Management of Certified Ancestral Domain Claims". This Order is issued following the NIPAS Act of 1992 and the above A.O. no 02, series of 1993. It gives guidance on the formulation and implementation of the Ancestral Domain Management Plan. In section 2.3 it is "recognized that the IPs are principally responsible for rehabilitating, protecting and sustainably managing the natural resources within their ancestral domains". According to section 3.1 it is specified that "The IPs have the right to formulate an ancestral domain management plan reflective of their needs and aspirations. It shall be prepared by the community itself according to its own indigenous knowledge systems and practices."

DENR Memorandum Circular no.96-02 on "Interim Guidelines Governing the Issuance of "Muyong Resources Permit" in the Province of Ifugao" which is based on the recognition of the unique forest conservation practice within small landholdings in the Cordilleras.

Further to this the Senate Bill no.1476 on "An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/Indigenous Peoples, Otherwise Known as the Indigenous Cultural Communities/Indigenous Peoples' Rights Act of 1996, Establish Implementing Mechanisms Therefor, and for Other Purposes" with a number of proposed amendments is under discussion. In the version available Section 39 to 41 specify the

Intellectual Property Rights of ICCs and IPs including obliging the State to preserve and protect this right and specify that the right cannot be taken over without the free and informed consent of IPs. It would probably be legally correct to insert written so that the sentence reads: without their free, informed and written consent. Furthermore consideration should be given to including issues covering the rights to compensation/ share of possible benefit. It is the opinion of the consultant, that the Intellectual Property Rights in relation to IKSP are best dealt with here and not in the Bill on Intellectual Property Rights which is also under consideration. This Bill is of importance in relation to IKSP as it is the only proposed Act directly referring to the IPs Intellectual Property Rights.

In addition a proposal for a " Republic Act Providing for a Cultural Communities Code in the Philippines" is under consideration. This refers among others indirectly and directly to IKSP protection and promotion. It does however contain a number of cases of duplications and different wording in relation to the above mentioned Bill 1476. It should be considered to incorporate this proposal into the proposed Bill in an effort to streamline legislation related to ICCs and IPs and to make the legislation easy to implement.

A Bill by House of Representatives on "An Act Providing for an Organic Act for the Cordillera Autonomous Region, Amending for the Purpose R.A.6766" is under consideration. The proposed Bill deals mainly with the administrative aspects of setting up an autonomous region. In Article VII, section 3 (b) it is however specified that in relation to formulation and implementation of development policies, plans and programs in the CAR shall among other things respect for indigenous concepts, processes and institutions as bases of development be addressed, and this is also the case for development and use of appropriate technology based on indigenous conservation practices (same article, section 3 (f)).

Bill no. 47 Providing for the Conservation and Protection of Wildlife Resources and Their Habitats. Appropriating Funds Therefor and for Other Purposes. According to section 9 bioprospecting agreements or permits shall be granted only after the collector has secured prior informed consent of the local community. In addition , such agreements or permits shall provide for the equitable sharing of benefits with the local community. Bioprospecting without the required permit or agreement is subject to punishment and a fine of up to one million pesos(section 24). The wording of the section should be amended in order to ensure a "written informed consent of the local community is required". Section 10 specifies that any form of exploitation of species listed as threatened is prohibited. However provided,that,traditional exploitation of threatened species by local communities may be allowed by the Secretary whenever viable. Section 21 specifies that members of ICCs who are dependent on wildlife for sustenance shall not be required a collection permit, provided that such collection be for personal use or consumption only and not for trade. It is further provided that the exemption does not cover threatened species of flora and fauna.

A Senate Bill S.no.1471 on "An Act Creating the Traditional and Alternative Health Care Institute to Accelerate the Development of Traditional and Alternative Health Care in the Philippines, Providing for a Traditional and Alternative Health Care Development Fund and for Other Purposes" is under consideration. The declared policy as outlined in article I,

