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**Cover:** Young boys from Sagada, Mountain Province participate in the *Begnas*, a ritual for community welfare. March 2008. Photograph by Roland Rabang.

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## Abbreviations and Acronyms

AD/AL	Ancestral domain/ Ancestral land
ADB	Asian Development Bank
ADO	Ancestral Domain Office
ADSDPP	Ancestral Domain Sustainable Development and Protection Plan
AITPN	Asian Indigenous and Tribal Peoples Network
ALS	Alternative Learning System
ARB	Agrarian Reform Beneficiary
ARC	Agrarian Reform Community
Aus-AID	Australian Agency for International Development
BEC	Basic Education Curriculum
CA	Cash advance
CAAR	Consolidated Annual Audited Report
CADT	Certificate of Ancestral Domain Title
CALC	Certificate of Ancestral Land Claim
CALT	Certificate of Ancestral Land Title
CAR	Cordillera Administrative Region
CARP	Comprehensive Agrarian Reform Program
CECAP	Central Cordillera Agricultural Programme
CHARMP	Cordillera Highland Agricultural Resource Management Project
CIDA	Canadian International Development Agency
CMP	Chamber of Mines of the Philippines
CO	Capital outlay
COA	Commission on Audit
CP	Certificate Precondition
CPI	Consumer price index
CSO	Civil society organization
DAR	Department of Agrarian Reform
DB	Duty Bearer
DBM	Department of Budget and Management
DENR	Department of Environment and Natural Resources
DepEd	Department of Education
DFA	Department of Foreign Affairs
DOLE	Department of Labor and Employment
DOT	Department of Tourism

EAP	Educational Assistance Program
EIPSDAD	Empowerment of Indigenous Peoples and Sustainable Development of Ancestral Domains
EIS	Environmental Impact Statement
EO	Executive Order
EU	European Union
FBI	Field-Based Investigation
FPIC	Free and Prior Informed Consent
FTAA	Financial and Technical Assistance Agreement
GAA	General Appropriations Act
GTZ	Gesellschaft für Technische Zusammenarbeit
HRBA	Human Rights-Based Approach
ICC	Indigenous Cultural Community
IFAD	International Fund for Agricultural Development
IFI	International Financial Institution
IGSP	Implementing Guidelines of the Scholarship Program
IHKP	Indigenous Health Knowledge and Practices
IKSP	Indigenous Knowledge Systems and Practices
ILO	International Labour Organization
INDISCO	Interregional Programme to Support Self-reliance of Indigenous and Tribal Communities through Cooperatives and other Self-Help Organizations
IP	Indigenous Peoples
IPCB	Indigenous Peoples' Consultative Body
IPDP	Indigenous Peoples' Development Plan
IPE	Indigenous Peoples Education
IPMAP	Indigenous Peoples Master Plan
IPO	Indigenous Peoples' Organization
IPRA	Indigenous Peoples' Rights Act
IRR	Implementing Rules and Regulations
JBIC	Japan Bank International Cooperation
JICA	Japan International Cooperation Agency
LAMP	Land Administration and Management Project
LAO	Legal Affairs Office
LGU	Local Government Unit
LRA	Land Registration Authority

MDG	Millennium Development Goal
MFO	Major final output
MGB	Mines and Geosciences Bureau
MILF	Moro Islamic Liberation Front
MOA-AD	Memorandum of Agreement on Ancestral Domains
MOOE	Maintenance and Other Operating Expenditure
MTPDP	Medium-Term Philippine Development Plan
NCAA	National Commission for Culture and the Arts
NCC	National Cultural Communities
NCIP	National Commission on Indigenous Peoples
NEDA	National Economic and Development Authority
NGO	Non-Government Organization
NIPAS	National Integrated Protected Areas System
NS	Notice of suspension
NZAID	New Zealand Agency for International Development
ODA	Official Development Assistance
OECH	Office on Education, Culture and Health
OEHR	Office of Empowerment and Human Rights
ONCC	Office for Northern Cultural Communities
OPAIPA	Office of the Presidential Adviser on Indigenous Peoples
OPIF	Organizational Performance Indicator Framework
OSCC	Office for Southern Cultural Communities
OSECC	Office of Socio-Economic Services and Special Concerns
P/A/P	Program/Activity/Project
PANLIPI	Tanggapang Panligal ng Katutubong Pilipino/Legal Assistance Center for Indigenous Filipinos
PDP	Philippine Development Plan
PO	Peoples' organization
PS	Personal services
RA	Republic Act
RBA	Rights-Based Approach
RH	Rights Holder
RHO	Regional Hearing Office
RTO	Regional Trial Court
SEC	Securities and Exchange Commission
SLT	School of Living Tradition

