

**Response of the Commission on Human Rights of the Philippines (CHRP) to the
“UN Permanent Forum on Indigenous Issues: 2018 Questionnaire to
National Human Rights Institutions”**

1.

The 2017 session of the Permanent Forum featured a focus on indigenous human rights defenders. Please provide information on the work of your institution in relation to indigenous human rights defenders. What results have been achieved through such efforts and what are some lessons learned?

ANSWER:

CHRP strives for a more empowered group of Indigenous Peoples (IPs) and human rights defenders (HRDs)¹ in the Philippines, and whose communities would have the direct linkage and access with the NHRI's formal structures in terms of its rendition of protection, promotion and policy advocacy programs and services.

The focal commissioner system of the CHRP includes a focal commissioner on human rights defenders, in which all concerns relevant to HRDs - either they are activists, labor union organizers, journalists or indigenous HRDs, are given needed attention. A specific resolution on HRDs also strengthens the work of the CHRP in this particular issue.

Philippine law, such as the Indigenous Peoples Rights Act of 1997 (IPRA), expressly recognizes Indigenous Political Structures (IPS), promotes the formation of Indigenous Peoples Organizations (IPOs), and requires the installation of Indigenous Peoples Mandatory Representatives (IPMRs) in the policy-making bodies and other local legislative councils of the Philippine government. These are some of the means to realize the IPs' Right to Self-Governance and Empowerment. Indigenous human rights defenders include the IPS, IPOs, and IPMRs.

However, indigenous human rights defenders suffer harassment, and their basic human rights to life, liberty, property and security among others are violated, when they advocate and fight for their rights to ancestral domain, self-governance, social justice, and cultural integrity. They clamor for further understanding and guidance from more reliable sources about the mainstream legal and governance system of the Philippines, which subsumes and often conflicts with their customs and traditions.

It is with this context that CHRP is formalizing the Indigenous Peoples' Human Rights Observatory (IPHRO), an independent source of data that would identify the impacts of state programs and projects to the realization of Indigenous Peoples' (IP) human rights. It shall specialize in the documentation, application, and practice of customary laws in all efforts to provide expeditious preventive and remedial measures to the IPs. Through the IPHRO, IPs' participation in development planning, implementation, and monitoring shall be given full space. The establishment of the IPHRO has involved the conduct of the National Inquiry on the Human Rights Situation of the Filipino Indigenous Peoples, which has been launched on May 25-26, 2017 in Iloilo City, where the first public hearing was also held. At its inception, the National Inquiry's objectives include the following:

- To identify adherence of laws, policies, rules, regulations, programmes, and projects concerning Indigenous Peoples with the standards of human rights;
- To settle issues of facts relevant to the human rights situation of Indigenous Peoples (IPs) with focus on the three main thematic concerns: 1) the protection and promotion of the Indigenous Peoples' land and cultural rights, 2) the effectiveness of the current government process to obtain the Free, Prior and Informed Consent of Indigenous Peoples; and 3) the state of economic and social development of Indigenous Peoples in the Philippines;
- To review the impacts of the Indigenous Peoples Rights Act of 1997 and identify areas of

¹ Consistent with its 2017 submission, CHRP views human rights defenders broadly as individuals, groups and associations contributing to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, in accordance with the Declaration on Human Rights Defenders.

improvement; and

- To increase understanding of human rights generally and commitment to better human rights observance through collaborative efforts that the Indigenous Peoples, as rights-holders, and the duty-bearers shall identify through the guidance of the Commission on Human Rights as lead convenor of the National Inquiry.

Several public hearings were also convened in Puerto Princesa City, Palawan (August 15-16, 2017), Tagaytay City, Cavite (August 22-23, 2017), Davao City (September 27-28, 2017), and Tagoloan, Misamis Oriental (October 26-27, 2017).

During these public hearings nationwide, resource persons who are members of the Indigenous Peoples (IPs) were present. They were the *Akeanon Bukidnon*, *Ati Tumulalod*, *Ati Tina Hamtic*, *Iraynon Bukidnon*, *Panay Bukidnon*, *Sulod Bukidnon*, *Eskaya*, *Ata/Ati*, *Tribu Bukidnon*, *Tagbanua*, *Cagayanen*, *Palaw'an*, *Buhid*, *Sibuyan Mangyan*, *Taubuid*, *Mangyan Tagabukid*, *Ati*, *Bantoanon*, *Cuyonan*, *Batac*, *Dumagat*, *Ayta/Agta*, *Dumagat-Remontado*, *Kankanaey*, *Abeling*, *Bago*, *Ilongot*, *Manide*, *Kalanguya*, *Ayta Abellen*, *Teduray*, *Lambangian*, *T'boli*, *Erumanen ne Menuvu*, *Tagakaulo*, *Matigsalog*, *Dulangan Manobo*, *Bagobo-Tagabawa*, *Manobo-B'laan*, *Dibabawon*, *Mansaka*, *Mandaya*, *Ata-Manobo*, *Kalagan*, *Ata*, *Obu-Manobo*, *Bagobo-Klata*, *Sama*, *Sama of Tandubas*, *Sama-Dilaut of Sitangkai*, *Sama of Jolo*, *Yakan of Basilan*, *Sama of Simunul*, *Tausug of Jolo*, *Bajau of Bangas Island*, *Kolibugan of Zamboanga Sibugay*, *Sama Bajau of Zamboanga City*, *Sama Banguingui of Zamboanga City*, *Kolibugan of Zamboanga del Norte*, *Talaandig of Talakag*, *Bukidnon*, *Umayamnon of Bukidnon*, *Mamanwa/Kaotawan of Surigao del Sur*, *Banwaon of Agusan del Sur*, *Higaonon*.