section 2, is to improve health care services through the development of traditional and alternative health care and its integration into the national health care services. The State is according to this article obliged to seek a legally workable basis by which indigenous societies would own their knowledge of traditional medicine, control whether any of that knowledge may be used by outsiders; and for permitted users require acknowledgement as its source and a share of any financial return that may come from its authorized commercial use. The objectives outlined in article I, section 3, are among others to promote research on and development of traditional and alternative health care, and to promote these modalities. Article II, section 4, e) specifies that Intellectual Property Rights are defined as the legal basis by which the indigenous communities exercise their rights to have access to protect and control over their cultural knowledge, including but not limited to traditional medicines, and to receive compensation for it. Article III outlines the proposed set up of the Traditional and Alternative Health Care Institute under DOH in Metro Manila, but with branches elsewhere. There are some overlaps of this proposed act in relation to DOH Administrative Order no.12 9, 1993 on "Traditional Medicine Program" and the DENR Executive Order no.247 on Bioprospecting.

The Convention on Biological Diversity

Content of the Convention

The Biodiversity Convention is today considered to be one of the most important International Instruments for the protection and management of the World's heritage of nature and the wild flora and fauna.

Aside from covering aspects of biodiversity protection and management the convention refers directly to IP's and IKSP.

In article 8 of the convention it is specified that "Subject to its national legislation (each country) shall respect, preserve, and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyle, relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of holders of such knowledge, innovation and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices."

Further to this Article 10 C oblige each country to "Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements."

Status in relation to the Philippines

The Philippines has ratified the Biodiversity Convention.

Referring to Article 16 of the Biodiversity Convention the following Orders have been passed: Executive Order no.247 on "Prescribing Guidelines and Establishing a Regulatory

Framework for the Prospecting of Biological and Genetic Resources, Their By-products and Derivatives, for Scientific and Commercial Purposes, and for Other Purposes", and the DENR Administrative Order no.96-20 on " Implementing Rules and Regulations on the Prospecting of Biological and Genetic Resources".

Both of these orders covers the issue of bioprospecting within ancestral land, domain and local communities (E.O. 247 section 2 and A.O. 96-20 section 5 and 7). Prospecting for biological and genetic resources in these areas requires a Prior Informed consent Certificate from the concerned IPs.

Though both article 8 and 10 of the Biodiversity Convention refer to the obligation of State to protect the IKSP this issue is not covered in the orders obligation of States to protect the IKSP this issue is not covered in the Orders implementing the Biodiversity Convention. The reason for omission is that during the IP consultation in 1994 preparing the Order, IPs were against the inclusion of IKSP, since it then was felt that IKSP would be considered a commodity.

F. Situational Analysis On The Protection Promotion And Use Of IKSP

While there has been undeniably a noticeable fading away of IKSP, there are some developments and initiatives over the years to somehow address the threat. Though still rather minimal as against the magnitude of the problem, these should serve as initial foundations on which further remedial actions, both on the short term and long term, can be built up.

IPs Own Initiatives. IP communities in various degrees, have through the centuries managed to protect their IKSP. Lately, because of increasing threat to their IKSPs a few of them have formulated their own policies and programs for the protection, promotion and enjoyment of IKSP.

Return to sustainable traditional production practices. This include the chemical free farming advocated by the Sustainable Agriculture Coalition. The Coalition is composed mostly of non government organizations. The Coalition is growing in membership and gaining ground in its advocacy for sustainable agriculture. The Department of Agriculture has current programs and projects promoting sustainable agriculture as supported by researches in State Colleges and Universities.

Green marketing. This involves the sale of chemical-free agricultural products produced in ICCs. Although barely starting in Manila, this is gaining more patronage specially among consumers conscious of health and environmental protection. Advocates and promoters of green marketing include the Kalahan Educational Foundation (KEF), the Philippine Business for Social Progress (PBSP) and the Center for Alternative Development, Inc. (CADCI)

Government programs promoting IKSP. There are few government programs which in one way or the other incorporate or promote application of IKSP. Among them are the Agroforestry Development program, the Central Cordillera Agricultural Program

(CECAP), the Southern Mindanao Agricultural Program and the Ancestral Domain Management Project.

NGO and PO Initiatives along IKSP Promotion. There is a growing number of NGOs (local and international) and POs aggressively advocating and demonstrating the merit of traditional knowledge and practices. Among them are the KAPWA Foundation, the International Institute for Rural Reconstruction (IIRR), the Foundation for Philippine Environment (FPE), and the Small Grants Program of the UNDP GEF.

