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Regional: Targeted Capacity Building for Mainstreaming Indigenous Peoples’ Concerns in Development

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For Asian Development Bank
   National Commission on Indigenous Peoples of the Government of the Philippines

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Safeguarding the Rights of Indigenous Peoples in the Agriculture and Natural Resources Management Sector
A Toolkit for the Philippines

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Final Report

October 2011

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CONTENTS

I. INTRODUCTION 1

II. TOOL 1: CONCEPTS OF INDIGENOUS LAND USE AND NATURAL RESOURCES MANAGEMENT: THE PHILIPPINES 5
   A. Indigenous Peoples and their Lands and resources: an overview 5
   B. Concepts of indigenous land use and ownership 6
   C. Indigenous land and resource rights: problem areas and challenges 9

III. TOOL 2: INDIGENOUS LAND AND RESOURCE RIGHTS: UNDERSTANDING THE BASIC PRINCIPLES AND SAFEGUARD REQUIREMENTS 11
   A. International instruments and policies 11
   B. Law and policy instruments in the Philippines 16

IV. TOOL 3: APPLYING SAFEGUARDS FOR INDIGENOUS PEOPLES IN AGRICULTURE AND NATURAL RESOURCE PROJECTS: PROCEDURES 20
   A. ADB Procedures 20
   B. Philippine mechanisms and procedures 21
   C. Summary and issues for reflection 25

V. TOOL 4: LESSONS OF PROJECT EXPERIENCE 27
   A. Case 1: The Cordillera Highland Agricultural Resource Management Project 27
   B. Case 2: The Second Agrarian Reform Communities Project 29
   C. Case 3: Land Claims of the Buhid Peoples in Oriental Mindoro 35
   D. Case 4: Integrated Natural Resources and Environmental Management Project 37

VI. TOOL 5: APPLYING SAFEGUARDS FOR INDIGENOUS PEOPLES: PRACTICAL GUIDANCE 39
   THE “HOW TOS” 41
   • How to Gather Culturally Appropriate Baseline Information 41
   • How to Conduct Meaningful Consultations with Indigenous Peoples 43
   • How to Assist Indigenous Communities to Arrive at a Decision Concerning a Project 45
   • How to Strengthen Indigenous Peoples in Representing their Concerns 45
   • How to Set Up a Culturally Appropriate Grievance Redress Mechanism 46
   • How to Ensure Indigenous Peoples Participate Effectively in Monitoring Projects 47

VI. TOOL 6: GUIDANCE FOR AGENCY AND INDIVIDUAL ASSESSMENT AND REFLECTION 49
# ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
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<tr>
<td>ARCs</td>
<td>Agrarian Reform Communities</td>
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<tr>
<td>ARCP II</td>
<td>Second Agrarian Reform Communities Project</td>
</tr>
<tr>
<td>ADSDPP</td>
<td>Ancestral Domain Sustainable Development and Protection Plan</td>
</tr>
<tr>
<td>CADC</td>
<td>Certificate of ancestral domain claim</td>
</tr>
<tr>
<td>CADT</td>
<td>Certificate of ancestral domain title</td>
</tr>
<tr>
<td>CALT</td>
<td>Certificate of ancestral land title</td>
</tr>
<tr>
<td>CAR</td>
<td>Cordillera Administrative Region</td>
</tr>
<tr>
<td>CARP/CARL</td>
<td>Comprehensive Agrarian Reform Law/Program</td>
</tr>
<tr>
<td>CHARM</td>
<td>Cordillera Highlands Agricultural Resource Management Project</td>
</tr>
<tr>
<td>CLOA</td>
<td>Certificate of land ownership award</td>
</tr>
<tr>
<td>DA</td>
<td>Department of Agriculture</td>
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<tr>
<td>DAR</td>
<td>Department of Agrarian Reform</td>
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<tr>
<td>DENR</td>
<td>Department of Environment and Natural Resources</td>
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<tr>
<td>DILG</td>
<td>Department of Interior and Local Governments</td>
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<tr>
<td>FPIC</td>
<td>Free and prior informed consent</td>
</tr>
<tr>
<td>ICCs/IPs</td>
<td>Indigenous cultural communities/indigenous peoples</td>
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<tr>
<td>IFAD</td>
<td>International Fund for Agricultural Development</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
</tr>
<tr>
<td>INREM</td>
<td>Integrated Natural Resources and Environmental Management Project</td>
</tr>
<tr>
<td>IPDF/IPDP</td>
<td>Indigenous Peoples development framework/plan</td>
</tr>
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<td>IPPF/IPP</td>
<td>Indigenous Peoples planning framework/plan</td>
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<td>IPRA</td>
<td>Indigenous Peoples’ Rights Act</td>
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<tr>
<td>LGU</td>
<td>Local government unit</td>
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<tr>
<td>MTPDP</td>
<td>Medium-Term Philippine Development Plan</td>
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<td>NCIP</td>
<td>National Commission on Indigenous Peoples</td>
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<tr>
<td>NEDA</td>
<td>National Economic and Development Authority</td>
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<tr>
<td>NIA</td>
<td>National Irrigation Authority</td>
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<tr>
<td>NIPAS</td>
<td>National Integrated Protected Areas System Act</td>
</tr>
<tr>
<td>RA</td>
<td>Republic Act</td>
</tr>
<tr>
<td>SPS</td>
<td>Safeguard Policy Statement</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
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INTRODUCTION

This toolkit provides guidance on how to apply safeguards for indigenous peoples in development projects, specifically projects in the agriculture and natural resource management sector. It is targeted in particular at the officials of government agencies, above all those agencies which execute or implement projects financed by international organizations such as the Asian Development Bank (ADB). It is hoped, however, that the toolkit will also be of use to other persons involved in or affected by these development projects. This includes the national or international consultants who may assist in the design of these projects; the non-governmental organizations (NGOs) who may implement parts of these projects, or be involved in monitoring their impact; and of course the representatives of indigenous peoples and their cultural communities who may be affected by these projects.

The toolkit has been prepared as part of a regional technical assistance project undertaken by the ADB, on *Targeted Capacity Building for Mainstreaming Indigenous Peoples Concerns in Development*. It complements a more generic training manual, destined for use by all government officials, on ways to apply safeguards for indigenous peoples in all development projects.

The project has been implemented in three Asian countries, Bangladesh, the People’s Republic of China, and the Philippines. In each of these three countries a generic training manual has been prepared. In addition, three separate toolkits have been prepared, focusing on different economic sectors in each of the three countries. After consultations with the respective governments, it was decided to focus on education in Bangladesh, transport and infrastructure in the People’s Republic of China, and agriculture and natural resource management in the Philippines.

One factor behind the choice of these different sectors in the three countries has been the nature of ADB loans and projects which may have an impact on indigenous peoples. In the Philippines, there has been extensive project experience throughout the archipelago, particularly from northern Luzon and Mindanao, from which to draw lessons and derive practical guidance. Furthermore, other important projects in the environment and natural resources sectors, which target indigenous peoples as the primary beneficiaries, were under preparation at the time of preparing this toolkit. Government agencies with an important role in executing or implementing these projects have included the Department of Agriculture (DA), Department of Agrarian Reform (DAR), Department of Environment and Natural Resources (DENR) and the Department of Interior and Local Government (DILG), as well as local governments. Furthermore the National Commission on Indigenous Peoples (NCIP) has played a key role in some of these projects, as mandated by the 1997 Indigenous Peoples Rights Act (IPRA) and its implementing rules and regulations. NCIP’s vital tasks include: the delineating and titling of ancestral domains of indigenous peoples; the securing of the free and prior informed consent (FPIC) of indigenous peoples for any project activities undertaken within their ancestral domains; and the preparation of sustainable development plans for these ancestral domains, which can be the basis for development projects undertaken within indigenous communities by other national and international agencies.
A further factor is the intrinsic importance of agricultural and subsistence land, forests and related natural resources for the sustainable livelihood of indigenous peoples in the Philippines. Worldwide, indigenous peoples enjoy a special relationship with their lands, territories and natural resources, inhabiting fragile ecosystems and contributing with their unique knowledge to biodiversity. Perhaps nowhere is this more the case than in the Philippines, where over a hundred ethnolinguistic groups inhabit upland areas and river basins, lowland forests and coastal areas.

In recent years, there has been growing international concern that development projects should bring harm to the cultures and traditional lifestyles of indigenous peoples, and that special measures should be adopted to protect these vulnerable peoples. International instruments have paid particular attention to the rights of indigenous peoples over their lands, environment and natural resources. Examples are the Indigenous and Tribal Peoples Convention, No. 169, adopted by the International Labour Organization (ILO) in 1989; and the Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly in 2007. The ILO Convention has a special chapter on land, recognising the special importance for the cultures and spiritual value of indigenous peoples of their relationship with their lands and territories. The UN Declaration also places emphasis on the importance of land rights, observing that “Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned….territories, waters and coastal seas and other resources”.

Similarly, the policies adopted by international financial institutions to provide safeguards for indigenous peoples in the context of indigenous peoples have attached particular importance to land and ancestral domain. For example, the Safeguard Policy Statement (SPS) adopted by the ADB in 2009 has special requirements on the ancestral domains and lands and natural resources of indigenous peoples. A borrower or client, who executes a project with an ADB-financed loan, is required to pay particular attention to issues including:

- The customary rights of the indigenous peoples, both individual and collective, pertaining to ancestral domains, lands or territories that they traditionally own or customarily use or occupy, and where access to natural resources is vital to the sustainability of their cultures and livelihood systems;
- The need to protect such ancestral domains, lands and resources against illegal intrusion or encroachment;
- The cultural and spiritual values that the indigenous peoples attribute to such lands and resources;
- The indigenous peoples’ natural resources management practices and the long-term sustainability of such practices; and
- The need to rehabilitate the livelihood systems of indigenous peoples who have been evicted from their lands.

Other parts of the SPS specify the need to obtain the consent of indigenous peoples communities, when a project addresses issues including the commercial development of natural resources of indigenous peoples and their communities. This covers the commercial development of natural resources such as minerals,
hydrocarbons, forests, water or hunting or fishing grounds within customary lands under use by indigenous peoples.

If we turn to the Philippines, no other Asian country has better law and policy instruments to safeguard the land and resource rights of indigenous peoples in the context of development projects. A quarter of a century ago, the 1987 Constitution set the stage by providing that the State shall protect the rights of indigenous cultural communities to their ancestral lands. Ten years later in 1997, the landmark IPRA law provided greater substance to the rights to ancestral domains (see below), as well as establishing the NCIP to safeguard and promote these rights.