Also in attendance as resource persons during the hearings were representatives from the government, such as the *National Commission on Indigenous Peoples (NCIP)*, *National Commission for Culture and the Arts (NCCA)*, *Philippine Statistics Authority (PSA)*, *Department of Environment and Natural Resources (DENR)*, *Land Management Bureau (LMB)*, *Environmental Management Bureau (LMB)*, *Mines and Geosciences Bureau (MGB)*, *Department of Agrarian Reform (DAR)*, *Department of Agriculture (DA)*, *Department of the Interior and Local Government (DILG)*, *National Economic and Development Authority (NEDA)*, *National Anti-Poverty Commission (NAPC)*, *Department of Education (DepEd)*, *Department of Social Welfare and Development (DSWD)*, *Palawan Council for Sustainable Development (PCSD)*, *Department of Tourism (DOT)* and *Mindanao Development Authority (MinDA)*. However, there were several other State agencies [such as the *Department of Labor and Employment (DOLE)*, *National Housing Authority (NHA)*, *Social Security System (SSS)*, *Department of Health (DOH)*, *Philippine National Police (PNP)*, *the Armed Forces of the Philippines (AFP)*, and *Indigenous Peoples Mandatory Representatives (IPMRs)* from the regions of Luzon] who earlier participated during the March 2-3, 2017 Baguio Conference on the Indigenous Peoples' Right to Development where the design of the National Inquiry was originally crafted.

It has been found that there are threats to the native identity of the Indigenous Peoples in the Philippines. Indigenous identity is the condition sine qua non for one to enjoy the rights and protection under Philippine law. Still, the State relies on estimated and outdated figures as to how many are the IPs in the Philippines. There are no fixed standards on what would constitute native identity. Specifically, IPs of Maguindanao, having asserted rights under IPRA, also expressed concerns that their indigenous identity would be affected by the enactment of the proposed Bangsamoro Basic Law, which does not recognize IPRA as governing law for the IPs who at present are at the territories concerned and makes further classification between Bangsamoro IPs and non-Moro IPs.² Non-IPs take advantage of the lack of credible and accurate database for IPs. There are instances where non-IPs usurp the IP rights.³

2 Per Alim Bandara 's (Teduray) statement during the 4th Public Hearing in Davao City

3 Per Thelma Aumentado's (Dumagat-Remontado) statement during the 3rd Public Hearing in Tagaytay City

2.

The theme of the 2018 session will be Indigenous peoples' collective rights to lands, territories and resources. Please provide information about indigenous peoples' collective rights to lands, territories and resources in your country. Has your institution been engaged in work relating to indigenous peoples' collective rights to lands, territories and resources?

ANSWER:

Non-IPs' encroachment of ancestral domains is also a threat to the IP identity. IPs have intimate connection with their ancestral domains, being regarded as the sacred source of their lives. Only IPs are legally entitled to own ancestral domains, which are areas under their private communal ownership since time immemorial and that had never been part of public lands, hence exempt from the coverage of the Regalian Doctrine.

As of March 31, 2016, NCIP has issued 206 Certificates of Ancestral Domain Titles (CADTs), which represent 5,110,393.22 hectares and 1,108,223 IPs, or about 7.92% of the total estimated IP population pegged at 14,000,000.⁴ Complaints about encroachment come up when non-IPs pursue tenurial claims over lands that are also deemed covered within ancestral domains. Overlapping tenurial claims are brought about by several laws on modes of acquiring ownership, use of natural resources, mineral extraction, land classifications and concessions that are separately implemented by different State agencies, such as DAR, LMB, MGB, and DA, with several database.

Notably, DAR, DENR, LRA and NCIP issued Joint Administrative Order No. 1, Series of 2012 (JAO 1) to clarify, restate, and interface the respective jurisdictions, policies, programs and projects of said agencies to address jurisdictional and operational issues among them. During the public hearings, IP resource persons called for the revocation of JAO 1, as they believe it has resulted in undue delay in the issuance and registration of CADTs. IPs felt that under JAO 1, the CADT, as tenurial instrument, is discriminated against and regarded as inferior to other land titles and resource use instruments. JAO 1 required a certificate of non-overlap (CNO) from DAR and DENR before a CADT can be issued and registered, whereas a CNO from NCIP is not required before registration of instruments under the DAR and DENR (such as the Certificate of Land Ownership Award from DAR and emancipation patent or free patent from DENR). The premise is Section 56 of IPRA that recognizes and respects such property rights within the ancestral domains already existing and/or vested upon effectivity of said law on November 22, 1997. Vested right is some right or interest in the property that has become fixed and established, and is no longer open to doubt or controversy. It is an immediate fixed right of present and future enjoyment, which must be contradistinguished from a right that is expectant or contingent.⁵ Moreso, the DENR said that delineation is a process that requires meticulous care to prevent overlapping of land titles, and that land surveys would take some time to complete to be accurate.⁶