Research and Development. Completed and ongoing IKSP related researches cover subjects of medicinal plants, indigenous vegetables, swidden agriculture, indigenous agroforestry systems, soil and water conservation, natural resource management, indigenous leadership pattern, conflict resolution, indigenous cooperatives, folk media, and belief systems of the ICCs. IKSP researches are funded mostly by the government. There is however growing funding support from international sources like International Labor Organization (ILO), Danish Development Agency (DANIDA), FPE, UNDP GEF SGP, and the Biodiversity Conservation Network (BCN).

Gender Concerns in IKSP projects initiated and pursued along this concern have been more on studies, identifying and delineating the role and contribution of women and children vis-a-vis the men in the practice and perpetuation of particular IKSPs. Indigenous women's enjoyment of equal right and opportunities with man as regard social economic political and cultural spheres of life as well as their participation in the decision-making process is provided for in the proposed Senate Bill 1476.

IV. IP VISION, MISSION AND OBJECTIVES RELATIVE TO THEIR IKSP

A visioning session was done during the National Congress for CADC Holders last November 18 to 20, 1996 at Las Brisas Complex, Antipolo Rizal. Involved were 71 IPs and 63 GO/NGO representatives. Six Groups were formed bringing together IPs from geographically adjacent Regions. Group 1 consisted of CAR; group 2 consisted of regions 1, 2, 3 & 4; group 3 consisted of Regions 5, 6 & 7; group 4 consisted of Regions 10 and 13; group 5 consisted of Regions 9 and 11 and group 6 consisted of Region 12 and ARMM. Each group came up with its vision relative to IKSP protection and promotion. These individual vision statements have been merged and integrated into common vision and mission statements as follows:

Vision:

"We envision a prosperous, peaceful and sustainable communities of indigenous peoples where our Indigenous Knowledge Systems and Practices (IKSPs) are fully recognized, protected and promoted."

Mission:

"We, the Filipino IPs, inspired by a common purpose shall strive together in partnership with the government and other concerned organizations to have our IKSP incorporated in policies and legislations and in the planning and implementation of programs and projects for our communities."

Objectives:

The above vision and mission are supported by the following objectives:

1. To promote sincere appreciation of our IKSP as asset unique to our culture and setting
2. To enhance recognition of the non-material aspects of our culture and knowledge system that form the integral whole of our worldview.
3. To enforce requirement on full and informed consent on the utilization of natural resources within our ancestral domain, in accordance with our customary laws, by concerned government agencies and units
4. To promote full utilization and development of our IKSP for self sufficiency and progress of our community in particular and our nation in general
5. To seek full empowerment in pursuing our own development tapping our own resources and guided by our traditions, beliefs, knowledge systems and customary laws
6. To push for programs, policies and laws that advance our rights to our ancestral domains and its resources and which respect our traditional management practices

IV. PRINCIPLES FOR INTERFACING IKSP IN NATIONAL DEVELOPMENT

The door is now wide open for closer partnership between the IPs and the mainstream society particularly in harnessing IKSP as tool for development. To be more meaningful and binding, such undertaking has to be governed by guiding principles as presented below.

Respect the IPs right to determine and decide the character, direction and priorities for their development. In no way shall outsiders impose their plans and programs/projects.

Recognition and respect of IPs right to their ancestral domain and resources. In as much as their IKSPs are rooted to their ancestral lands and natural resources, these shall not be alienated or used without their written and informed consent.

Respect of the IPs distinct cultural identity. The mainstream society shall recognize and protect the right of the ICCs/IPs to preserve and protect their culture, traditions and institutions. IKSP related projects introduced should not in any way threaten their cultural identity.

Atune programs/projects to IKSP. Existing and introduced projects in traditional IP area should not threaten local IKSP. The local IKSP should rather promote or enhance. That which is being introduced.

Promotion of self government and empowerment. The project introduced should help promote capacity of local communities towards self determination and management of their own natural resources in their ancestral domain. Likewise, the IPs customary laws shall be respected and complied with along with local institutions and indigenous political structures.

Respect of indigenous learning systems. To ensure passage of IKSP across succeeding generations, indigenous learning system shall be honored.

Participatory Approach. Development projects where IKSP is to made part of shall be done with active partnership of the ICCs/IPs and following a process designed by them.