SRA	Social Reform Agenda
STRIVE	Strengthening the Implementation of Basic Education in Selected Provinces in Visayas
TWG	Technical Working Group
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNFPA	United Nations Population Fund
USAID	United States Agency for International Development
WB	World Bank
ZBB	Zero-based budgeting



## Introduction

ALEJANDRO N. CIENCIA, JR., SANTOS JOSÉ O. DACANAY III,  
RAYMUNDO D. ROVILLOS

In 2006 the College of Social Sciences (CSS) of the University of the Philippines Baguio identified the need to evaluate the implementation of the Indigenous Peoples' Rights Act (IPRA) and the National Commission on Indigenous Peoples (NCIP) as a priority in its research agenda. In pursuit of this goal, a faculty group conducted a series of workshops and meetings to conceptualize the research. Given the scale of the project, the CSS decided to enter into a partnership with Tebtebba Foundation, Inc., a Baguio-based international center for research and advocacy for indigenous peoples' rights, and the NCIP. Due to logistical and other constraints, however, the project had to be shelved for some time.

In 2010, with financial and technical assistance from Tebtebba, the project was resumed and a research team composed of social science professors was formed. The team conducted the evaluation knowing that its output would reflect and highlight the diverse disciplinary backgrounds and orientations of its members. While the individual research reports embody the personal views and disciplinary training of team members, there was agreement among them as to their overall assessment of the NCIP.

The NCIP is mandated by the Indigenous Peoples' Rights Act of 1997 to carry out the Philippine State's duty to promote and uphold the rights of indigenous peoples in order to rectify their historical marginalization. Hailed by many scholars, advocates and activists as a landmark legislation, the IPRA recognizes and promotes the four bundles of rights, namely: right to ancestral land/domain, right to self-determination, right to cultural heritage, and right to social justice. The NCIP is an institution authorized by law to wield executive, quasi-legislative and quasi-judicial functions. The extent to which these major roles and functions are effectively and efficiently performed by the NCIP after more than a decade of implementation is the subject of this investigation.

As designed, this investigative study aimed to map and make sense of the NCIP's 'institutional footprints'. The imagery should suggest that the findings of the study could only be based on the 'footprints' that the NCIP has left behind, namely, NCIP documents, Commission on Audit (COA) reports, news reports, and even cases on the ground in IP communities. As it turned out, data from these sources were relatively inadequate, posing a considerable limitation

to the study. Still, this investigation was intended to be exploratory, and a precursor to similar future assessments. As best as they could, individual team members drew from a variety of data sources in arriving at their findings. They approached their data differently, employing various methods and approaches that reflect their disciplinary background and theoretical orientations.

The first three essays chart the macro-orientation and internal context of the evaluation. The following were specifically studied: the political and institutional context of the NCIP's implementation of the IPRA; the financial performance of the NCIP; and the impact of Official Development Assistance (ODA) on IP rights.

**Ciencia**, in the opening essay, offers a nuanced evaluation of the NCIP by taking into account the various contexts within which the NCIP performed its mandate. Using secondary data, mostly news reports about the NCIP, complemented by data obtained from other publications, he finds that the NCIP's institutional behavior and performance have been greatly affected by presidential leadership and commitment to specific policy options; the nature of the agency's relationship with other relevant governmental bodies; and the susceptibility or vulnerability of governmental bodies and decision-makers to external pressures from interest groups and other political actors. The NCIP's budgetary appropriations are one such manifestation of the external forces' influence that leaves an imprint. With finance as the lifeblood of any organization, it is but imperative to review the NCIP's financial reports as critical starting points for any evaluation of its viability and operations.

**Dacanay**, in the essay that follows, assesses the NCIP's management of its financial resources, contributing to an expanding literature concerned with the instrumentality of annual appropriations and audited financial reports in state-indigenous communities relations. He explores how the NCIP used these instruments in pursuit of its rights-based and multi-stakeholder agenda. Explicitly involving the idea of institutional footprints, his fiscal study led him to the following discoveries: the almost complete budgetary dependence of the NCIP on the state; a personnel-heavy bureaucracy; persistently weak financial control measures; poor absorptive capacity and readiness of selected project partners; and pronounced regional disparity and inequity in fund allocation and service delivery. Dacanay's study shows that the transitions in the NCIP's budgeting – from incremental, performance-based, then zero-based budgeting – and its incorporation of the rights-based approach (RBA), have reshaped the focus and priorities of the NCIP.