While the act of registering CADTs/CALTs with the Registry of Deeds is not the mode for IPs to acquire ownership over ancestral domains, pursuant to the principle of native title, the registered CADT/CALT is still necessary for them to avail funding source for development projects and even to obtain other State permits such as for cutting trees and for using other natural resources within their domains.⁷ Stated otherwise, a registered CADT/CALT is the single most important proof of ownership for IPs that non-IPs, and even IPs belonging to other groups, would look for. Based on NCIP records there were 206 CADTs approved as of 2012, but until 2017 only 43 are registered with the Registry of

4 Per presentation of NCIP Commissioner Basilio A. Wandag during the Baguio Conference on the IP Right to Development

5 Heirs of Gabriel Zari and Heirs of Hermenegildo Concepcion vs. Jose Santos, G.R. Nos. L-21213 and L-21214, March 28, 1968 http://www.lawphil.net/judjuris/juri1968/mar1968/gr_1-21214_1968.html (accessed November 8, 2017)

6 Per statement of Vicente Tuddao, Jr. (Assistant Regional Director, DENR-MIMAROPA) during the 2nd public hearing in Puerto Princesa City, Palawan

7 Section 11 of IPRA provides: "The rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. **Formal recognition, when solicited by ICCs/IPs concerned, shall be embodied in a Certificate of Ancestral Domain Title (CADT)**, which shall recognize the title of the concerned ICCs/IPs over the territories identified and delineated." (Emphasis ours)

Deeds due to JAO 1.⁸ The IP resource persons maintained that they should not be adversely affected by JAO 1, and demanded that their CADTs must be duly registered and immediately awarded.

While the law recognizes the IPs' right of ownership over ancestral domains and all resources found therein, such right is limited by, or otherwise subjected to, conditions provided in other national laws and regulations on the environment. For example, the IPs cannot cut trees without first obtaining the permit from the CENRO. Kaingin is prohibited even if it is practiced within their ancestral lands. The IPs cannot engage in small-scale mining in ancestral lands that are not declared by the State as "People's Small-Scale Mining Areas" or "minahang bayan".⁹ The Wildlife Resources Conservation and Protection Act allows IPs to collect wildlife for traditional use and not primarily for trade. While generally killing and destroying wildlife is prohibited, it may be allowed when done as part of the religious rituals. IPRA and environmental laws are consistent in using the term "priority rights" to describe the nature of rights that IPs have on how they are entitled to utilize natural resources in their ancestral domains. The law does not treat such right as exclusive for the IPs. Section 57 of IPRA provides:

*"Natural Resources within Ancestral Domains. — The **ICCs/IPs shall have priority rights** in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains. **A non-member of the ICCs/IPs concerned may be allowed to take part in the development and utilization of the natural resources** for a period of not exceeding twenty-five (25) years renewable for not more than twenty-five (25) years: Provided, That a **formal and written agreement is entered into with the ICCs/IPs concerned** or that the community, pursuant to its own decision making process, **has agreed to allow such operation**: Provided, finally, That the NCIP may exercise visitorial powers and take appropriate action to safeguard the rights of the ICCs/IPs under the same contract."*

Still, the IPs have pointed out the unequal and discriminatory application of the laws, where big private companies and non-IP personalities are deemed favored. As one Tagbanua¹⁰ would say: *"Napakasaklap po, ang mga katutubo, kapag namutol ng isang kapisang puno o isang kapisang kahoy, diretso na sa pulis. Samantalang ang mga mining firm na bultu-bultong kahoy, napaka-lalaking kahoy na tinatabunan lamang ng lupa ay hindi nila nakikita."* ("It is worse, if the IPs would cut a single tree, they instantly land in jail. On the other hand, mining firms that cut trees in large areas are simply abetted.")

The IPs, while recognized as such, are integrated in the legal and socio-economic framework of the Philippines. They cannot live exclusively on their own as were their ancestors. In such cases where they find themselves in legal dispute with non-IPs, the NCIP is not the proper forum to try and decide the case, but rather the regular courts as pronounced in the recent rulings of the Supreme Court in the cases of Loloy Unduran, et al. vs. Ramon Aberasturi, et al., (G.R. No. 181284, October 20, 2015), Ben Y. Lim vs. Sulpicio Gamosa (G.R. No. 193964, December 2, 2015), and Thomas Begnaen vs. Spouses Caligtan (G.R. No. 189852, August 17, 2016).

Notably, it is in Mindanao where inter-tribal land conflicts mostly occur due to the overlapping land and resource claims of different IP communities. In these instances, the regular courts, and not the NCIP, still have jurisdiction to intervene and resolve the disputes.