Gender and Development. IKSP based projects to be evolved shall ensure protection of the rights and working condition of women and enhance their contribution to the development process.

Indigenous property rights. ICCs/IPs full ownership of their cultural and indigenous property shall be respected.

Local IPs as ultimate beneficiaries. There shall be equitable and fair sharing of commercial use of IKSPs specially those emanating from research and bioprospecting.

V. ACTION PLAN FOR IKSP PROTECTION AND PROMOTION

Based on the above assessments, trend and visioning, an action plan has been prepared. The recommended actions were listed from the two earlier IP consultations in Antipolo Rizal and at the Ateneo de Manila.

For the purposes of pinpointing that which can be done right away as a result of this study from those that can be pursued over a longer time frame, the recommendations for IKSP protection and promotion are hereby categorized into "for immediate implementation and " for long term implementation." Table 1 enumerates the recommended action with the corresponding time target, resources needed and organization/persons responsible.

VI. ORGANIZATIONAL SET UP

In as much as the concern on IKSP falls under the Social Reform Agenda, the organization structure to be set up for IKSP should be rightfully accountable to the Social Reform Council (SRC).

A. Task Force on IKSP

The creation of a Task Force on indigenous knowledge systems and practices is recommended. It shall be headed by the Undersecretary of Department of Environment and Natural Resources as Chairperson and the Undersecretary for Research and Development of the Department of Science and Technology as Vice Chairperson. The Task Force will have as members committed officers of the following Departments and Bureaus of a position of Division Chief or higher, duly deputized to represent their respective heads of offices:

National Economic Development Authority
Department of Agriculture
Office of Northern Cultural Communities
Office of Southern Cultural Communities
Office of the Muslim Affairs
Cooperative Development Authority
Department of Health
National Commission on Culture and Arts
Department of Education Culture and Sports
Local Government Unit Representative (League of Municipalities)

As civil society counterpart, the non-government community shall also have six (6) representatives in the Task Force. These representatives shall be selected by the non-government community considering commitment to the cause of the indigenous peoples gender balance and sectoral representation through a process designed by them.

B. Powers and Functions of the Task Force

1. To review and ensure the incorporation/application of IKSP in programs and projects of concerned agencies and sectors.
2. To establish guidelines and mechanisms for the incorporation/application of IKSP to programs and projects.
3. Serve as Advisory Council to the National Indigenous Knowledge Resource Center.
4. Ensure that the intellectual property rights of ICCs and persons concerned are protected in the course of the implementation of this Order.

5. Review all programs and projects for implementation in traditional IP areas and make recommendations for compliance by concerned organizations and sectors.
 6. Initiate and supervise resource generation strategies to support IKSP related programs and projects in different organizations and sectors.
 7. To require concerned government agencies for assistance in the form of personnel, facilities and other resources which is essential for performance of the duties of the Task Force and
 8. To perform such other acts which are necessary to carry out its mandated functions.
7. Submit to the Chairman of the Social Reform Council quarterly and annual reports on the progress of implementation of this Order.

C. IKSP Resource Centers

The establishment of IKSP Resource Centers is recommended. These shall serve as nerve centers for training, documentation, storage and retrieval of IKSP information. These centers shall train IPs in IKSP documentation so that the IPs shall be the one to document their own IKSP with assistance as necessary by technical personnel. The IK Resource Centers shall closely link with the agencies/ organizations mentioned above as well as other IK workers for information sharing and coordination of efforts. They shall also link with concerned ICCs and CADC areas which shall serve as field stations for promotion and demonstration of IKSP.

VII. CONCLUDING REMARKS

This framework for IKSP Protection and Promotion is intended to fill the gap while waiting for the approval of the Indigenous Peoples Rights Act (SB 1476) and the ratification of the Indigenous and People Convention (ILO Convention 169). When SB 1476 is finally approved, this framework, along with the proposed Executive Order on IKSP could very well be inputted to its implementing rules and regulations.

It is hoped that this framework when acted out along with the Executive Order on IKSP will help in safeguarding our fading IKSP and maximize its contribution to improving the plight of the ICCs in particular and to nation building in general.