Related to the issue of financial resources is the availability of Official Development Assistance (ODA). One may view ODA as the external counterpart of the internal funds which breathe life into the

operations of a governmental agency. In the third essay, **Rovillos** focuses on the subject of ODA and its effects particularly in relation to its stated goal of reducing poverty in IP communities. He recognizes that asset reform is the centerpiece of ODA, along with the crafting of Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs). His post-developmental reading of documents pertinent to these programs and projects reveals that, generally, ODA aims to integrate or mainstream indigenous peoples into the neo-liberal development framework. He finds that this situation has led to state, capital, and elite capture of the indigenous peoples movement's agenda of empowerment.

The research team acknowledges that the chief function of the NCIP—its *raison d'être*—is to recognize, promote, and protect the rights and well-being of indigenous peoples/indigenous cultural communities (IPs/ICCs) as stipulated in the IPRA. The team also recognizes that the IPRA provides for the recognition, protection, and promotion of the said four bundles of rights. Accordingly, the NCIP's performance in securing and operationalizing the said bundles of rights was assessed. The results are discussed in the next set of essays.

Two specific studies focus on the first of the four bundles of rights, the right to ancestral domain as the core of the IPRA. **Calde** scrutinizes the NCIP's implementation of ancestral land titling and its exercise of quasi-judicial powers in relation to its avowed recognition of customary laws. He acknowledges that the IPRA guarantees the recognition of the customary laws and practices as the fundamental right of the IPs that forms the basis for their judicial and political structures and institutions within their respective domains. He discovers, however, that the implementation of titling as well as the NCIP's performance of its quasi-judicial functions resulted in the strengthening of state powers within ICCs through the NCIP, with the ostensible aim of incorporating the IPs within the framework of the state's legal system. His paper looks closely at how customary laws are incorporated, or not incorporated, in the two critical tasks of the NCIP, namely, ancestral domain titling and the exercise of quasi-judicial functions. It contends that while ancestral domain titling and performance of quasi-judicial functions vouchsafe certain benefits to the IPs, especially in granting a clearly written evidence for their ownership and the extension of legal services to them, these 'footprints' nonetheless manifest increasing state penetration into the lives and affairs of the IPs.

**Abansi** evaluates the ADSDPPs submitted by IP communities to the NCIP in terms of the extent to which each plan supports the four-fold rights of indigenous peoples; the effectiveness of the plan in terms of its responsiveness to community needs; and the efficiency of the plan as manifested by the appropriate match between community

assets and programs. Her findings highlight the centrality of land rights to the restoration of a sense of security among indigenous peoples. She argues that by anchoring the plans on the four-fold bundle of rights, resource management decisions are made more accountable to critical human values, ecological sustainability, economic equity, and cultural diversity. She believes that the parallel targets of effectiveness and efficiency in the formulation of plans will remain and continue to be a work-in-progress among ICCs given such diverse considerations. The need for a continuing capability-building program for local NCIP workers in assisting ICCs in the development of their ADSDPPs cannot be overlooked. Likewise, intervention in the preparation and implementation of the ADSDPP will not be strategic and complete without the corresponding training and formation of IP leaders. Abansi further argues that mainstreaming the ADSDPP in arenas at different levels such as government and like-minded agencies and groups, and targeting appropriate message routes will make the ADSDPP a living document for the IPs.

The sixth essay focuses on the right to self-governance and empowerment. **Peñalba** examines NCIP's promotion of such right particularly in relation to its implementation of the principle of Free and Prior Informed Consent (FPIC) and the creation of programs to integrate indigenous peoples and their traditional structures into existing mainstream political institutions. She reports that while the government claims that no complaint against FPIC implementation exists, various case studies and newspaper accounts have documented serious problems and flaws related to the FPIC process as conducted in indigenous communities all over the Philippines. At the same time, she finds that the other NCIP programs for IP self-governance and empowerment such as the mandatory IP Representation, creation of Tribal Barangays, certification of Tribal Membership, and institution of IP Consultative Body have been generally well-received by indigenous peoples. Using both primary and secondary sources, she presents the NCIP's operational definition of IP self-governance and empowerment through its stated programs and policies and compares it, through critical discourse, with what in principle it ought to be.

The seventh contribution to this anthology zeroes in on IP education as an aspect of the right to social justice and of human rights. This singular attention on education services is justified as it is the most effective means for the promotion of social justice and the exercise of human rights. Human rights issues have already been extensively documented in the Commission for the Elimination of Racial Discrimination (CERD) reports, but other social services such as health and livelihood projects require more extensive documentation and if so covered, information on them is currently inaccessible or unsystematized. **Abayao** examines how the NCIP exercised its

mandate relative to Indigenous Peoples Education (IPE), Assistance to Community Schools, and the Educational Assistance Program (EAP). She reports that the NCIP has collaborated with the Department of Education (DepEd) toward the formulation of an Indigenous Peoples' Core Curriculum. She argues that while the curriculum was envisioned to 'enable the IPs realize their individual and collective rights,' a review of its contents show curricular hitches and complications since the said curriculum is developed under the rubric of the Philippine educational system where learning strands and competencies are essentially structured to deliver a goal of national functional literacy.

