

# Questionnaire on Indigenous Issues / PFII

## Questionnaire to Indigenous Peoples' Organizations General information and background on your organization/institution

1. Please provide the name of your organization/entity and where it is based. Please also provide details on the objectives and goals of your organization.

The name of our organization is the Coalition against Land Grabbing (CALG) and we are members of the global ICCA Consortium. The organization's main office is located in Pardeco Road, Brgy. Bancao-Bancao Puerto Princesa City, Palawan – the Philippines. Our organization is legally registered as a non-profit organization under the Security Exchange Commission of the Philippines and all its Board members belong to the three main indigenous groups living in Palawan (Pala'wan, Tagbanua and Batak).

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### Mission and objectives of our organization:

The primary mission of our organization is to secure land, forest and natural resources for the local Pala'wan, Tagbanuwa and Batak indigenous populations in the Province of Palawan (the Philippines), in order to counter on-going and massive land grabbing and thus to ensure a healthy environment, a rich biodiversity and culturally viable livelihoods for the future generations. This objective is being fulfilled through various strategies and actions: **a)** documenting and monitoring the impact of agribusiness firms and other companies on both the environment and communities' lives; **b)** taking legal actions against such companies and corporations, when required; **c)** providing paralegal assistance to impacted indigenous communities; **d)** assisting Indigenous Environmental and Human Rights Defenders (EHRDs) and their families, especially when facing life-threats and victimization; **e)** building bridges of communication and facilitating interaction between indigenous communities' leaders/representatives with government officials and agencies; **f)** providing basic livelihood support to impacted communities, particularly when such activities can contribute to reduce/lessen outsiders' encroachment on indigenous forest land; **g)** assisting communities in filing their request for ancestral domain titles.

2. Which indigenous peoples/communities does your organization represent and/or work with?

Pala'wan, Tagbanua and Batak

### Recommendations of the UN Permanent Forum on Indigenous Issues

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*At the 2018 session, the Permanent Forum will focus on “Indigenous peoples’ collective rights to lands, territories and resources”.*

3. Are there laws and policies and/or administrative measures in your country to recognize the rights of indigenous peoples to own, use, control, and manage lands, territories, and resources? If so, please provide details.

Yes the Indigenous Peoples’ Right ACT (IPRA) or R.A. 8371 provides the legal framework for the protection and recognition of indigenous peoples and cultural communities in the Philippines. However, the NCIP (National Commission on Indigenous Peoples) the government agency in charge of implementing the IPRA law is well know for its slowness in acting on indigenous peoples’ requests. Especially in Palawan the organization is being influenced by the Governor of Palawan, who is himself a businessman and a driving force behind the operations of some agribusiness firms. To make the situation even more complicated, some officials of the National Commission on the Rights of Indigenous Peoples (NCIP) rather than supporting their legitimate constituents (the indigenous people), have allegedly sided with the mining and oil palm companies. As a result, some NCIP-Palawan officials have pushed for the election of ‘tribal chieftains’ and have allegedly used them to bypass the correct procedures for obtaining Free and Prior Informed Consent. Hence, NCIP elected ‘tribal chieftains’ have often operated against the interests of their own communities and in conflict with the traditional tribal leaders.

The potential impact of the IPRA is also diluted by the fact that, in the Philippines, laws and rules emanating from different sources are often conflicting and overlapping. Furthermore, policies tend to change with each new leader, and different leaders emphasize different programs. We are all too aware of the conflict and confusion that has been generated by the simultaneous implementation of laws such as the National Integrated Protected Areas System (NIPAS), Community Based Forest Management Agreement (CBFMA), IPRA (Indigenous People’s Rights Act), etc., especially when these laws are implemented simultaneously in the same location. Generally, the indigenous communities are the primary victims of the great level of confusion being created by overlapping laws and ordinances, and by the way in which the latter are interpreted by politicians, government officials and their respective departments.

For instance, here in Palawan, the Palawan Council for Sustainable Development (PCSD) under the SEP law (The Strategic Environmental Plan) is in charge of zoning “tribal ancestral lands”, while the National Commission on Indigenous Peoples (NCIP) is involved in CADT processes. Areas traditionally managed by indigenous communities are also being declared as “critical habitats” under Republic Act (RA) No. 9147. Some key bans within the newly declared critical habitats (CHs) include extraction of minerals, logging, quarrying, killing and collection of wildlife species, and wildlife trading. On the other hand, established tribal groups and indigenous cultural communities living within declared ‘critical habitats’ can, in principle, continue with their practices in accordance with the rules and customs traditionally observed, provided it is only for traditional and personal use, and not primarily for commercial purposes. However, as it is well known, most of IPs are engaging in commercial gathering

of honey, rattan, *almaciga* (resin of *Agathis philippinensis*), etc. and thus, they would be affected by the said law. Restrictions within CHs would apply as well to IPs hunting and collection of wild species.