Non-IPs must obtain the free, prior and informed consent (FPIC)¹¹ of IPs for development projects and activities that will be implemented in their ancestral domains. FPIC is indicative of the IPs' right to self-determination that is already recognized in law. It is a distinct form of consent, different from how non-IPs would understand the term in a more individualistic sense. Not only is FPIC the consensus of all members of the IP community to be determined in accordance with their respective

8 Per statement of Judith Maranes (NAPC) during the 1st public hearing in Iloilo City

9 Section 7, Republic Act No. 7076

10 Per statement of Joel Limsa (Tagbanua, IPMR-Narra, Palawan) during the 2nd public hearing in Puerto Princesa City, Palawan

11 The current reference for FPIC process is NCIP Administrative Order No. 3, series of 2012

customary laws and practices, it must also be free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community.¹² However, specific concerns and complaints on violations of FPIC are narrated by the resource persons during the public hearings.

On the other hand, non-IPs would cite the alleged tedious and costly process to obtain FPIC and, for them, it is not clear with who among the IPs should they deal with. Even more problematic is the situation when IPs without CADT would insist for the conduct of FPIC, since in the records of other government agencies the lands involved do not overlap with ancestral domains. NCIP believes that it can only initiate the FPIC process upon endorsement of the project or activity by the relevant government office.¹³ The NCIP guidelines on FPIC is currently being reviewed and one of the proposal is to require a clear description of the decision-making process in the IP community, who are often not homogenous. It is further observed that factions among the community would emerge once the issue is about monetary gains, such as on royalties that would be paid in view of development projects in the ancestral domain.¹⁴ The FPIC process is deemed impractical due to the policy of “one CADT, one unit,” wherein the FPIC of all other IPs would be obtained even if the direct beneficiary of the project or activity is only a small portion thereof.¹⁵ The DENR and NCIP need to clarify what plans, activities and programs must undergo the process. For example, DENR believes that no FPIC is needed if the lands covered under an Integrated Forest Management Agreement (IFMA)¹⁶ would be integrated, consolidated or merged, since it has undergone a previous FPIC process, in contrast to the position of NCIP.¹⁷ DENR does not view integration, consolidation and merger of IFMA as equivalent to its renewal. The government is also of the view that in case the IPs themselves are the ones who solicited the projects and activities, the usual and tedious FPIC process could be modified.¹⁸

Where there is confusion in the FPIC process, the situation indicates insufficient or lack of understanding about the decision-making and governance structures of the IPs. Often there are state agents and non-IPs that would raise the question: “*Who are the IPs and where are they located?*” The situation shows the threat to the indigenous identity as it is being doubted and questioned.

IPs seek CHRP's assistance in their efforts to protect and promote their collective rights to lands, territories and resources when they believe that the government agencies, such as NCIP, DENR, DAR, LRA, and others, being the primary duty-bearers, are not acting properly on their grievances. As such, CHRP conducts investigation and monitoring of the cases brought to its attention. Whenever appropriate, CHRP also conducts dialogues between IPs and the government as an alternative mode of dispute resolution.

3.

What are the three to five main activities carried out by your institution at the national and/or regional level to implement the UN Declaration on the Rights of Indigenous Peoples and the principles contained therein?

ANSWER:

First, CHRP has launched the National Inquiry on the Human Rights Situation of the Filipino

12 Section 3(g), IPRA

13 Per statement of Roberto Almonte (NCIP Region IV) during the 2nd public hearing in Puerto Princesa City, Palawan

14 Per statement of Dexter Precioso (NCIP Region X) during the 5th public hearing in Tagoloan, Misamis Oriental

15 Per statement of Geronico Aguio (NCIP Region XI) during the 4th public hearing in Davao City

16 Integrated Forest Management Agreement (IFMA) is a production sharing contract entered into by and between the DENR and a qualified applicant wherein the DENR grants to the latter the exclusive right to develop, manage, protect and utilize a specified area of forestland and forest resources therein for a period of 25 years and may be renewed for another 25-year period, consistent with the principle of sustainable development and in accordance with an approved Comprehensive Development and Management Plan (CDMP) and under which both parties share in its produce. (DENR Administrative Order No. 99-53) <http://forestry.denr.gov.ph/index.php/fmb-product-and-services/integrated-forest-management-agreement> (accessed November 17, 2017)

17 Per statement of Hadja Didaw Piang Brahim (DENR-LMB, Region XI) during the 4th public hearing in Davao City

18 Per statement of Ronald Papag (DSWD) during the 4th public hearing in Davao City

Indigenous Peoples in 2017 as part of its efforts to cooperate in the celebration of 20th year of passage into law of IPRA and the 10th year anniversary of the adoption of UNDRIP; The CHRP also links UNDRIP in its international treaty monitoring initiatives, wherein indigenous peoples' rights have been reported and raised in the dialogues with the Committee on ESCR in 2016. Recommendations about indigenous peoples' rights promotion and protection were subsequently included in the Committee's concluding observations. The Commission is following up on the recommendations, whether or not the government is properly implementing the same, through an ESCR advisory that will be released in the first quarter of 2018.