The curriculum is an indigenized version of the Basic Education Curriculum and, therefore, its design is not founded on an indigenous learning system, delivering mixed messages under a structured development goal on national, not local scale. It also employs a problematic construction of indigenous knowledge systems where it envisions the indigenous as belonging to the order of 'historical present', depriving it of its contemporaneity and relevance. She further contends that while the conceptual framework is strong, the indigenized content of the curriculum is too weak to deliver on this goal. Abayao asserts that a critical consideration of the indigenous peoples' pathways to education is essential. Thus, if the desired outcomes will be for a change to address the needs of IPs, there is a need to design, i.e., transform not reform, a new curricular infrastructure that supports effective indigenous learning environments. This would include a reconfiguration of two other programs, namely, the EAP and the Assistance to Community Schools, as both could be directed toward an integrated IP Education System.

The preceding discussion shows that there are common or recurrent themes in these studies even if the papers differ in focus and approach, among other things. For quite obvious reasons, all the writers took into account in their contributions pertinent laws, directives, and/or legal instruments. Significantly, Dacanay, Calde, and Abayao highlight the centrality of the Rights-Based Approach (RBA) or the Human Rights-Based Approach (HRBA) in their discussion of IP rights and well-being. This anthology reveals that the state institutionalization and bureaucratization of the HRBA paradoxically pose constraints to the agenda of indigenous peoples' empowerment. This may be due to both substantive and procedural limitations on the part of NCIP. For instance, its quasi-judicial functions focus only on land disputes, at the expense of other conflicts, and its educational programs may actually seek to draw IPs more into the national culture and concern themselves less with indigenous culture. Community-based and rights bearer-based activities and approaches are not evident in the accomplishment reports of NCIP, and this alone

seems already problematic from the perspective of an empowerment approach.

Dacanay, Rovillos, and Calde commonly see 'asset reform' as a cornerstone of the Philippine State's policy concerning the promotion of IP rights, particularly the recognition of ancestral domains. Rovillos argues that asset reform poses a dilemma or a paradox for indigenous peoples. On one hand, ancestral land/domain titling seems to be the logical and appropriate response to the indigenous peoples' clamor for tenurial security and, therefore, a key toward their empowerment. However, there is growing empirical evidence to the effect that the process and politics of land titling may in fact lead to market (corporate) and elite capture of the resources and benefits resulting from land exploitation. This is due to the asymmetrical power relations among the corporations, state and indigenous peoples, with the latter usually losing out in a complicated bureaucratic process that is alien and alienating to them.

Almost all of the writers paid attention to the 'mainstreaming' or 'assimilationist' direction of state programs and policies for the indigenous peoples. This trend is clearly a continuity of the colonial and post-colonial tack of assimilating and integrating indigenous communities into the economic, social, political and cultural life of the Philippine nation-state and its development agenda. Thus, indigenous knowledge, practices, arts and culture become integral to the official national culture being propounded; subsistent local economies and traditional livelihoods are precipitately brought into the cash-economy without regard for their integrity or viability, while indigenous socio-political institutions and customary laws are either relegated to a tokenized existence or appropriated for surface-level 'diversity', depending on what is convenient for the consolidation of the state. Overall, assimilation may lead to reifying the state, while eroding the core of indigenous identity, access, and control over land and resources. In an important sense, assimilation in such context appears as the very antithesis of the notion and goal of self-determination.

The co-existence of asset reform and assimilation, on the one hand, and self-determination, RBA or HRBA, on the other, as the framework for the recognition of IP rights is certain to remain contentious in discussions of and debates over IP rights. The apparent contradictions between assimilation and self-determination, traditional sustainable livelihood systems and cash-economy, state law and customary law throughout the implementation of IPRA reveal the competing interests and claims-making within and among state and market forces, civil society, and indigenous peoples and communities. Not surprisingly, the relationship between the state and indigenous peoples continue to be marked by tension and tinged with anxiety, especially in the

midst of reinvigorated interests of extractive industries in the land and resources of indigenous peoples and cultural communities.

Hopefully, this collection of documentary and critical studies will stimulate more discussions and debates, and contribute to the intelligent resolution of the issues raised.