While the law and policy framework is thus firmly in place, no one can pretend that these are easy issues to address. There are many government agencies with a mandate over agricultural land, agrarian reform, the environment and forestry, coastal waters, the biosphere and related issues. There is a National Economic Development Authority (NEDA), with overall responsibility for development planning and priorities. It is an immense task to delineate and title the ancestral lands and domains of a diverse indigenous population, present in all parts of the Philippines, and which comprises more than 10 per cent of the national population. The question of obtaining consent of indigenous communities for development projects also poses considerable challenges. Indigenous peoples may share common characteristics, but they are not uniform. They may have different aspirations with regard to land use and management within an ancestral domain area.

Effective action is required at different levels to safeguard the concerns of indigenous peoples in development. It requires action at the policy coordination level, to ensure that policies are consistently applied by different agencies. Other action is needed in the design and preparation of projects, to ensure that they are consistent with national and international safeguards. Particular attention needs to be given to consultation with indigenous peoples, and their participation in the design of projects which may affect them. Other action concerns the implementation of project activities, again ensuring that there is ongoing consultation with and participation by indigenous communities through their appropriate representatives, and adequate grievance procedures in the case of complaints. And finally, there is monitoring and evaluation of projects, to assess achievements, and to learn lessons for the future from good and less satisfactory practice.

The toolkit is divided into six separate parts, as follows.

Tool 1 provides basic background information about indigenous peoples and their lifestyles in the Philippines, focusing in particular on their methods of subsistence from land and forestry, and on their patterns of land use and management. While these can vary between different indigenous groups, the purpose is to give development practitioners a broad understanding of why and how indigenous peoples can manage and use their land differently from the mainstream population, rather than to provide an exhaustive treatment of a complex issue.

Tool 2 explains basic principles and safeguard requirements on indigenous land and resource rights, covering the major international law and policy instruments, the
safeguards provisions of multilateral financial institutions like the ADB, and also law and policy instruments in the Philippines.

*Tool 3* familiarizes the reader with the mechanisms and procedures for applying these safeguards. It covers both ADB procedures, and relevant regulations and processes in the Philippines. It focuses in particular on the role and responsibilities of the National Commission on Indigenous Peoples (NCIP), as the main agency with responsibility for monitoring and oversight of projects affecting indigenous peoples in the Philippines, but also covers the processes of other relevant agencies active in the areas of agriculture, land reform, natural resources management and local government.

*Tool 4* deals with practical field experience. It draws mainly on the experience of ADB projects in this sector, illustrating how consultations have been carried out, and in some cases how good practice has contributed to the delineation and consolidation of ancestral domains. Reference is also made to less satisfactory practice in certain projects. Lessons can also be learned here, as to what to avoid in future.

*Tool 5* turns to the needs of individual agencies involved in projects. How can their capacity be strengthened? How can their personnel be sensitized on indigenous cultures and patterns of land use and management, ensuring that projects are designed with the involvement of indigenous peoples and in response to their expressed needs, rather than being imposed in a top-down management style?

*Tool 6* provides guidance for auditing and self-assessment, of the knowledge of the agencies and officials within them of indigenous peoples concerns.

The toolkit seeks to combine substantive information with guidance and advice for action, practical lessons, and assessment audits. It can be used in training sessions, but also be used by individuals as a study document. It is best used as a combined document. In some cases, however, the tools can be used separately.
CONCEPTS OF INDIGENOUS LAND USE AND NATURAL RESOURCES MANAGEMENT: THE PHILIPPINES

Indigenous Peoples and their Lands and Resources: an Overview

Indigenous peoples in the Philippines are very diverse. Though there are ongoing debates as to exactly who are indigenous peoples in the Philippines, they are clearly present in sizeable numbers through the Philippines Archipelago. It has been broadly estimated that there are between 12 and 15 million indigenous peoples, thus well over 10 per cent of the national population. An NCIP information kit estimates more than 14 million indigenous Filipinos, divided into 110 ethno linguistic groups.

Though they have some common characteristics and approaches, indigenous peoples can also manage their land and resources in different ways. Patterns of resource management are adapted to the ecological environment and terrain. Steeply sloping mountain terraces, upland river basins, tropical and sub-tropical forests, or coastal waters, these can all call for some difference in approach. The following paragraphs illustrate some of this diversity.

In Northern Luzon and the Cordillera Administrative Region (CAR), indigenous peoples are concentrated in the northern mountain ranges. They occupy the interior hills, some flat land along deep valleys, and plateaus. They are largely swidden cultivators depending on rice farming, roots crops and vegetables. The Bontoc, Sagada, Ifugao and Southern Kalinga live on mountain slopes and nearby areas, cultivating wet rice on both terraces and swidden fields. The Ibaloy and Kankaney live in southern parts of the Cordillera region, basing their largely subsistence economy on wet and dry agriculture. They have become progressively more integrated in the market economy with the growth of commercial farming and temperate vegetables.

In north-eastern Luzon (Region 2), several indigenous groups including the Gaddang, Ibanag, Itawes and Yogar inhabit lowland areas of the Cagayan Valley. More to the south, groups such as the Ilongot, Ikalahan, Isinai and some Aeta groups carry out wet-rice agriculture, swidden farming, hunting and gathering, and some commercial activities. In eastern Luzon, along the Sierra Madre range, groups including the Dumagat, Pugot and some Aetas depend on swidden agriculture, hunting and gathering, fishing and trade. Other groups along the Pacific coast and in Quezon province and the Bicol peninsula (including the Agta, Agta Cimarron, Itom, Kabihug and Tagamong) depend on agriculture and fishing, forest products, and also wage labour.

There are smaller numbers but also a large diversity of indigenous ethnic groups in parts of the Visayan islands and Palawan in the central Philippines. They
include the seven Mangyan groups in Mindoro island, the Ati and Sulod in foothills and remote coastal areas of Negros and Panay islands, and the Batak, Palawanon and Agbanua in different parts of Palawan. Many of these groups tend to practise swidden agriculture, together with hunting and gathering. But in islands with large sea fronts, fishing and the trade of coastal products are of obvious importance for their livelihoods.

Mindanao is different in many ways. It can be difficult to distinguish between the Muslim groups often referred to as Moro peoples, and the non-Muslim and non-Christian groups generally referred to as Lumad. Depending on how they are classified, the Lumad groups number between 15 and 21. They are often broken down into different clusters, the Manobo, Bagobo-B’laan, T’boli, Tiruray, Mandaya-Mansaka, Subanen and Mamanwa. The Bagobo occupy mainly the highlands of Central Mindanao, along mountainous slopes of the provinces of Bukidnon, Cotabato and Davao. Other groups including the Manuvu, Mtigsalud and Ata occupy the headwaters of the Davao, Kulaman and Tinanan rivers. The Mandaya, coastal Bagobo, Agusan Manobo and Aya inhabit coastal areas along the Davao Gulf and interior hinterlands of south-eastern Mindanao. Subanon peoples occupy mainly the hinterlands and coastal lowlands of the Zamboanga peninsula. In the uplands of northern Mindanao, mountain dwelling people refer to themselves collectively as Higaonon. Most indigenous Lumad groups of Mindanao have traditionally earned their livelihood through swidden and wet rice cultivation, hunting and gathering, fishing, and trade of locally manufactured produce.

**Issues for reflection**

Indigenous peoples are often portrayed as living in subsistence economies, separated from other groups of the national population. But how true is this in the Philippines? And are there significant differences between different groups, between different parts of the Philippines, and different ecological environments? Many of the groups engage in trade with outsiders. Also, many of them work as day labourers, sometimes in towns, and also in commercial agriculture. This seems particularly the case in Mindanao, where there has been extensive settler immigration for several decades, and strong pressure on the lands and forests once occupied exclusively by Lumads. What should be done in these circumstances? How can development projects help indigenous communities to take advantage of market opportunities, while seeking not to undermine their traditional forms of land use and resource management?

**Concepts of Indigenous Land Use and Ownership**

What are the basic differences between indigenous concepts of land use and ownership, and mainstream concepts in the Philippines? Are there any common patterns and approaches, or are they completely different? And how can the differences be reconciled?

These issues have long been debated in the Philippines, as in other countries. For example, many anthropologists and other scholars have written about the “interface” between indigenous and national systems of law on land and resource utilization. Some scholars see them as very different, and difficult to reconcile. But an
essential purpose of the 1997 Indigenous Peoples Rights Act is to demarcate and title indigenous lands and ancestral domains, and then enable them to manage these lands and resources in accordance with their own customs and values. So it is vital that development practitioners, both policy and operational people, have the best possible understanding of what these indigenous concepts are. We try to give a simple explanation here, of what is admittedly a complex subject.

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<tr>
<th>BOX 1.1</th>
<th>INDIGENOUS CONCEPTS OF LAND</th>
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<tr>
<td><strong>Land</strong> is a blessing and a gift from God, and is therefore sacred. It is the source of life of the people like a mother that nurtures her child. Consequently...land is life.</td>
<td></td>
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<tr>
<td><strong>Land</strong> is also seen as a symbol of identity. It symbolizes their historical identity because they see it as an ancestral heritage that is to be defended and preserved for all future generations. It symbolizes their local identity because they believe that, wherever they are born, there too they shall die and be buried and their own graves are proof of their rightful ownership of the land. It symbolizes their tribal identity because it stands for their unity, and if the land is lost, the tribe too shall be lost.</td>
<td></td>
</tr>
<tr>
<td>Ownership of the land is seen as vested upon the community as a whole. The right of ownership is acquired through ancestral occupation and active production.</td>
<td></td>
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<tr>
<td>To them, it is not right for anybody to sell the land because it does not belong to only one generation but should be preserved for all future generations.</td>
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The above box represents the findings of a survey conducted over two decades ago, when scholars, activists and legislators were beginning to work intensively on drafting the IPRA law. It was important to know how indigenous peoples themselves saw their relationship with their lands and resources. It summarises the findings of surveys with eleven indigenous communities in Mindanao, when closely related answers were given. It places emphasis on the communal nature of indigenous land use, and the importance of the spiritual relationship with the lands and resources.