The OHCHR units also sent out call for inputs and contributions to reports of the Human Rights Council (HRC) and the Special Rapporteurs and invite NHRIs to respond. In 2017, the CHRP has submitted several contributions in response to call for inputs. These CHRP inputs report and update the HRC on the situation of rights promotion and protection of indigenous peoples and minority population in the country. They are as follows:

- [Inputs to the General Assembly Resolution 70/166: Effective Promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, May 2017.](#)
- [Addendum to inputs to GA Res 70/166](#)
- [Answer to the questionnaire on national action plans to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, June 2017](#)
- [Written Statement for the 10th Session of the Expert Mechanism on the Rights of Indigenous Peoples](#)

The CHRP is also in touch with the Special Rapporteur on the rights of indigenous peoples – contributing when necessary to the mandate, the national situation, which would assist in the elaboration and improvement of international efforts to promote and protect indigenous peoples' rights.

Second, CHRP establishes the Indigenous Peoples' Human Rights Observatory (IPHRO);

Third, CHRP develops its own tools to monitor the Rights to Housing, Health, Education, Food and Water of the IPs and patterns the same with the Indigenous Navigator tools.¹⁹ More so, CHRP utilized certain indicators and questions in the Indigenous Navigator during the public hearings in pursuit of the National Inquiry;

Fourth, this 2018, CHRP will conduct community immersion activities in selected ancestral domains as part of the preliminary study's methodology to elaborate on the normative contents of cultural rights pursuant to UNDRIP and within the context of the Philippines;

Fifth, also in 2018, CHRP, with the support of the United Nations Department of Economic and Social Affairs (UN DESA), will hold capacity-building/trainings for IP human rights defenders to further mobilize and empower them to protect and promote their rights under IPRA and UNDRIP.

Preparatory activities for the last two programs mentioned above were made in 2017.

19 On June 13-14, 2017, CHRP, together with the South East Asian Forum of NHRIs (SEANF), Danish Institute for Human Rights and the Asia Indigenous Peoples Pact (AIPP) participated with the Workshop on the Indigenous Navigator and the 2030 Agenda for Sustainable Development, which was held in Chiang Mai, Thailand. A common statement was issued by the participants to the effect that: *“The SDGs can be achieved if human rights are realized. A human-rights based approach to SDG planning, implementation and review is essential, and NHRIs have a key role to play here as data providers on the human rights situation of vulnerable and marginalized groups who are left behind. Continuous capacity-building and sharing of practices among NHRIs and stakeholders are truly essential, so that NHRIs can gather information and provide independent assessments on the implementation of the SDGs, as well as provide valuable input for national and sub-national SDG planning and programming.”*

4.

What are the main constitutional, legislative and/or administrative developments taken or planned to promote and/or implement the UN Declaration on the Rights of Indigenous Peoples in your country? Has your institution been involved in these processes, and if so how?

ANSWER:

The Philippines does not have a national action plan to particularly implement UNDRIP per se. Since a domestic law, i.e. the IPRA, is the legal basis of the IPs' rights, a particular government office, i.e. the NCIP, is legally mandated to primarily issue and implement what is known as the Indigenous Peoples Master Plan.²⁰ Still, there are indications of several efforts in 2017 to realize the principles stated in the UNDRIP such as the following notable examples:

- The NCIP's flagship program, known as the Philippine Indigenous Peoples Ethnographies (PIPES) –

NCIP officially launched its flagship program, known as PIPES,²¹ on October 25, 2017 to address 14 thematic concerns of the IPs in the Philippines, as follows:

1. Formal recognition of Ancestral Domains (ADs)
2. Control and management of ADs
3. NCIP's capacity to deliver its mandate
4. Destruction of the ecosystems within the ADs
5. Non-compliance and violation of Free, Prior and Informed Consent (FPIC)
6. Eroding culture of the IPs
7. Weak IP governance system
8. Impact of government services are not felt
9. Overlapping claims over ancestral domains
10. Non-recognition of agencies of IP elders/leaders
11. Displacements of IPs from their ancestral domains
12. Insufficient knowledge of their rights
13. Discrimination of IPs
14. Peace and security

CHRP participated during the conceptualization process of the PIPES²² and contributed its efforts in the conduct of its National Inquiry and the plan to establish the IPs' Human Rights Observatory.

20 Section 46(b) of IPRA provides: “*The Office on Policy, Planning and Research (of NCIP) shall be responsible for the formulation of appropriate policies and programs for ICCs/IPs such as, but not limited to, the development of a **Five-Year Master Plan for the ICCs/IPs**. Such plan shall undergo a process such that every five years, the Commission shall endeavor to assess the plan and make ramifications in accordance with the changing situations. The Office shall also undertake the documentation of customary law and shall establish and maintain a Research Center that would serve as a depository of ethnographic information for monitoring, evaluation and policy formulation. It shall assist the legislative branch of the national government in the formulation of appropriate legislation benefiting ICCs/IPs;*”

21 NCIP launches PIPE program in Region 11 to empower Lumads (posted Nov. 15, 2017) <http://mindanaotimes.net/ncip-launches-pipe-program-in-reg-11-to-empower-lumads/> (accessed Nov. 16, 2017)

22 CHRP participated in the National Consortium Inception Workshop that NCIP organized on July 31-August 1, 2017 to seek feedback from other government offices, NGO civil society organizations, and other experts on the substance and processes of the PIPES program.