We believe, that the IPRA law should have precedence over other laws and, therefore, there is an urgent need for harmonization with other legislation. This would be absolutely necessary, also to avoid confusion amongst indigenous peoples that, as of now, are in the middle of the crossfire between acronyms, laws' definitions and regulations, which they cannot understand and relate to. Specifically, we believe that the IPRA law should have precedence over declared 'critical habitats' and, overall, over protected areas legislation. This is because – as of now – the declaration of Key Biodiversity Areas (KBAs), CHs and protected areas have often excluded - or not properly recognized - the role played by indigenous peoples themselves in managing such areas over generations. We in CALG are all too aware of the ongoing challenge to 'harmonize' all these laws unless the different players (government agencies and departments) are also harmonized. It takes a huge amount of time for indigenous people to internalize and fully understand laws and regulations. It is not surprising that, after almost 20 years from the passing of the IPRA law, many indigenous communities nationwide have no idea of what the law says and no means whatsoever to apply for CADT (Certificates of Ancestral Domains Titles), unless significant support is being provided by outsiders (NGOs, etc.).

4. Are there any efforts or initiatives to (i) demarcate and/or map communal lands; (ii) registration of land titles (individual and collective); and (iii) adjudication of claims for collective rights to lands, territories and resources? If so, please provide details.

Yes, at the present, CALG is engaged in various processes, which should lead to the demarcation and recognition of indigenous ancestral land under the IPRA legal framework. One of our ongoing projects is related to the recognition of CADT claims of Batak and Tagbanua communities in the Municipality of Puerto Princesa. Similar efforts also being extended in the Municipality of Quezon, as well as in other locations in southern Palawan.

In principles, the approval and release of CADT titles is guaranteed by the implementation of the IPRA law. However, in actual facts, the overall process leading to the official release of such titles is delayed by cumbersome bureaucratic procedures with which indigenous communities have great difficulties to cope with. Such procedures also require substantial financial costs that local communities cannot sustain. In addition to CADT certificates, a new proposed law, if approved, would allow indigenous communities to have their areas declared and recognized as ICCAs. However, also in this case, the law would require the compilation of detailed maps and reports and data gathering which traditional communities cannot provide, due to the lack of technical skills and basic literacy.

It must be pointed out that some of the steps needed to apply for CADT under the IPRA law and for ICCA recognition are similar. For instance, resources inventories, as well as the analysis of traditional governance mechanisms and IKSP (Indigenous Knowledge Systems and Practices), are the key documentary steps for both CADT and ICCA procedures. Furthermore, the ADSDPP (Ancestral Domain Sustainable Development and Protection Plan) under the IPRA law, also provides the framework and defines the process underlying the formulation of the so-called ICCA Community Conservation Plan. As of now, an ICCA law has not yet been approved in the Philippines. However, an

ICCA bill might be approved in the future months. While waiting for an appropriate law to formally recognize ICCAs at the national level, some procedures do exist for declaring and recognizing ICCAs at the international level. ICCAs, in fact, after due process, can be registered with the ICCA Registry of the United Nations Environment Programme World Conservation Monitoring Centre (UNEP-WCMC) [see <http://www.iccaregistry.org/>]. Such registration can add value to the applying communities in a variety of ways, such as providing them a 'Global Billboard' announcing the traditional rules and policies that govern the ICCA. This, in turn, provides an early warning system to the communities in order to inform prospective investors and corporations of the existence and status of their ICCA.

5. Please provide information on any projects or programmes to ensure the free, prior and informed consent of indigenous peoples in relation to development projects and/or extractive activities?

By pushing for the implementation of the IPRA law, CALG is also trying to force companies and corporation to follow proper FPIC procedures as mandated by the IPRA Law. Unfortunately, all companies, especially agribusiness firms, continue to neglect and violate such procedures. When this happens, CALG would report cases of FPIC violations directly to the central and regional offices of the NCIP (National Commission on Indigenous Peoples) requesting them to take proper actions. In doing so, recently, we have been able to stop two agribusiness firms that had illegally pushed into the ancestral domain of the Pala'wan tribes of Rizal, with no proper FPIC procedures being followed.