But the concept of communal ownership needs to be carefully understood. It does not mean that all indigenous lands and related resources and used and worked on a collective basis. Two scholars have explained the concepts of communal ownership and limited individual ownership among Kalinga indigenous communities in Cordillera province:
Kalinga social life is based on strong kinship relations. An important social unit is the ili, governed by a consensus system administered by the pangat leader. The indigenous Kalinga concept of land is built on a coherent body of customs, traditions, beliefs and practices. While everyone has the right to enjoy the land and its resources, nobody can claim absolute ownership. Only Apo Kabuniyan – the Supreme deity – owns the land, including water and mineral resources. The Kalinga therefore see themselves not as owners but as caretakers of divine lands.

Land within the Kalinga ili is classified according to its use. In one interior village, for example, land is classified into the six general categories of residential areas, rice terraces, swidden farms, forest areas, pasture or grazing ground, and tree farms. All of these have names in the Kalinga language. Uma are the swidden farms; paypayao are the rice terraces; the ginuphayat are forest areas; the piyag are pasture or grazing grounds; and the kakkaju are the cultivated orchards where oranges, fruit trees and coffee are grown. Other categories are the sangasang as the sacred shrine, and the luplupuhan s burial ground.

The Kalinga system of land ownership is basically communal, in that everyone shares a common right to the land, and some aspects of production such as rice cultivation on the hilly slopes are carried out on a communal basis. Communal ownership governs the forest areas, swidden farms, tree farms or orchards, and pasture and burial grounds. On swidden farms, however, the right to use and cultivate the land is subject to the prior right of an individual who has previously cleared the area. This person has the right to exclude others from using the swidden farm. Swidden plots left fallow may be reopened by the first person to clean them, but descendants of prior users can claim preferential rights.

Terraced rice farms as well as residential lots are governed by a limited system of individual ownership, in which the individual owner has the right to use and dispose of the property. While the owner of individual land has the right to dispose of property under reasonable grounds, this right is subject to two conditions. First, the property must first be offered to a member of the same clan. Only if no one in the clan is interested can the property be alienated to another member of the village. Second, in no case may the owner of private lands alienate the property to anyone outside the community. Moreover, the parcels of residential lots and rice paddies are indivisible, and cannot be subject to partition.


Other analysts have confirmed this distinction, though perhaps distinguishing between communal and clan properties. One author, Jose Mencio Molintas, observes that there are three prevailing patterns of access to lands and resources in the Cordillera region. First, communal properties are the land and resources owned by the tribe or ili. Although use of and access to these resources are open to all, custom frowns upon the abuse of these rights. Indigenous community members partake of these resources in accordance with their need, and are equally responsible for their regeneration. Second, the clan properties include the uma swidden farms, pasturelands and reforested areas acquired from the common properties through prior
occupation and usufruct rights. The *individual private properties* include the rice fields, home lots and private gardens. Land can be acquired by inheritance, by sale as a last resort, or by compensation. The latter can be for harm or damage done to another member of the community. Among peace pact holding areas, the land or property may be given not to the person directly wronged, but to the community as a whole.

**Points for reflection**

It seems true that the above represents some traditional or “ideal” concepts of indigenous land and resource use. They have provided the basis of the concept of *ancestral domain*, one of the central points of IPRA. But any development worker will know that, in practice, the issues are far more complex. In some cases, indigenous families have registered their lands under the Civil Code, or have obtained land titles from DAR as agrarian reform beneficiaries. And there are countless cases where indigenous peoples do not occupy a cohesive space or territory, but have to share this space with non-indigenous families or even development corporations. Agribusiness, logging or mineral companies may have concessions within the areas traditionally claimed by indigenous communities. So when preparing or implementing a project, development workers will need to look carefully at the situation on the ground. To what extent if at all have indigenous families attempted to register their lands with state agencies? To what extent are there outsiders present in the areas claimed by indigenous peoples as ancestral domains? Are they private individuals, or corporations? What is the situation under national law? Have there been conflicts between indigenous peoples and outsiders? If so, how have these been resolved? Do IPRA and its implementing rules and regulations now provide a satisfactory basis for resolving any conflicts?

The next section assesses some of the problem areas that can arise in practice.

**Indigenous land and resource rights: Problem areas and challenges**

It is common knowledge that, as in so many countries, in the Philippines there has been steady encroachment on the lands traditionally occupied by indigenous peoples. Analysts tend to focus on two major impediments to their security over their lands and resources. One is the state laws and policies themselves, which, at least until the adoption of IPRA, simply did not recognize indigenous peoples’ rights over these lands and resources. The second is the encroachment on these lands or domains by outsiders, despite the provisions of national law. A third issue, which is still the case since IPRA, can be that the policies and processes of other agencies (in particular those concerned with agriculture, land reform and titling, forest management and environmental protection) are inconsistent with the provisions and implementing rules and regulations of IPRA. The third issue is considered later, after IPRA and other relevant laws and policies since the adoption of IPRA have been reviewed. This section focuses on the first two issues.

There have been countless studies concerning the problem of external encroachment on indigenous lands. The problem has been far more serious in Mindanao than in the Cordillera and other parts of Luzon island, though it has been a factor everywhere. Migrant settlement in Mindanao commenced long before
Philippine independence, but has continued in recent decades with a larger involvement of business interests. Well documented cases in Mindanao include the expansion of the large-scale sugar industry in the Bukidnon area, or the expansion of the fruit industry with the involvement of multinational corporations. Mining and logging have had a similar, if lesser, impact on the land security of some indigenous communities in parts of the Cordillera.

Reconciling state policies on land and resource management with indigenous systems has been a considerable challenge. Since the early twentieth century, way before independence, overall state policies for agricultural land have favoured private land titling through the Torrens system. For example, the Land Registration Act of 1905 established the Torrens Titling system as the sole basis of recognized land ownership in the Philippines. There have always been tensions between state policies to promote individual land tenure, through titling or agrarian reform programmes, and the ancestral land claims of indigenous peoples. Such tensions have continued, even after IPRA, when other agencies have applied their own tenure instruments in areas claimed by indigenous peoples. An example is the Certificates of Land Ownership Awards (CLOAs) issued by DAR under the Comprehensive Agrarian Reform Programme. As for forestry policies, reference is often made to implications of the 1975 Revised Forestry Code, which classified as public forest land all lands above 18 degrees of slope. In the early 1990s, however, before the adoption of IPRA, DENR played an important role in pioneering the concept of ancestral domain and assisting indigenous peoples in registering their claims.
INDIGENOUS LAND AND RESOURCE RIGHTS: UNDERSTANDING THE BASIC PRINCIPLES AND SAFEGUARD REQUIREMENTS

Purpose of the Tool

This section aims to familiarise readers with basic standards, principles and safeguard requirements on the rights of indigenous peoples to their lands and territories, and resource management. What are these basic principles? At the national level in the Philippines, they are set out in the 1987 Constitution, then in much greater detail a decade later in IPRA. But there has also been growing attention to these concerns internationally. There is a growing consensus among international development organizations that indigenous peoples should receive special treatment on these issues.

International instruments and policies

The subject is covered by several international legal instruments and policy declarations on indigenous peoples, particularly those of the United Nations and the ILO. The United Nations Development Group (covering 31 United Nations agencies, funds and programmes and other intergovernmental organizations) has given special attention to lands, territories and natural resources in its 2009 Guidelines on Indigenous Peoples’ Issues. And the ADB Safeguards Policy Statement has special requirements on ancestral domains and lands and related natural resources.

So these international instruments should be reviewed before turning to the Philippines. First, their nature and purpose needs to be understood.

The ILO has adopted a Convention on indigenous and tribal peoples, No. 169 1989. A Convention is an international law which a Member State (including the Philippines) can ratify. Once ratified by a country, the Convention has force of law within it, and the provisions of national law have to be adapted to it. So an ILO Convention is not concerned specifically with development projects. It is more of a policy orientation instrument, designed to influence national laws and policies on the basis of an emerging consensus on the subject. The ILO Convention No. 169 is known to have had a strong influence on the drafters of IPRA. In the Philippines there has recently been intensive lobbying, by NCIP among others, to ratify this Convention so that the country can have more international accountability for the implementation of its policies towards indigenous peoples.
In September 2007, the United Nations General Assembly adopted its Declaration on the Rights of Indigenous Peoples, after more than two decades of preparation. A Declaration is a non-binding instrument, and there is thus no legal obligation on a country which votes for it to adapt national law to its provisions. Nor is there any specific enforcement mechanism. However, almost every country including the Philippines voted for the UN’s 2007 Declaration, and it can be said to represent a particularly high degree of international consensus on the rights of indigenous peoples worldwide.

The United Nations Development Group issued Guidelines on Indigenous Peoples Issues in 2009. Guidelines represent policy advice, as to the way in which the concerns of indigenous peoples can be addressed in country development programmes and frameworks supported by UN organizations, and also in specific development projects. A value of such guidelines has been to translate the law and policy principles set out in the ILO, UN and other relevant instruments into some specific advice for development actors.

In June 2009 the ADB adopted its new Safeguard Policy Statement (SPS), including the special provisions on lands and ancestral domains and related natural resources. This replaced and updated the earlier 1998 ADB Policy on Indigenous Peoples. Safeguard policies are adopted by international lending and development agencies, such as the ADB and the World Bank. These are operational policies with substantive and procedural requirements, applying to projects and other interventions financed by these organizations. For example, ADB adopts a set of specific safeguard requirements that borrowers and clients are required to meet in addressing environmental and social impacts and risks. The 2009 SPS covers the three areas of the environment, involuntary resettlement, and indigenous peoples.

ILO Convention No. 169

The Convention has a special section on Land (Part II of the Convention), with seven separate articles.

Article 13 clarifies the concept of land in this instrument. Its use shall include “the concept of territories, which covers the total environment of the areas which the peoples concerned occupy or otherwise use”. Moreover, governments should respect the “special importance for the cultures and spiritual values of the peoples concerned with the lands or territories... which they occupy or otherwise use, and in particular the collective aspects of this relationship”.

Article 14 contains three importance substantive provisions, concerning state recognition of the lands which indigenous peoples traditionally occupy, and measures to ensure that these rights are made effective. Thus governments are to take steps as necessary to identify the lands which indigenous peoples traditionally occupy, and to guarantee effective protection of their rights of ownership and possession. Adequate procedures shall also be established within the national legal system to resolve land claims by indigenous peoples.