- The Peace Process in Mindanao and the efforts to enact the Bangsamoro Basic Law (BBL) –

On June 2017, the Bangsamoro Transition Commission²³ submitted a draft BBL to President Rodrigo Duterte.²⁴ The UNDRIP, and not IPRA, is recognized in the draft text, particularly Section 3, Subsection 30 on the “Exclusive Powers” of the Bangsamoro Government, which provides:

“Protection of the rights of the indigenous people in the Bangsamoro in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, and taking into account in addition to economic and geographical criteria, their individual and communal property rights, cultural integrity, customary beliefs, historical and community traditions. The Bangsamoro Parliament shall create an appropriate office or ministry for the Indigenous Peoples, which shall be part of the Bangsamoro Cabinet to develop and implement the Bangsamoro programs for the indigenous peoples in accordance with a law passed by the Parliament;”

More so, the proposal is for the Bangsamoro Parliament to create an office or ministry, obviously different from the existing NCIP, for IPs in the territories that would agree to be included in the new Bangsamoro.

CHRP participated in the processes of the Mindanao Indigenous Peoples Legislative Assembly (MIPLA) to gather feedback and inputs on the recent draft of the BBL. The MIPLA was convened by the IP Peace Panel which has been formed and activated in response to the clamor for IP representation in the peace process. CHRP has also developed a position paper on the draft BBL.

- The efforts to enact the ICCA

There is House Bill No. 115, with the short title “Indigenous Peoples and Local Communities Conserved Areas and Territories (ICCA) Act of 2016,²⁵ which is said to implement the United Nations Convention on Biological Diversity, and that aims to fully realize cultural rights of the indigenous peoples. The bill provides that it shall be the policy of the state to recognize, promote and support the initiatives of local communities in establishing and maintaining ICCAs in key biodiversity areas (KBAs) within forestlands. It requires a system of recognition, registration, protection and promotion of covered lands, providing penalties to any act of desecration for such areas. The bill clarifies the mandates of the different government agencies, such as the Department of Environment and Natural Resources and the National Commission on Indigenous Peoples, among others, in the implementation of the bill's objectives. One of the motivations to pursue the ICCA Bill is the international recognition of

23 The Bangsamoro Transition Commission, created by Executive Order 120, is a body authorized to draft the Bangsamoro Basic Law (BBL) for the new Bangsamoro political entity. The members of the Commission shall draft the Bangsamoro Basic Law in conformity with the peace agreements between the Government of the Republic of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF). In relation to its task to draft the BBL, the BTC is also mandated to recommend to Congress or the people amendments to the 1987 Philippine Constitution, if it deems such necessary. There are fifteen (15) members of the BTC all of whom are Bangsamoro and appointed by the President. Seven (7) members were selected by the government, while eight (8) members, including the Chairman, were selected by the MILF. In its 15 members, three (3) communities are represented in the Commission: the Muslims, the Christians and the Indigenous Peoples (IPs). (Source: A Primer on the Bangsamoro Transition Commission and the Bangsamoro Basic Law, Feb. 2014)

24 DOCUMENT: Revised Draft of the Bangsamoro Basic Law (July 18, 2017) <https://www.rappler.com/nation/175933-document-revised-draft-bangsamoro-law> (accessed Nov. 20, 2017)

25 Text of the bill is found via http://www.congress.gov.ph/legisdocs/basic_17/HB00115.pdf (accessed Nov. 20, 2017)

Ifugao's *muyong*, viewed from different perspectives, either as a forest conservation strategy, a watershed rehabilitation technique, a farming system or an assisted natural regeneration (ANR) strategy.²⁶ Through the *muyong* system, the Ifugaos have aptly shown that ANR can be used effectively to transform woodlots into multiple-use centers without disturbing the pristine condition of the natural forest. A counter-part bill (Senate Bill No. 1185) is sponsored in the Senate by Senator Loren Legarda, where she mentioned in the explanatory note: “good example of an ICCA is the ancestral domain of the Tagbanuas in the island of Coron in northeastern Palawan. Only traditional fishing methods are allowed within its ancestral waters given the sacred nature of the place among the Tagbanuas. It is about time that the national government give due importance and role to the indigenous communities as partners in the conservation of protected areas found within their ancestral domains.”²⁷

It is expected that discrimination against indigenous knowledge of preserving natural resources would be diminished, and pursuant to Article 29 of UNDRIP, which provides: “Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.”

CHRP supports the passage of the ICCA Law, which is expected to further strengthen the IPs' native title over their domains and natural resources.

5.

Please provide information on any activities and programmes that your institution carries out or plans to do that are specific to indigenous peoples.

ANSWER:

The same response for this question is provided for under the 3rd question above.

6.

Has your institution been engaged in work relating to the development or implementation of national action plans, strategies or other measures to achieve the ends of the Declaration on the Rights of Indigenous Peoples? If yes, then please provide information.