FPIC procedures are also being mined by the divisive practices of large corporations aiming at fragmenting people's unitary responses and at dividing them into 'pro-mining' and 'anti-mining', 'pro-oil palms' and 'anti-oil palms', etc. Overall in the Philippines, there have been various degrees of division amongst indigenous groups on whether to accept mining companies and agribusiness firms in their areas. Often, mining corporations and agribusiness firms have bribed community members. In some cases, selected individuals have received financial support and specific privileges such as free access to mining companies' hospitals and medical services. Others, instead, have decided to make no compromises and to protect their land and resources at all costs from mining corporations and oil palm companies.

Let' us provide some examples on how agribusiness firms are violating FPIC processes and what CALG is doing in this respect. In early 2016, two major agribusiness companies being strongly backed by the Provincial Government of Palawan (the GREEN POWER PALAWAN AGRICULTURE CORPORATION – GPPAC, and Lion Hearth) had started operations in the ancestral domain of the Pala'wan communities of Barangay Ransang (Municipality of Rizal). Such operations began to be implemented through ambiguous agreements being entered between the said companies and the communities, but in the absence of a serious and transparent Free and Prior Consent (FPIC) process, as it is required by the IPRA Law (Indigenous Peoples' Rights Act). CALG field investigation had revealed that the affected areas being converted in coconut plantations is located in Sitio Malutok, Sitio Sumurom, and Sitio Balin – Balin, and includes an approximate number of 60 families being directly impacted by such operations, over an area of about 100 hectares. Unfortunately, at the time of our visit, the area was fenced and being guarded by local armed personnel. As a result, we had been forbidden to enter and visually document the actual plantations.

It is important to note that the classification of the land being encroached by the said companies is 'timberland', which – according to the law - cannot be converted into agriculture, unless a change in land use categories and definitions is duly approved by the concerned government agencies. Through interview with community members, CALG had been informed that the companies had promised to communities: livelihood projects, scholarship programs, health and medical assistance, infrastructure, etc. However, as of now, none of these promises have been delivered to them. Conversely the companies have paid a rather unfair amount to indigenous individuals for the renting of their lands, as low as 3,500 pesos (69,11 USD) a month per hectare for a period of five years. According to our informants the companies had informed them that, after the first five years, there would have been an increase of the renting rate equal to about 1,000 pesos (19,75 USD)/hectare/year. Overall, such agreements are valid for a period of 25 years renewable. It was rather depressing to discover that such unfair agreements were facilitated by members of the local National Commission on Indigenous Peoples (NCIP), which is the government body in charge of protecting the rights of local cultural communities. As it often happens, corrupted NCIP officials, rather than fulfilling their mandates, prefer to connive with companies and corporations at the expenses of indigenous people.

Paralegal assistance has been provided by CALG to the affected communities. As a result, a Memorandum Order was issued to the companies by the Regional Office of the National Commission on Indigenous Peoples (NCIP). This further led to the cancellation of the permit [known as Certificate of Precondition (CP)], which was previously indorsed to the companies. Formal cancellation took place on February 27, 2017.

At the same time, CALG began to discuss with the impacted IPs communities in Ransang various options for their ancestral domain to be recognized, either as - so called 'tribal zone' under the SEP law (Strategic Environmental Plan) or through the issuance of Certificates of Ancestral Domain Titles (CADTs) under the IPRA law (Indigenous Peoples Rights Act). On January 21, 2017 CALG held a meeting being attended by local government agencies and by eighty indigenous representatives belonging to the impacted areas.

Some of these representatives told CALG that they would prefer to have some parcels of their land as 'individually owned land' rather than as communally owned. According to them, this would have increased their chances to protect such lands. It must be noted that, in the past, in other municipalities, individual families had actually entered into agreements with companies to 'sell' portions of 'their land', which – in fact – was 'communally owned'. This indeed is a violation of the IPRA law, since Certificates of Ancestral Domain Titles are under collective use and no portion or part of these can ever be alienated to outsiders. Often, the entering into private deals between some indigenous persons and companies had been the cause of social friction and fragmentation. This is why CALG does not favor such deals between individuals and companies and it is rather training and advising communities to preserve the integrity of their ancestral domain and to come up with unitary and consensual responses to companies' plans and programs.

Dialogues between Ransang and Lion Hearth should take place in the forthcoming weeks. CALG staff will try to attend these in order to make sure that both GPPAC and Lion Heart will follow standard operating procedures (SOP), such Free and Prior Inform Consent (FPIC). As of now, because of the

legal actions being taken by CALG, the companies have been officially requested by NCIP to suspend their operations and not to expand further into the IPs ancestral domain.