Article 15 is concerned with natural resources pertaining to indigenous lands, including mineral or sub-surface resources. The rights of indigenous peoples to these
resources shall be specially safeguarded, including the right to participate in the use, management and conservation of these resources. In cases where the State retains the ownership of mineral or other sub-surface resources, they should establish or maintain procedures for consulting indigenous peoples before undertaking or permitting any exploration or exploitation programmes. Where possible, indigenous peoples shall also participate in the benefits of such activities, and receive fair compensation for any damages.

Article 16 is concerned with removals and relocation. In principle, they shall not be removed from the lands which they occupy. If there are exceptional reasons, this should take place only with their free and informed consent. If they do not consent, relocation can take place only following appropriate procedures including public enquiries, providing the opportunity for effective representation of indigenous peoples. They should have the right to return to their traditional lands as soon as the grounds for such relocation have ceased, and shall be fully compensated for any loss or injury.

Article 17 provides that indigenous procedures for transmitting land rights among their members shall be respected; that they shall be consulted whenever policies on allowing them to alienate their land to outsiders are under consideration; and that non-indigenous persons shall be prevented from abusing indigenous customs or lack of understanding of the laws to secure the ownership, possession or use of indigenous lands. Article 18 complements this, providing that adequate penalties shall be established by law for unauthorised intrusion upon or use of indigenous lands, and that governments shall take measures to prevent such offences. Article 19 provides for equality of treatment for indigenous peoples and other sectors of the population in national agrarian programmes.

The land articles of Convention No. 169 need to be read together with other relevant provisions, such as those relating to appropriate consultation with indigenous peoples on all laws and policies affecting them; and those which enable to decide their own priorities for the process of development, to exercise control over their own development, and to participate in development plans and programmes which may affect them directly.

**UN Declaration on the Rights of Indigenous Peoples**

The UN Declaration covers similar aspects, addressing both the rights of indigenous peoples and the duties of states. Under article 8(b), States shall provide effective mechanisms for prevention of, and redress for, any action which has the “aim or effect of dispossessing them of their lands, territories or resources” Article 10 has stronger provisions than the ILO Convention on relocation. Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return. Articles 26-28 are the substantive provisions on land rights, essentially similar to those of the ILO Convention. Article 32 establishes the important principle of free, prior and informed consent for any project undertaken on indigenous lands. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and
other resources. Moreover, “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval or any project affecting their lands or territories or other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources”. The State shall also provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

United Nations Development Group Guidelines

Using mainly the above ILO and UN instruments as its source materials, the following guiding principles have been issued, for lands and territories, and natural resources, respectively:

<table>
<thead>
<tr>
<th>BOX 2.1</th>
<th>GUIDING PRINCIPLES OF UNITED NATIONS WORKING GROUP</th>
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<tbody>
<tr>
<td><strong>Lands and Territories</strong></td>
<td></td>
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<tr>
<td>• Indigenous peoples’ lands and territories should be legally recognized, demarcated and protected from outside pressure</td>
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<tr>
<td>• States should recognize the traditional management systems of indigenous peoples</td>
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<tr>
<td>• Indigenous peoples also have rights to lands used traditionally (e.g. nomadic peoples, shifting cultivators etc.)</td>
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<tr>
<td>• Where lands have been lost for the purposes of national development, restitution or redress is recognized</td>
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<tr>
<td>• All efforts should be made to ensure that indigenous peoples determine the activities that take place on their land and in particular that impacts on the environment and sacred and cultural sites are avoided</td>
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<tr>
<td>• Indigenous peoples in voluntary isolation have the right to live freely in that condition and States should adopt measures to protect their territories, environment and cultures.</td>
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| **Natural Resources** | |
| • Indigenous peoples have rights to the natural resources on their lands although in some countries sub-surface and natural resource rights legally belong to the State. However, these rights are often expressed through legal instruments that define how resources will be used, ensuring protection of indigenous heritage, benefit-sharing and compensation |
| • Indigenous peoples’ rights to resources that are necessary for their subsistence and development should be respected |
| • In the case of State-owned sub-surface resources on indigenous peoples’ lands, indigenous peoples still have the right to free, prior and informed consent for the exploration and exploitation of these resources and have a right to any benefit-sharing arrangements |
| • Permits for extraction and even prospecting of natural resources on indigenous land should not be granted if the activity hinders indigenous peoples to continue to use and/or benefit from these areas or where the free, prior and informed consent of indigenous peoples has not been obtained. |

Under the SPS, special considerations apply if a project financed by ADB affects the close ties of indigenous peoples to land, forests, water, wildlife and other natural resources. When carrying out social impact assessment in preparing a project, and particularly in preparing an Indigenous Peoples Plan (see later sections for explanation of these procedures), a borrower or client is required to pay particular attention to the following five concerns:

- the customary rights of the indigenous peoples, both individual and collective, pertaining to ancestral domains, lands or territories that they customarily use or occupy, and where access to natural resources is vital to the sustainability of their cultures or livelihood systems
- the need to protect such ancestral domains, lands and resources against illegal intrusion or encroachment
- the cultural and spiritual values that the indigenous peoples attribute to such lands and resources
- the indigenous peoples’ natural resource management practices and the long-term sustainability of such practices, and
- the need to rehabilitate the livelihood systems of indigenous peoples who have been evicted from their lands.

Projects may involve activities that are contingent on establishing legally recognized rights to lands and territories that indigenous peoples have traditionally owned, or customarily used or occupied. Examples are land titling projects, or project activities which can involve the acquisition of such lands. In these cases, the requirement is to integrate an action plan for the legal recognition of customary rights to such lands, territories and ancestral domains into the indigenous peoples’ plan. Such legal recognition can take either of two forms: either full legal recognition of existing customary land tenure systems of indigenous peoples; or conversion of customary usage rights to communal and/or individual ownership rights. Alternatively, the project will include an action plan for legal recognition of perpetual or long-term renewable custodial or user rights.

The SPS also attaches particular importance to obtaining the consent of indigenous peoples for projects which have an impact on them. While the importance of indigenous participation and consultation underlies the entire SPS, there are special requirements for the consent of indigenous peoples, when projects involve the commercial development of their cultural or natural resources, or physical displacement from traditional or customary lands.

On all these issues, the ADB SPS translates the broad principles set out in the ILO and UN instruments into operational provisions for the projects it finances. As regards physical displacement, for example, the borrower/client will explore to the maximum extent possible alternative project designs to avoid physical displacement of indigenous peoples. When in exceptional circumstances avoidance is not possible, an indigenous peoples plan should be combined with a resettlement plan, compatible with indigenous cultural preferences and including a land-based resettlement strategy. Where possible, the plan should allow for return to traditional lands once the reasons
for relocation cease to exist, and if necessary should include provisions to rehabilitate these lands.

In the case of commercial development of indigenous peoples’ natural resources, the SPS provision focus both on transparency of information, and on benefit-sharing. If a project involves the commercial development of natural resources (such as minerals, hydrocarbons, forests, water, or hunting and fishing grounds) within indigenous customary lands, the borrower or client is to ensure that the affected communities are informed of: their rights to such resources under statutory and customary law; the scope and nature of the proposed commercial development, and the parties interested in or involved in such development; and the potential effects of such development on the indigenous peoples’ livelihoods, environment and use of such resources. Arrangements are to be included in the indigenous peoples plan, enabling them to receive, in a culturally appropriate manner, an equitable share of the benefits of such commercial development at least equal to or higher than that of any other affected landowners.

Law and policy instruments in the Philippines

We can now turn to the Philippines. While the basic instrument is IPRA, together with its implementing rules and regulations, other laws and policy frameworks are also of relevance.

Constitutional safeguards

The 1987 Philippine Constitution generally recognizes the right of indigenous peoples to their ancestral domains. Article XII provides that the state shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being. Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of the ancestral domain. Article XIII provides that the State shall apply the principles of agrarian reform or stewardship subject to the rights of indigenous communities to their ancestral lands. Article X provides for the creation of autonomous regions in Cordillera and Muslim Mindanao (indeed since that time there has been ongoing controversy as to whether or not ancestral domain concerns should be governed by the same procedures in the two autonomous regions). Article XIV provides that the State shall recognize, respect and protect the rights of the Indigenous Cultural Communities to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national plans and policies.

Measures before IPRA

In the following years, a main impetus for implementing the 1987 Constitution was the significant efforts, led by the Department of Environment and Natural Resources (DENR) to delimit ancestral lands and domains, supported by development planning processes. Under an earlier program, DENR tested the concept and recognition of ancestral land claims through 1990 Special Orders that recognized such claims in parts of Baguio City and the Cordillera Administrative Region (CAR). A
1991 order gave similar benefits to indigenous peoples in Palawan. In 1993 Department Administrative Order (DAO) No. 2 established rules and regulations for the identification, delineation and recognition of ancestral land and domain claims. This developed the two distinct legal instruments providing security of tenure for indigenous peoples, namely the Certificate of Ancestral Land Claim (CALC) awarded over specific parcels of ancestral; land, and the Certificate of Ancestral Domain Claim (CADC), awarded to the community claimants of a specific ancestral territory. DAO 2 also established institutional mechanisms for inter-agency task forces, a Provincial Special Task Force on Ancestral Domains (PSTEAD) in each province with a presence of indigenous peoples, and a community special task force in designated areas. It has been recorded that between 1993-1997 DAO2 implementation resulted in the issuance of 181 CADCs, covering over 2.5 million hectares of ancestral domains in different parts of the Philippines.

Moreover, DAO 2 also provided for the preparation and implementation of Ancestral Domain Management Plans (ADMPs). Subsequently in 1996, DENR issued its DAO No. 34, Guidelines on the Management of Certified Ancestral Domains.

**Land reform and indigenous peoples**

The 1987 Constitution also provides for an intensified land reform program. In 1988 a Comprehensive Agrarian Reform Law (CARL), Republic Act. 6557, was adopted. Based on a “land for the tiller” approach, it covers: alienable and disposable lands in the public domain, public domain lands in excess of specific limits, other government lands suitable for agriculture, and private agricultural lands. Land is allocated to agrarian reform beneficiaries through Certificates of Land Ownership (CLOA). CARL provides for differentiated treatment of ancestral domains and lands, given that CARL implementation may be suspended in these areas for the purpose of identifying and delineating indigenous lands. Thus CARL provided a further option for indigenous peoples seeking tenure security, though with certain complexities. Several analysts have argued that the basic approach of the agrarian reform law is incompatible with the concept of ancestral domain, given that it involves a transfer of rights of ownership from previous landholders in the private and public domain to new beneficiaries, while ancestral domain claims are based on immemorial possession. Though Memoranda of Understanding have been issued by the Department of Agrarian Reform (DAR) and other agencies, both before and after IPRA, that CLOAs cannot be issued while there are adverse claims to the lands in question, there have been ongoing conflicts when indigenous communities have claimed that lands within their ancestral domain areas have been allocated to third parties.