ANSWER:

As mentioned earlier, while the Philippines does not have a national action plan to particularly implement UNDRIP, each government agency, other than the NCIP, are in a proper position to provide programs, activities and projects to specifically address the needs and concerns of the IPs. CHR has already realized the need for a special project for IPs under the auspices of the National Inquiry procedures and the IPHRO, both of which has undergone extensive planning and strategizing. It is also mentioned in its 2017 submission that CHRP maintains the office that specializes on IP issues and with due regard to the protection and promotion of IP human rights within the context of an indigenous point of view. This office is known as the Economic, Social and Cultural Rights Center (ESCR Center), which serves as focal point for IP human rights defenders at the national level of the CHRP and tasked to engage with state authorities in forming inter-agency solutions to issues raised by IP human rights defenders.

IPRA designates NCIP to develop a five year master plan to further implement the provisions of the law. Called the “Indigenous Cultural Communities/Indigenous Peoples’ Masterplan, it covers the

26 Butic, M. & Ngidlo, R. (2003) *Muyong forest of Ifugao: Assisted natural regeneration in traditional forest management* <http://www.fao.org/docrep/004/AD466E/ad466e06.htm> (accessed Nov. 20, 2017)

27 Text of the bill is found via <https://www.senate.gov.ph/lisdata/2496721475!.pdf> (accessed Nov. 20, 2017)

four bundles of human rights of indigenous peoples and complements the country's Philippine Development Plan. There have been two Indigenous Peoples' Masterplan, with the latest document available for the years 2012- 2016. "IPRA's Implementing Rules and Regulations (IRR), states that "Based on the Ancestral Domain Sustainable Development and Protection Plans (ADSDPP) of the various Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) and other relevant information, the Office on Policy, Planning and Research (OPPR) shall formulate a Five-Year Master Plan for the delivery of appropriate support services to the ICCs/IPs (Section 8, Part 2, Rule 8 Delineation and Recognition of Ancestral Domains)."²⁸

The Philippine Development Plan 2017-2022 has included indigenous peoples in its chapters on Promoting Philippine Culture and Values (chapter 7) and Ensuring Ecological Integrity, Clean and Health Environment (chapter 20).²⁹ Chapter 7 of the development plan aims for intensifying efforts to raise cultural awareness, while Chapter 20 take into consideration indigenous peoples' issues on management of natural resources and land administration.

The state has also pronounced to develop a National Human Rights Action Plan and a National Action Plan on Business and Human Rights.³⁰ These plans should include programs and policies that respond to the rights of indigenous peoples.

7.

How does your institution address violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities?

ANSWER:

CHRP provides protection, promotion and policy advocacy services for IPs who are victims of violence and discrimination, through its Protection Services. Once reports of alleged human rights violations are lodged or motu proprio initiative planned, CHRP investigators in the regional offices, conduct site visits, when possible, or inquire with relevant government agencies on documentation available to investigate and resolve the cases. The national inquiries of the CHRP are crucial too in gathering information of rights violations. The documentation of cases, regional situation reports and reports from civil society and IPOs serve as primary and secondary sources for CHRP to develop advisories, alerts and recommendations to relevant government institutions

The IPs clamor to be self-sufficient and self-sustaining communities, and they expect the full support of the government, who in certain instances is not fully cognizant in implementing the IPRA and other laws loosely recognizing the indigenous identity, or one that has tendency to insist its ideas from top to bottom.³¹ IPRA is categorical in recognizing the IPs' right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention shall be paid to the rights and special needs of indigenous women, elderly, youth, children and differently-abled persons.³² It is only after 20 years of IPRA when the ethnographic survey would be conducted to gather disaggregated data on IP women, children, elderly, and that would

²⁸ National Commission on Indigenous Peoples (NCIP), "Indigenous Peoples MasterPlan (2012-2016)," <http://www.ombudsman.gov.ph/UNDP4/wp-content/uploads/2013/02/Indigenous-Peoples-Master-Plan-2012-2016.pdf> (Last Accessed: 22 June 2017)

²⁹ Philippine Development Plan 2017-2022, <http://pdp.neda.gov.ph/>

³⁰ For more information, read the following press releases: "Presidential Human Rights Committee spearheads "Government Consultation-Workshop on the Development of the National Action Plan on Business and Human Rights," <http://www2.hss.de/southeastasia/en/philippines/news-events/2016/presidential-human-rights-committee-spearheads-government-consultation-workshop-on-the-development-of-the-national-action-plan-on-business-and-human-rights.html> ; and "Human Rights Action Plan to be Crafted in PH," <http://www.neda.gov.ph/2017/03/16/human-rights-action-plan-to-be-crafted-in-ph/>

³¹ Per DOLE's identification of issues and concerns in monitoring the right to development of IPs, during the Baguio Conference on the IP Right to Development

³² Section 25, IPRA

once and for all clarify the scope and meaning of ethnicity.³³ Still, there has been the legal basis for the IPs' demand for special attention.