Table 1. Action Plan on the General Framework for IKSP Protection and Promotion *

RECOMMENDED ACTION	TIME TARGET	RESOURCES NEEDED	ORGANIZATIONS, PERSONS RESPONSIBLE
A. FOR IMMEDIATE IMPLEMENTATION			
1. Certification of urgency by President Fidel V. Ramos for ILO Convention 169 and S.B. 1728	Before June	OB, TA	Mr. Joey Austria and ILC
Lobbying for enactment of S.B. 1728	No Control	OB, TA	DENR, PANLIPI, GZO-P ECIP, OPAPP, ILO, DOL DTI, DA, OSCC, OMA, NEDA, ADB, NGOs, LBT
2. Capability building for IPs to safeguard their resources from external pressures and develop their own IKSP	Continuing	OB, TA, PS	DENR, LGU, NGOs, POs
3. Implementation and financing of more livelihood projects for ICCs which employ their IKSP	Continuing	OB, TA, PS, BS	DENR, DTI, DA, DOLE, ONCC, OSCC, OMA, CT
4. Vigorous Information, Education and Communication (IEC) program on IPs and their IKSP	Continuing	OB	DENR, DBM, PIA, DEC Media, LGU
5. Draft and pursue signing by the President of an EO on IKSP application and promotion	End of June	OB, TA, BS, RPG	ILO IKSP Project, DENR
6. Establishment of National and Regional IK Resource Centers	Q1(Proposal)	OB, TA	IKSP Project, UNDP
7. Train IPs on documentation and continue IKSP documentation through them	Q1 - Q3	OB, TA, BS	ILO, DENR
8. Market development for ICC products (e.g. green marketing)	Continuing	TA, OB, BS	DTI, DENR, DA, DOST, LGUs, DOT

B. FOR LONG TERM IMPLEMENTATION

Policies, Legislations, Ordinances

- | | | | |
|--|------------|----------------|-----------------------------|
| 1. Codification of customary laws and harmonization with government laws | Continuing | TA, OB, BS | NGOs, POs, IPs, SCU |
| 2. Utilization by outsiders of resources in CADC areas should be subject to the IPs consent and to the terms and conditions set by the IPs | Continuing | BS, TA, OB | DENR, NGOs, LGU |
| 3. Fast track literacy programs for the IPs | Continuing | OB, TA, BS, PS | DECS, LGU, SUCs, TESDA, SIL |

Institutional Arrangement and Support System

- | | | | |
|---|------------------|-----------------|--|
| 1. Federate IPs for the purpose among others of promoting IKSP | February onwards | OB, TA, BS, RPG | ILO, DENR, NGOs, POs, SRC, LGUs, OPAPP |
| 2. Strengthen GO, NGO and PO support through multi agency coordination, consultation and IP participation | Q1 - Q4 | OB, TA, BS | DENR, POs, NGOs |

Action Programs

- | | | | |
|---|------------|------------|------------------------------------|
| 1. Incorporate IKSP in the school curriculum of DECS | Q1 - Q4 | OB, TA, BS | DECS, CHED |
| 2. Skills and manpower development program to enhance IP artistry and craftsmanship | Continuing | BS, OB, TA | DTI, TESDA, DOLE, NGOs, NCCA, LGUs |

3. ADMP planning using indigenous practices	Q1 - Q4	TA, OB, BS	ILO, DENR, POs
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4. Enhance community-based upland productivity program	Q1- Q4	TA, OB, PS	ILO, DENR, POs
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Research and Development

1. Moratorium on ongoing research and development by outsiders	Q1 - Q4	PS, BS	DENR, DOST, NRCP.
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2. Initiate MOA between Researchers and CADC Holders	Q1 - Q4	TA, PS, OB	DENR, NGOs, POs, LC
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3. Continue with researches but the IPs to conduct them with partnership of scientists, as necessary	Q1 - Q4	OB, TA, PS	POs, NGOs, DENR, NP DOST
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NOTE : Codes for Time Target and Resources Needed:

Q1	-	First Quarter
Q2	-	Second Quarter
Q3	-	Third Quarter
Q4	-	Fourth Quarter
OB	-	Operational Budget
TA	-	Technical Assistance
PS	-	Political Support
BS	-	Bureaucratic Support
RPG	-	Resolution/Petitions by Groups