**Safeguards in IPRA: main points and concepts**

IPRA covers both substantive aspects of indigenous rights and implementing mechanisms. Its substantive chapters cover four main areas of indigenous rights, namely those to: ancestral domains; self-governance and empowerment; social justice and human rights; and cultural integrity. Importantly, IPRA also defines the concept of free and prior informed consent (FPIC). This shall mean “the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, 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”.

IPRA provides clearly that the rights of ownership and possession of indigenous peoples and their cultural communities to their ancestral domains shall be recognized and protected. They cannot be relocated without their free and prior informed consent (FPIC), nor through any means other than eminent domain. In such cases, they should be fully compensated for any loss or injury. They have the right to transfer land or property rights to or among members of the same indigenous community, subject to customary law and traditions of the community concerned. Formal recognition of ancestral domain rights, when solicited by concerned indigenous communities, shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize title over the territories identified and delineated. Indigenous peoples occupying a duly certified ancestral domain also have responsibilities to maintain ecological balance, restore denuded areas, and generally observe laws. Individual members of indigenous communities have the right to secure Certificate of Title under Commonwealth Act 141 (as amended) or the Land Registration Act 496.

Chapter VII of IPRA sets out very detailed instructions for the delineation and recognition of ancestral domains. This covers, in first place, the proofs required through both written and verbal testimony and genealogical surveys, the preparation of maps, the report of investigation and other documents, notice and publication, endorsement to NCIP, and the issuance and registration of CADTs. It also has provisions regarding the turnover of areas within ancestral domains managed by other Government agencies. In second place it addresses issues including conflict resolution and the exploitation of natural resources within ancestral domains.

Other relevant country safeguards

IPRA provides the basis for indigenous peoples’ rights and safeguards in the Philippines. It has to be seen together with other national laws on issues including land and agrarian reform, forestry, mining, and environmental protection and conservation. Several of the pertinent instruments refer specifically to indigenous peoples, their lands and ancestral domain.

The National Integrated Protected Areas System Act (NIPAS) of 1992 (RA 7586) is designed to safeguard protected areas from further encroachment, and to allow development projects which enhance the protection of these areas. It includes special provisions protecting the rights of indigenous peoples and communities to their ancestral domain, and prohibits their eviction from protected areas. Department Administrative Order 2003-30 (Philippine EIS System Implementation Guidelines and Procedures) identifies those areas traditionally occupied by “cultural communities or tribes” as environmentally critical. The Philippine Mining Act of 1995 (RA 7942) prohibits opening of mining operations on ancestral lands without the prior consent of the indigenous cultural communities, also providing that they should be entitled to royalty payments for the use of minerals.

The Medium Term Philippines Development Plan (MTPDP), 2004-2010, addresses indigenous peoples’ concerns in certain chapters. It calls for policy dialogue
between NCIP, DAR and DENR in the harmonization of policies. It provides for financial and technical assistance for Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs). It calls for the integration of ADSDPPs in all local development plans, together with the formulation of an indigenous peoples’ “Master Plan”.
APPLYING SAFEGUARDS FOR INDIGENOUS PEOPLES IN AGRICULTURE AND NATURAL RESOURCE PROJECTS: PROCEDURES

We now need to see how these extensive safeguards for indigenous peoples, both national and international, are applied in practice in relevant programmes and projects. This needs an understanding of procedures, implementing rules and regulations, administrative orders, and coordination mechanisms. This tool begins by explaining the ADB’s own procedures. It then turns to procedures in the Philippines, focusing in particular on the role of the National Commission on Indigenous Peoples (NCIP), but also reviewing the safeguards procedures of other relevant Government agencies. The next tool looks at the practical experience in applying these safeguards in some individual projects.

ADB procedures

At the project identification stage, project screening and categorization are undertaken to determine the significance of potential impacts or risks that the project might present with respect to indigenous peoples, to identify the level of assessment and institutional resources required to address safeguard issues, and to determine the information disclosure and consultation requirements. The project team uses screening checklists to this effect. A proposed project is then assigned to different categories, depending on the significance of the potential impacts on indigenous peoples. It is classified as Category A, if the impacts are likely to be significant: an Indigenous Peoples Plan (IPP), including assessment of social impacts, is required. It is Category B, if considered likely to have limited impacts on indigenous peoples, and an IPP is also required. A proposed project is Category C if not expected to have impacts on indigenous peoples, and no further action is required.

An initial poverty and social analysis is prepared for every project as early as possible in the project cycle. This helps to flag the social dimensions of a proposed project, as well as develop the terms of reference of project preparation consultants, including those that relate to indigenous peoples.

The SPS articulates the role and responsibilities of the ADB on the one hand, and borrowers or clients on the other. The implementation of the provisions of the safeguard policies is the responsibility of the latter. They are required to undertake social and environmental assessments, to carry out consultations with the affected people and communities, prepare and implement safeguard plans (including the IPPs), and prepare and submit monitoring reports. ADB’s role is to explain policy requirements to borrowers and clients, help them meet these requirements during
project processing and implementation through capacity-building programmes, ensure due diligence and review, and provide monitoring and supervision.

The SPS\(^1\) outlines the main points of social impact assessment, that should be covered by an IPP. It should, in summary: review the legal and institutional framework applicable to indigenous peoples in the project context; provide baseline information on the demographic, social, cultural and political characteristics of the affected indigenous peoples communities; identify key project stakeholders, and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation, at each stage of preparation and implementation; assess the potential adverse and positive effects of the project; assess the perceptions of affected indigenous peoples about the project and its impact; and recommend measures to avoid adverse effects (or at least minimize, mitigate and compensate for such effects), and ensure that indigenous peoples receive culturally appropriate benefits under the project.

As explained earlier, there are special requirements for IPPs, in the case of project activities where indigenous peoples may be particularly vulnerable. These include the commercial development of natural resources of indigenous peoples. And if the project affects the ties of indigenous peoples with their ancestral domains and lands and related natural resources, the IPP should pay particular attention to the customary rights of indigenous peoples to the lands and resources.

The SPS has further provisions concerning information disclosure, a grievance redress mechanism, monitoring and reporting, and provision for “unanticipated impacts” of a project. The purpose is to ensure that indigenous peoples receive relevant information about the preparation and implementation of a project, in a timely manner, and in a form and language understandable to them. A grievance mechanism, to receive and facilitate resolution of any grievances by indigenous peoples, should similarly use and understandable and transparent process, at no cost and without retribution. As for monitoring, reporting and evaluation, an IPP should specify arrangements for the participation of affected indigenous peoples in the preparation and validation of reports.

**Philippine mechanisms and procedures**

*National Commission on Indigenous Peoples (NCIP)*

IPRA establishes NCIP, as the primary government agency responsible for the “formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto”.

NCIP functions range from legislative and policy-making, to development planning and coordination, to very technical tasks with regard to ancestral domain certification and titling. Among its main responsibilities are issuing certificates of

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\(^1\) Annex to Appendix 3. The earlier 1998 Policy on Indigenous Peoples also identified key elements in an indigenous peoples development plan. Though there are some changes between the 1998 policy and the 2009 SPS, they key points remain essentially the same.
ancestral domain and title, and oversight of any public or private development activity that can have an impact on ancestral domain. NCIP is mandated by IPRA to “Issue appropriate certification as a pre-condition to the grant of permit, lease, grant or any other similar authority for the disposition, utilization, management and appropriation by any private individual, corporate entity or any government agency, corporation or subdivision thereof on any part or portion of the ancestral domain taking into consideration the consensus approval of the ICCs/IPs concerned”.

IPRA also specifies aspects of NCIP’s internal organization, in accordance with its mandate, powers and functions. These include an Ancestral Domains Office to deal with the identification, delineation and recognition of ancestral land and domains and their subsequent management. It shall also issue FPIC certification prior to the grant of any license, lease or permit for the exploitation of natural resources within them.

NCIP adopted implementing rules and regulations for IPRA in 1998. It has since issued a series of Administrative Orders governing different aspects of its work, the most important relating to ancestral domain and to the FPIC process. A new set of FPIC guidelines was set out in AO No. 1, series of 2006. These distinguish between the “certificate precondition” (CP) for issuing FPIC; and the certificate of “non-overlap”, which affirms that the area affected by a particular plan, program, project or activity does not overlap with ancestral domain. Under the 2006 guidelines, both certificates are issued by the NCIP Regional Director for the area concerned.

Under IPRA, NCIP is also responsible for formulating sustainable development plans for the ancestral domains, known as ADSDPP’s (Ancestral Domain Sustainable Development and Protection Plans). Guidelines on these were issued in 2004. The plans are seen as a “long term comprehensive spatial and development plan with at least five years programming of activities”. In this sense, they complement the medium term development plans with specific targets and goals for indigenous communities.

*Applying safeguards: other Government agencies in the Philippines*

While NCIP now has the primary responsibility for applying safeguards for indigenous peoples in the Philippines - at both the project level and at the broader level of development planning – several other agencies also have important roles to play. They need both to train their staff as to how to interact with NCIP, for example with regard to the FCIP process, and also to provide substantive guidance for their own staff on indigenous peoples’ concerns. In the areas of agriculture and natural resources management, the most important of these are DAR, DENR, DA and DILG.

The Department of Agrarian Reform (DAR) will always have extensive involvement with indigenous communities in its operational work. Indeed, so close is the relationship that NCIP was once attached to it. In implementing the Comprehensive Agrarian Reform Law (RA 6657 of 1988), DAR has a mandate under the 1987 Constitution to recognize and protect the right of indigenous communities to their ancestral lands. A major challenge is to avoid potential conflicts between DAR’s responsibility to vest expropriated public lands in the hands of agrarian reform beneficiaries through the instrument of Certificates of Land Ownership Award.
(CLOA), and ancestral domain claims. DAR has worked with NCIP to address such concerns. An example is the joint DAR-NCIP circular (MC 15v of 2003), which called for the temporary suspension of land acquisition and distribution, and ancestral domain/ancestral land titling activities, in contentious areas.