IP women raise the young at home. The primary concern of IP women is about their health conditions, particularly reproductive health. The IPs have in mind the DOH's "no home birthing policy". This policy is also considered to have an effect on the customs and traditions of the IPs. For instance, a male IP should not approach a pregnant woman IP while giving birth, but in health centers there are male nurses.³⁴ The IP women could not afford the cost of giving birth in health centers. They are accustomed to pay their traditional birth attendant ("hilot", "paltera") in kind (e.g., chicken, food). The government implements the "no home birthing policy" to address the rising number of maternal deaths since 2011 and local government units enacted local ordinances penalizing delivering through the assistance of traditional birth attendants.³⁵ Meanwhile, health facilities in Geographically Isolated and Disadvantaged Areas (GIDA) are not established. Mainstream medical practices also conflict with the IPs' traditional health system. Municipalities and provinces considered to have a large GIDA and IP population have poor health indicators compared to municipalities and provinces that are more accessible. The delivery of health services are devolved to the LGUs. But delivery of health service to IPs may be complex. IP communities are geographically defined by their ancestral domains that may be covered by geographic areas of various sizes and at times under several LGUs.³⁶ IP women would want to have more active involvement in the decision-making process of their group.

IP youth and children ask for more opportunities to develop their potential, particularly through education. They are conscious of their role to preserve their groups' cultural heritage. However, they believe that the scholarship programs of the government, primarily based on the mainstream grading system as NCIP requires,³⁷ are deemed not considerate of their socio-cultural background. Schools are located far from the children's homes. Also, the IP Youth resource persons from Maguindanao and Compostela Valley Province are bothered in what they know as continuing efforts of certain groups to recruit the IP youth to join the armed struggle.³⁸ The same situation occurs in Sitio Sambisan, Brgy. Poypoy, Calintaan, Occidental Mindoro, concerning a youth Taubuid who is allegedly recruited by the military.³⁹ Most IP children are not registered at birth. For instance, in two sitios of Brgy. Dalagsaan, Libacao, Aklan, there are already 265 IP children who are not registered and do not have birth certificates.⁴⁰ Children who are not born in hospitals or health centers are not registered.⁴¹

IPs have high regard for their elders. The IP youth look up to their elders for guidance on how to continue and preserve their customs and traditions. Being an elder in the IP community does not necessarily mean reaching the age of 60 years old. There are IP senior citizens who are not included in the list of beneficiaries of the social pension, monthly stipend and other benefits.⁴² They are not aware on the criteria and process to avail the government programs for senior citizens.

33 Per statement of NCIP Commissioner Basilio A. Wandag and presentation of Dahlielyn Dait-Cawed during the Baguio Conference on the IP Right to Development

34 Per statement of Roldan Babelon (Erumanen ne Menuvu) and Linda Midal (Lambangian) during the 4th public hearing in Davao City

35 House Resolution No. 1531

<http://gabrielawomensparty.net/sites/gwp/files/HR1531%20Investigate%20DOH%20No%20Home%20Birthing%20Policy.pdf> (accessed November 28, 2017)

36 DOH-NCIP-DILG Joint Memorandum Circular No. 2013-01 (April 19, 2013). Guidelines on the Delivery of Basic Health Services for Indigenous Cultural Communities/Indigenous Peoples <http://ncipro67.com.ph/wp-content/uploads/2015/09/DOH-NCIP-DILG-JOINT-MC-NO-2013-01-dtd-19-April-2013.pdf> (accessed November 28, 2017)

37 Per statement of Bae Nena Lindaan (Mandaya) during the 4th public hearing in Davao City

38 Per statement of Ruel Morfing (Youth leader, Teduray) during the 4th public hearing in Davao City

39 Per statement of Kalib Macapagal (Taubuid) during the 2nd public hearing in Puerto Princesa City, Palawan

40 Per statement of Guillermo Colas (Akeanon Bukidnon, Brgy. Dalagsaan, Libacao, Aklan) during the 1st public hearing in Iloilo City

41 Per statement of Lettie Magango (representing Bantuanon and Ati Group, Odiongan, Romblon) during the 2nd public hearing in Puerto Princesa City, Palawan

42 Per statement of Valentin Regla (Tagabukid) during the 2nd public hearing in Puerto Princesa City, Palawan

The IPs felt discriminated against by non-IPs, even by the government, in terms of economic opportunities and accessing of programs. Their non-inclusion in government programs are deemed discriminatory, as they are left behind. They consider themselves powerless since the government immediately penalize them for violation of certain laws, such as on environmental protection, while big companies could go scot-free. They believe that non-IPs and even other IP groups consider them as having lesser capacity, such as in the classroom⁴³ and work setting. They are mere tools for some, who would befriend them whenever convenient to the latter's interest.⁴⁴ The Sama Bajaus are treated as “eye sores” for being mendicants and due to their dirty physical appearance.⁴⁵ It is observed that IPs, such as those in far-flung areas are prone to be influenced by leftist groups,⁴⁶ which is indicative of the lack of the duly constituted government's presence in such areas.

Discrimination should be addressed through capacity-building for IPs, beginning with their rights under the law, whether domestic or international.

43 Per statement of Ruel Morfing (Youth leader, Teduray) during the 4th public hearing in Davao City

44 Per statement of Jeorge Largado (Bukidnon Karulano, IPMR-Kabankalan, Negros Occidental) during the 1st public hearing in Iloilo City

45 Per statement of Philip Salvador Acuna (IP Focal, DSWD Region III) during the 3rd public hearing in Tagaytay City

46 Per statement of B/Gen. Noelito Albano (AFP Northern Luzon Command) during the Baguio Conference on the IP Right to Development