6. Do you have any examples of good practices that may be useful for resolving issues of ownership and control over natural resources? If so, please provide details. Please also include information on any specific programmes targeting indigenous women.

Unfortunately, as of now, no company or corporation in Palawan has implemented good practices for resolving issues of ownership and control over natural resources. The reality is that companies and corporations are not interested in implementing 'good practices' as they know that they can easily circumnavigate the law and very rarely they will be legally persecuted for their actions. We, as CALG, have pending court cases filed against oil palm companies in Palawan that, in spite of all proofs of violations against them (further certified by Department of Environment and Natural Resources), are still waiting – after several years - for a fare conclusion, leaving community victims totally frustrated. With the present judicial system, companies and corporations have no fear to encroach inside timberland and indigenous ancestral lands. This is why complementary mechanisms would be needed to provide remedy for abuses and violations within indigenous peoples' ancestral domains. Moreover, indigenous communities will need much more information and locally accessible, well-resourced, independent mediation to make remediation processes effective. The inequitable balance of power between companies corrupted state officials and communities may frustrate good outcomes and the effective implementation of the IPRA law.

We are not aware of any existing and specific programme targeting indigenous women. However, amongst our activities, we do support the wives and families of Environmental Human Rights Defenders who have been murdered or seriously injured. On April 13, 2016 one CALG founding member, together with his collaborator, was gunned down in the Municipality of Bataraza, while returning from a meeting. Mr. Nestor Lubas (member of the Tagbanua tribes) and Mr. Salamat (member of the Pala'wan tribe) were ambushed while travelling on a motorcycle from Mailigan (Municipality of Aborlan). Mr. Lubas had been in the frontline against illegal fishing operations, which make use of cyanide and dynamite.

CALG has assisted the wife of Mr. Lubas to file a court case against those who are believed to be the direct mandates of her husband's murder. Since March 2017, other forms of support to Mrs. Lubas, also included the payment of school tuition fees for her two sons. CALG also assisted Mrs. Lubas and her sons to transfer to a safer location. Moreover, an emergency fund has been set aside for Mrs Lubas to start a general-merchandize shop, which should help her to generate a monthly income for her family.

### **C. UN Declaration on the Rights of Indigenous Peoples**

7. Has your organization been involved in any legislative, policy and/or administrative measures taken by the Government to implement the UN Declaration on the Rights of Indigenous Peoples? Please provide details.

Not yet. However, in our advocacy, we always make reference to the UN Declaration on the Rights of Indigenous Peoples, but we noticed that both our local and national institutions pay very little attention to it.

#### **D. World Conference on Indigenous Peoples**

*In 2014, at the World Conference on Indigenous Peoples (A/RES/69/2), Member States committed to taking, in consultation and cooperation with indigenous peoples, a number of measures to achieve the ends of the Declaration.*

7. Have any steps been taken to develop a national action plan or strategy on indigenous peoples? Please also include information on any capacity building to strengthen awareness and action to implement the UN Declaration on the Rights of Indigenous Peoples.

As far as we know, there is no national action or strategy on indigenous people, but there are initiatives that different national and local organizations are pursuing in different provinces to empower and strengthen indigenous communities. Many provisions of the UN Declaration on the Rights of Indigenous Peoples are also found in the IPRA law. If the Philippine Government undermines the power and implementation of its own national policies (e.g. IPRA), how much more will it undermine the implementation of UNDRIP, which is not even binding? We are not very optimistic that the Philippine Government will implement its development goals within the spirit of UNDRIP since, in actual facts, it is even failing to implement its own legislation.

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*The UN developed a System wide action plan to support Member States to achieve the UN Declaration on the Rights of Indigenous Peoples (SWAP-Indigenous Peoples [E/C.19/2016/5](#)).*

9. Please provide information on the involvement of your organization/peoples with UN offices at the country level including on:

a. Any projects, activities, dialogues and/or public awareness campaigns;

b. Preparation of country programmes and UN Development Assistance Frameworks (UNDAF).

As of now, we have had no opportunities to collaborate directly with UN offices but we would like to establish proper linkages with such offices.

## **E. 2030 Agenda for Sustainable Development – Global Goals**

*There are 17 Global Goals that cover a number of important issues including ending extreme poverty, ensuring all children receive a good education, achieving equal opportunities for all, and promoting a clean and healthy planet. The Permanent Forum has emphasized that the recognition, protection and promotion of indigenous peoples' rights to lands, territories and resources will make a significant contribution to achieving the Sustainable Development Goals.*

10. Has your organization been involved in the implementation, review and follow- up to the 2030 Agenda? If so, please provide details.

No, we have not yet been involved in such processes