DAR has created its own unit to address indigenous safeguards. Memorandum Circular 04, Series of 2008, provided for the creation of the Indigenous Communities Affairs Unit (ICAU) in the Support Services Office. This provides for close articulation with NCIP, in formulating operational guidelines, or helping NCIP develop projects for funding by DAR. Other functions include the development of Tribal Agrarian Reform Communities, to ensure specific attention to the needs of indigenous peoples as agrarian reform beneficiaries. ICAU was restructured by Memorandum 08, of July 2008, (due to the transfer at that time of NCIP to DENR as an attached agency). With four main functions. One is to bring the CARL law into harmonization with IPRA, and work out guidelines on indigenous beneficiaries. Others are conflict resolution, culturally appropriate services, and a database section responsible for establishing benchmark data for indigenous peoples within the agrarian reform areas.

The Department of Environment and Natural Resources (DENR) pioneered the concepts of ancestral land and ancestral domain claims before IPRA, awarding over 180 certificates for such claims between 1992-1997. A Special Concerns Office was established within DENR, to address the concerns of sectors including indigenous peoples considered to require such special action.

After IPRA, DENR has continued to address indigenous concerns in a number of orders and circulars, as relevant to its mandate. RA 9147 of 2001, providing for the protection of wildlife resources, makes exceptions for indigenous peoples who are allowed to collect but not trade in wildlife. In the case of bio prospecting, FPIC is required from indigenous peoples. DENR Memorandum Circular No. 2003-01 and Executive Order 318 (Series of 2004) give recognition to the forest management systems and practices of indigenous peoples, which are to be promoted and protected through prescribed guidelines and procedures.

In July 2008, through DENR-NCIP Joint Administrative Order No. 2008-01, detailed guidelines were issued with regard to sustainable forest resources management systems and practices of indigenous peoples in ancestral domain and land. The objective is to document, register and confirm the sustainable practices, as well as the role of indigenous socio-cultural and socio-political institutions in this endeavour. The Order seeks to promote collaboration between indigenous institutions and leaders, LGUs, DENR, NCIP and other concerned agencies for the enhancement of appropriate indigenous practices. The roles and responsibilities of DENR, NCIP and the indigenous structures are clearly set out. DENR, as the primary agency responsible for the environment and natural resources, commits itself to provide technical assistance to the NCIP field office with jurisdiction over the ICCs/IPs, so as to strengthen existing indigenous leadership systems.

The Department of Agriculture (DA) has been the Executing Agency for some major development projects, including those financed by international agencies such as the ADB and the World Bank. We will look later at the DA experience with
the ADB-financed Cordillera Highland Agricultural Resource Management (CHARM) project. A second major DA project, now in its second phase, is the Mindanao Rural Development Program funded by the World Bank, in which indigenous peoples are the major beneficiaries of livelihood projects. Through a Community Fund for Agricultural Development, indigenous peoples are enabled to take part in the decision-taking process and to identify their own projects. A Memorandum of Agreement was signed in May 2007 between DA and NCIP, indicating the commitment of both agencies to informed participation of indigenous peoples, and identifying their respective roles. One task of NCIP is to facilitate the processing of the required FPIC using funds made available by DA for this purpose. Furthermore, the project shall apply a direct targeting mechanism to ensure that 30 per cent of indigenous peoples and women are included among the beneficiaries of the livelihood component.

The Department of Interior and Local Government (DILG) and Local Government Units (LGUs) are also key actors. The decentralization measures implied by the 1991 Local Government Code have been of critical importance for any development project, including those affecting indigenous peoples. They transfer to the LGUs – or to other authorities at the provincial, city and municipal level – powers of taxation, budgeting, planning and management. LGUs also conduct land use planning. All of this has implications for the rights recognized by IPRA (including the Tribal Barangays, ancestral domain titling and planning), requiring close coordination between NCIP and the LGUs, and also the need for sensitization of LGU officials on indigenous cultures and institutions.

In June 2002 DILG issued its Memorandum Circular No. 2002-69 on strict implementation of IPRA. This highlights a number of pertinent clauses of IPRA, including those on lands and natural resources, self-governance, right to participate in decision-making, right to determine and decide priorities for development, Tribal Barangays, and exemption from taxes for the lands certified to be ancestral domains. DILG Regional and Field Offices are instructed to coordinate with NCIP counterparts in their respective jurisdictions to ensure the effective implementation of the Circular. They are also to provide assistance to concerned LGUs within their respective jurisdictions, and to prepare regular monitoring reports on LGU compliance.

In some cases, projects have included assurances for indigenous safeguards in local governance. An example is a Northern Mindanao Community Initiatives and Resource Management Program, executed by DAR with funding from the International Fund for Agricultural Development (IFAD). Memoranda of Agreement were made with each indigenous group in the areas covered by the project. Among assurances in the negotiated loan agreement were those that: tribal groups be adequately and fairly represented in all local planning for project activities; survey and mapping of Certificates of Ancestral Domains Claims under the project conform with the requirements of the Housing and Land Use Regulatory Board, to facilitate integration with the LGU land use plan; and by the commencement of the mid-term review, DILG shall issue an administrative order requiring the inclusion of tribal council heads in Local Development Councils.

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2 Report and Recommendation of the President to the IFAD Executive Board, 6 December 2001.
While there have been many examples of constructive partnerships between local indigenous organizations and LGUs, there have also been cases where the transaction costs associated with safeguards have deterred an LGU from proceeding with a project. One such example occurred in an ADB infrastructure project in Zamboanga del Sur, Mindanao. A proposed subproject road traversed part of an upland area known to have been settled by the Subanen group. The LGU applied for a Certificate Precondition from NCIP, but later dropped the project on the grounds that it could not absorb the costs of the CP-FPIC process on top of the equity requirements for the loan.

Summary, and issues for reflection

It is generally recognized that the guarantees and requirements established by IPRA in the Philippines satisfy the safeguards requirements of organizations like ADB. The provisions on FPIC, if carefully applied at the community level, should ensure the appropriate consent of indigenous peoples for any development activities within their traditional lands and ancestral domains. And the technical agencies have established their own procedures, to ensure cooperation as necessary with NCIP, and to apply IPRA provisions within operational projects and programmes.

However, there can be constraints to the full application of these safeguards. Some relate to conflicting provisions of various legal instruments and their implementing rules and regulations. Others relate more to adequate resources. For example, a 2007 study of IPRA implementation by the World Bank observed that NCIP was seriously under-resourced, in both human and financial capital, to carry out its functions. It would need more resources to carry out its fundamental tasks towards IPRA’s effective implementation, such as delineation of ancestral domain areas, identification and profiling of indigenous peoples, and documentation of their customary laws and decision-taking processes. Nor did NCIP have trained anthropologists to undertake ethnographic research and respond to cross-cultural problems. Effective application of safeguards through the FPIC process was also seen as a major challenge for NCIP. It needed to have a better system of prioritizing projects for FPIC applications, and to make better use of existing knowledge on indigenous peoples.

NCIP has recently received support from several international agencies (including ADB, the World Bank, UNDP and ILO) in areas including ancestral domain titling and planning, data management and census-taking. Moreover, there is recognition that NCIP needs to be involved in projects, in particular because of the FPIC requirements. There have been some positive examples, where grant funding linked to a loan has contained a component for NCIP support. An example was an Indigenous Peoples Grant of the Japan Social Development Fund, which has sought to achieve mainstreaming of indigenous peoples in an agrarian reform project, implemented by DAR and financed by the World Bank. This grant covers areas such as: enhancement and standardization of the ADSPP and other community planning

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3 Infrastructure for Rural Productivity Enhancement Project, executed by the Department of Agriculture.
systems for indigenous peoples; streamlining the FPIC process, to reduce its costs and duration for projects; and piloting and documenting innovative methods for mainstreaming indigenous peoples in agrarian reform communities. An ADSDPP component has focused on the training of NCIP trainers. A pilot testing component has been jointly managed by NCIP and DAR in five communities covered by the project.

Attention to these concerns needs to be built into project design. It is important to have a Memorandum of Understanding between NCIP and a technical agency. It is also important to identify specific activities and areas of responsibility, together with an adequate budget, in the design and preparation of projects. When an FPIC will be needed for project activities or sub-components, there needs to be sufficient funds to carry out the process. There also needs to be the best possible understanding of the indigenous peoples in the project area, of the way in which they have customarily managed their lands and resources, of any conflicts which may be presented by such activities as land demarcation and titling, and of the procedures which may need to be established in order to deal with possible conflicts.
LESSONS OF PROJECT EXPERIENCE

This Toolkit looks at several projects executed and implemented by different Government agencies, with financial support from international agencies including the ADB. It tries to learn some lessons from good practice, and sometimes less good practice. How was the project designed, with the involvement of indigenous communities and organizations? To what extent did project design and implementation seek to reinforce traditional indigenous systems of land use and management? How has NCIP been involved? What issues have arisen over FPIC? To what extent have the projects been able to secure the application of IPRA provisions on land rights, ancestral domain, and the management of natural resources?

Case 1
The Cordillera Highland Agricultural Resource Management (CHARM) Project

Scope and aims of the project

The project was implemented between 1997-2004, aiming to reduce poverty in three target provinces of the Cordillera Administrative Region (CAR). Jointly funded by ADB and IFAD, it was executed by the Department of Agriculture, with several implementing agencies including DAR, DENR and the National Irrigation Administration (NIA). NCIP took a key role in the titling and development of ancestral domain, and the LGUs were also important actors. The CHARM project was itself a follow-up to an earlier Highland Agriculture Development Project, also financed by ADB and IFAD between 1987-1994. Thus the full range of project experience covers the years after the new Constitution, the preparation and adoption of IPRA, and the first important years of IPRA implementation with NCIP involvement.

The project sought to achieve poverty reduction through agricultural productivity improvements and sustainable resource management in 82 barangays, in which over 90 per cent of the target population were indigenous. Project components, based on participatory rural appraisals in almost 50 villages, included: community mobilization, natural resource management, rural infrastructure development, agricultural support services, and project management coordination.

Consultative processes, and involvement of indigenous peoples and institutions

The CHARM project attached great importance to participatory process, from the design stage through to implementation. This included rapid rural appraisals during the preparatory phase, and several community meetings during the drafting of
the village natural resource management plans. Conducted on an annual basis, the plans identified the priority needs and specific actions to help achieve community goals.

**BOX 4.1**
**Consultations with Village Elders in the CHARM Project**

Some 150 Tinguian elders of Lamao village, Bucloc, Abra, gathered in a community meeting arranged by the community mobilization officers of the CHARM project. The elders were informed that the objective of the meeting was to reach consensus on building a domestic water system. This was identified as a priority need by the people during earlier meetings to create their village natural resource management plan.

The participants passionately debated the size of the fee to be collected from members. One of the Council of Elders asked “Why should we pay for water when it has always been a free resource?” The Provincial Development Officer answered: “Why do we complain about a minimal fee of P10 per month for water services when we do not complain about the much more exorbitant fees of the electric company?”.

The community finally agreed on the suggested amount and also agreed to make use of their indigenous practice of free reciprocal labour (alluyon) to build the irrigation and domestic water supply project, while the CHARM project supplied the necessary materials.

This scenario of community consensus building has been taking place to some extent in 82 villages in Abra, Benguet and Mountain Province in CAR.


The CHARM experience provides a good example of planning project activities in careful consultation with communities. NGOs were involved in the community development process, mobilizing the communities to ensure their engagement in all phases of the project. The process resulted in the generation of reliable household socio-economic data and village-level resource management plans, as the basis for identifying the priorities of the community. Altogether, a high sense of ownership was achieved: people genuinely felt that they were part of the whole project process, and that their voices mattered.

Care still needs to be taken to ensure that project ideas are not imposed from the outside, but genuinely build on and reinforce indigenous institutions. An assessment of CHARM, undertaken for ADB a decade ago⁵, observed that there was “still no systematic and institutional attempt on the part of the project to enhance (or make use of) viable indigenous institutions, especially on resource management. An example was the lapat customary practice in Abra for regulating and managing the use of natural resources. This lapat system could be transformed into a management board that can organize a group of sheriffs to watch for offenders against forest protection rules.

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⁵ As above, ADB, June 2002
Land rights and ancestral domains

Land tenure improvement and the consolidation of ancestral domain was a key aspect of the CHARM project’s component on community mobilization and resource management. This was undertaken first through the issuance of land certificates by DAR and subsequently, in the context of IPRA, through NCIP using its established processes for ancestral domain titling. The project also supported the preparation of the ancestral domain management plans (ADSDPPs), facilitating the involvement of its different partners. One achievement was to advocate the recognition of the ADSDPP as the formal Comprehensive Land Use Plan that has been required by all local government units under the Local Government Code. Through NCIP, indigenous communities in the region were able to produce the first ancestral domain titles (CADTs) and ADSDPPs in the country, thus becoming a model for practical implementation of IPRA.

Monitoring and evaluation

CHARM was subject to a comprehensive final evaluation, conducted by IFAD, in 2007. One key finding was that substantial support for indigenous processes and practices was not only appropriate to the community concerned, but also contributed to national policies and practices related to indigenous land and cultural integrity. Moreover, as the project was implemented during a critical period for the indigenous people of the Philippines, it provided a critical opportunity to test the application of these national laws and policies at the local level. Successful coordination by project support offices of the various CAR agencies provided a platform for agencies to work together on broader governance and development issues, enabling project partners to link processes and lessons learned from specific activities related to indigenous peoples with larger issues.

While the project delivered substantial training on technical matters, the final evaluation noted a strong reliance on consultants. It recommended greater capacity building for existing agency and local government staff, to build local resources for development.

Case 2
The Second Agrarian Reform Communities Project (ARCP II)

Scope and aims of the project

A first Agrarian Reform Communities project was implemented between 1998 and 2007. A loan for a second phase was approved by ADB in October 2008, with DAR as the executing agency. The project seeks to cover 152 agrarian reform communities (ARCs) and 10 ARC clusters in nineteen provinces of the southern Philippines, It aims to increase the incomes and improve the quality of life of these disadvantaged rural communities. It has several components, including: capacity building of community based organizations and LGUs in financial management, project planning and execution; agribusiness development in target areas; rural

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infrastructure, based on priorities drawn up by the communities themselves; and linkages with private sector operations in selected ARCs.

**Indigenous peoples in the project area: consultations and needs assessment**

Of the total project target of approximately 150,000 households, between 1,000 and 1,400 are indigenous. In project preparation, consultations were held with indigenous peoples in all the regions where the proposed ARCs covered indigenous peoples. Additional consultations were held during the loan fact finding mission in 2007, covering for example the Subanen indigenous group in Zamboanga, Mindanao, and the Ati indigenous group, and their leaders in Negros Occidental province. The groups involved in such consultations included *barangay* officials, indigenous leaders of their *barangays*, indigenous agrarian reform beneficiaries (ARBs), indigenous women, representatives of traditional councils, and LGU representatives. Further consultations were held with NCIP at both regional and national levels.

Different concerns were identified by indigenous representatives. A concern of the Subanen group was their inability to market their produce in open markets, and thus to achieve a reasonable price for it. Lacking a community meeting place, they were also unable to meet together to discuss their concerns and opportunities. In Negros Occidental, the indigenous Ati group, lacking institutional credit, had leased their lands to former landowners or others. Becoming landless they were dependent on wage labour, lacking adequate food supply for several months of the year, and dependent on gathering forest produce to supplement their food supply. Nevertheless, access to natural resources in their ancestral land had diminished as a result of widespread logging.

The most pressing needs included: improvements in rural infrastructure, provision of school rooms, potable water supply, completion of land tenure reforms, provision of education and health services at *purok* and *barangay* level, access to technology and provision of credit, inputs supply, and linkages with markets. They also wanted to strengthen ties to indigenous traditions among their younger generation, exposed to external influence. Focus group discussions indicated that indigenous cultures can provide an excellent and consensual basis for participatory planning.

Under ADB procedures, an Indigenous Peoples Development Framework (IPDF) was prepared for this project. The components, safeguard mechanisms and responsible actors are illustrated in the box provided below. Substantive provisions of the IPDF cover support to social capital formation, agricultural enterprise development, and rural infrastructure. NGOs with experience of working with indigenous peoples are to be deployed in indigenous areas for organizing and mobilizing communities for participatory planning and community development. In ARCs where indigenous peoples and communities are present, at least half of all participants in *barangay* level meetings will be indigenous. Moreover, all indigenous members of peoples’ organizations will be trained in financial and business management. Agricultural enterprise development addresses both support for productivity enhancement, and land tenure improvement. In ARCs with indigenous communities and populations, all training programs will have at least half of their trainees from these communities. Moreover, business advisory services must be made
easily accessible to indigenous peoples by dissemination of information in culturally appropriate ways.

**Agrarian Reform Communities Project II**  
**Indigenous Peoples Development Framework**

<table>
<thead>
<tr>
<th>Project Component</th>
<th>Safeguard Mechanisms</th>
<th>Who are the Actors?</th>
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<tbody>
<tr>
<td><strong>A. PREPARATION</strong></td>
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| **1. Consultation** | Based on the Indigenous Peoples Framework (IPDF) and Indigenous Peoples Development Plan (IPDP) the following activities will take place. | • ADB  
• Consultants  
• DAR  
• NCIP  
• NGOs  
• affected communities |
|                   | • Focus-group discussions with IP leaders and barangay leaders will be conducted to ensure that indigenous groups are consulted and participate in the project. |                     |
|                   | • A series of consultations participated in by elders, women, traditional councils, IP agrarian reform beneficiaries, and LGU representatives is planned to discuss project issues and concerns. |                     |
|                   | • The project plans to address the issue of social exclusion—ensure that indigenous groups should fully participate and articulate their needs and aspirations. |                     |
|                   | • The project design will employ a culturally and participatory approach in dealing with indigenous communities through cultural mapping and the formulation of a community-driven development model. |                     |
| **2. Representation** | • Participation of indigenous groups is to be integrated in all the planning bodies (provincial, municipal, barangay levels). | • IP representatives  
• NCIP  
• LGUs  
• DAR |
|                   | • The project aims to sensitize the local government unit (LGUs) and other project stakeholder on indigenous peoples concerns in the project. |                     |
| **3. Ensuring IP Safeguards in all project areas** | • A safeguard specialist will be involved to ensure safeguard compliance both at the national | • ADB  
• Consultants |
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<td>and regional levels.</td>
<td>The Indigenous Peoples Development Framework (IPDF) employs a participatory approach that is in line with ADB’s Policy on Indigenous People and the Indigenous Peoples Rights Act.</td>
<td>DAR, NCIP, NGOs, affected communities</td>
</tr>
<tr>
<td>Social assessments are to be conducted based on ADB’s Handbook for Incorporation of Social Dimensions in the Project Design.</td>
<td></td>
<td></td>
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<tr>
<td>4. Project planning that will impact indigenous peoples</td>
<td>The project will employ inter-linked planning processes to ensure that municipal development plans, municipal land use plans, ARC Plans and Ancestral Domain Development and Protection Plans (ADSDPP) will not overlap.</td>
<td>DAR, LGU, NCIP</td>
</tr>
<tr>
<td>Regular communications among the Provincial Comprehensive Agrarian Reform Program (CARP) Implementing Team (PCIT), Municipal CARP Implementing Team (MCIT), and Barangay CARP Implementing Team (BCIT) are planned to ensure that all concerns of the IPs are fully addressed.</td>
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### B. PROJECT IMPLEMENTATION

1. Social capital formation (training, community development, participatory planning, and capacity building) | The expertise of NGOs will be tapped in organizing and mobilizing indigenous groups for participatory process using community development driven methodologies. | DAR Municipal and Provincial Agrarian Reform Offices, NCIP, NGOs, IP communities |
<p>| | ➢ Participatory planning at the local and provincial levels. | |
| | ➢ Reaching out to isolated IP communities through information dissemination and area meetings. | |
| | ➢ Training of IP organizations to improve governance in the agrarian reform communities. | |</p>
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| 2. Agriculture and Enterprise development (land tenure improvement, skills training, business development plan) | • All IP agrarian reform beneficiaries will be assisted by NGOs and the DAR provincial office to assess land tenure options for land survey and titling.  
• Indigenous communities have the option of receiving Certificates of Land Ownership Award (CLOAs) or Certificates of Ancestral Domain Title (CADTs).  
• There will be careful consideration of IP resources and respect for culture during land survey and titling.  
• The project will ensure that IPs will not lose their land to non-IPs.                                                                 | • DAR Provincial Office  
• NCIP  
• NGOs                                                                                     |
| 3. Rural infrastructure                                | • Infrastructure components planned for IP areas will undergo a consultation process with the indigenous communities before being implemented.  
• The Executing Agency will ensure that infrastructure projects will have no negative impact on the indigenous groups.                                        | • DAR  
• LGU  
• NCIP                                                                                     |
| 4. Project Management                                  | • NCIP representatives will be involved in all phases of the project management to ensure that IP concerns are fully addressed throughout the project cycle.                                                                 | National Level:  
DAR Secretary, Undersecretary for Operations, Foreign Assisted Project Office, ADB and the Implementing Agencies.  
Regional Level:  
NCIP Representative, DAR Regional Planning and Management Office, Technical Support Unit-Safeguards.  
Provincial Level:  
Provincial project managers, provincial                                                                 |
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| C. FREE PRIOR INFORMED CONSENT (FPIC) | • The project itself must undergo the FPIC certification process based on NCIP Administrative Order No. 1 Series of 2006.  
• All infrastructure projects must also obtain FPIC certification from the IP communities. | • NCIP  
• DAR  
• DENR  
• LGU  
• IP communities |
| D. PROJECT GRIEVANCE | • A Safeguards Grievance Sub-Committee (SGS) will be formed to ensure that IP complaints are documented and addressed.  
• The grievance committee is imbedded in the Barangay CARP Implementing Team (BCIT) and the Municipal CARP Implementing Team (MCIT). | • Barangay CARP Implementation Committee  
• SGS members  
• DAR provincial office  
• NCIP provincial office/ Regional Hearing Office |
| E. SUSTAINABILITY | • The project will institutionalize an annual review of the Indigenous Peoples Development Plan.  
• The results of the review will serve as input to the overall annual plan of the project. | • DAR  
• NCIP  
• IP communities |

**Land rights and ancestral domains**

The IPDF also covers land tenure issues. All indigenous agrarian reform beneficiaries are to be informed about the process of land tenure improvement, assisted by planning teams including DAR staff, to come up with their own decisions regarding choice of crops and related options for land survey and titling. In all land survey and titling activities there should be respect for and recognition of indigenous identity and culture. If indigenous peoples prefer to retain collective land certificates,
this option should be supported in accordance with their culture and traditions. The project will address in particular the risk of indigenous peoples losing their land to others as a result of the titling process (though there should be no such risk, as the lands in question have already been awarded to indigenous beneficiaries through the comprehensive agrarian reform program). The issue of land titling will be particularly monitored through the baseline survey, the monitoring process and evaluation reports.

For rural infrastructure projects, the status of land must be determined in full consultation with indigenous peoples and communities. And at all stages of project implementation, the EA will ensure protection against misuse of environment resources or cultural sites of significance to indigenous peoples, abuse of indigenous customs and culture, or other undue negative impact. Moreover, almost all the infrastructure projects will require certification from the indigenous community, under the FPIC process established by NCIP. Even in provinces where there are no ancestral domains, there is a need to conduct investigation as there may be itinerant indigenous groups who move into the vicinity of the project.

Case 3
Land Claims of the Buhid Peoples in Oriental Mindoro

Nature of the case

This case does not refer to an internationally financed development project. Instead, it covers the experience of an indigenous community who sought to obtain a Certificate of Ancestral Domain Title (CADT) under IPRA, but have entered into protracted conflict with DAR when their traditional lands were targeted for distribution to agrarian reform beneficiaries.

The Buhid are one of the seven distinct indigenous groups in Mindoro collectively referred to as Mangyan. The oldest and largest organization of the Buhid peoples is the Sadik Habanan Buhid, comprising a majority of the Buhid communities in Oriental Mindoro and several in Occidental Mindoro. It was founded in 1982, to claim the rights of Buhid communities to their ancestral land, and also to engage in a number of community projects. A major accomplishment was to bring the entire Buhid tribe together in the 1990s, to apply for a Certificate of Ancestral Domain Claim (CADC). These efforts were rewarded, when in June 1998 they were granted CADC No. 130 by DENR, covering an area of over 94,000 hectares. Shortly afterwards, jurisdiction over the area was transferred to the newly created NCIP. In 2003, the Buhid organization applied to convert their CADC into a Certificate of Ancestral Domain Title (CADT) under the IPRA law.

In 2004, however, DAR identified more than 1,500 hectares of the CADC for coverage under the Comprehensive Agrarian Reform Programme. Without consulting with the Buhid, DAR proceeded to survey the land as individual lots, register the surveys with the DENR’s Land Management Service, and distribute the majority of the lots to non-indigenous persons living outside the Buhid ancestral domain. The Buhid strongly opposed these measures, objecting to DAR’s lack of coordination with them, and to the disregard for their rights over their traditional lands. Large tracts of
their primary forests, sacred burial grounds and agricultural plantations had been surveyed into lots for individual land distribution to non-indigenous beneficiaries.

The Buhid application for a CADT was in principle approved by NCIP in 2009 (as CADT No. 127), but the award is pending resolution of the Buhid case with DAR. For several years the Buhid have submitted numerous petitions to concerned agencies at different levels, but to no avail. In July 2005 for example, they submitted a case against DAR with the Commission of the Settlement of Land Problems (COSLAP) of the Department of Justice. They have also challenged DAR’s jurisdiction over the area, as DAR entered without the Buhid’s free and informed consent. The concerns of the Buhid grew, when they learned in late 2009 that Certificates of Land Ownership Awards (CLOAs) within their CASDC were being processed and awarded to non-indigenous CARP beneficiaries. This would infringe a Status Quo Order from the COSLAP, which suspends all land acquisition and distribution activities by DAR and NCIP while the case is still being resolved. As of mid 2011, the Buhid were still fighting to reclaim their ancestral lands covered by the DAR project, and to have the CLOAs cancelled.

Analysis of the case

The Buhid case – while an exceptional one – offers a number of insights for future projects. Even with country safeguards and a law like IPRA in place, they may not be implemented on the ground. In this case, it appears that there were no consultations with the communities affected, and no FPIC was secured. The Buhid were reportedly taken by surprise in 2004, when they first learned that surveyors contracted by DAR were carrying out surveys within their CADC. They were not informed of the project, and had no representation in DAR’s project planning and implementing mechanisms.

This can be compared with the procedures in the ARCP II project, summarized above. In that case, the Provincial Agrarian Reform Officer (PARO) is responsible for helping the indigenous communities to decide on the most appropriate tenure instrument. If they do not opt for the CLOA, they have the right to choose other land tenure options such as the CASDT or CALT. In the Buhid case, the PARO apparently did not give the Buhid any choice. Land titling was carried out within the ancestral domain, to ensure that DAR could meet its targets.

At least four lessons can be learned from the Buhid experience.

- In drawing up targets for its work, any development agency must give full respect to the rights of indigenous peoples.
- If there are any issues of overlapping jurisdictions or tenure instruments, these should be solved before project implementation.
- Safeguard mechanisms for indigenous peoples need to be in place, before projects are prepared and designed. But it is essential to have regular monitoring and review, with the active participation of indigenous peoples, to ensure that the problems of the Buhid case do not arise.
Partnerships with indigenous organizations and NGO support groups can be an effective means to ensure participatory and culturally sensitive ways of dealing with indigenous communities.

Case 4
Integrated Natural Resources and Environmental Management Project (INREM)

Aim and scope of the project

This project, to be financed by ADB, was at an advanced stage of preparation in late 2011. Its aim is to promote sustainable watershed management in four priority river basins of the country. Building on the experience of the earlier CHARM project, it provides for participatory approaches to sustainable forest management. These seek to rehabilitate and restore degraded forest lands, to protect residual forest areas, and to promote more environmentally sustainable farming practices in particular on steeply sloping land.

Approximately three quarters of the households within the proposed project areas are indigenous, with a wide spectrum of situations in terms of their livelihood strategies and contact with the mainstream society. Some are found in the more remote and interior areas like upland river basins, relatively isolated from mainstream society, and with their traditional indigenous culture largely intact. Others reside in areas with a mixture of indigenous and non-indigenous groups. A third group occupy the same areas as other communities, and display very little of their indigenous culture. As of early 2010, when an Indigenous Peoples Development Framework (IPDF) was prepared for the INREM project, 65 ancestral domains and lands within the project sites had been documented by NCIP; and a total of 28 ADSDPPs had been formulated or enhanced.

The project sees the ADSDPPs as the primary vehicle for empowering indigenous peoples, enabling them to utilize their natural resources legitimately. It also seeks to enhance indigenous representation in Local Government Units and other decision-taking bodies. Assistance to indigenous communities for ancestral domain delineation, and ADSDPP formulation, can facilitate their integration with local development plans of participating LGUs.

Consultation and participation

As one of the first ADB-financed projects to have an impact on indigenous peoples, which has been prepared at the time of the new SPS entering into force, the IPDF for INREM attaches due importance to obtaining broad support for the activities, through adequate consultative and participatory mechanisms. Equal attention is given to the FPIC requirements of IPRA.
BOX 4.2
Community Support for INREM Subprojects

All INREM activities will be covered by broad community support. The procedures will be based on NCIP Administrative Order No. 1 or the FPC Guidelines of 2006. While voluntary inclusion of subprojects will be recognized, these will have to be validated and verified by NCIP. All facets of the development cycle will ensure that consultation and indigenous peoples’ engagement is free from coercion or manipulation. Where there are ancestral domain claims, a prerequisite is to secure the FPIC before a Certificate Precondition (CP) is issued.

Mandatory FPIC activities start with the posting of notices for the indigenous stakeholders at large, and invitations from NCIP to the concerned Council of Elders or Leaders to attend a Preliminary Consultative Assembly. This provides NCIP with the opportunity to orient the indigenous peoples about IPRA. Similarly, the proponent is given sufficient time to discuss details of the project, anticipated impacts, and measures to mitigated such impacts. At the end of the day, indigenous peoples with their customary leaders, elders and NCIP representatives reach agreement on the next mandatory activities. For transparency reasons, copies of documentation are given to all participants. Consultative assemblies and meetings may be repeatedly scheduled. After the final preliminary consultation, the elders and leaders conduct their respective consultations with their members, using traditional consensus building processes. Only the NCIP representative (and not the project proponent) is allowed to participate. When consensus is reached, the indigenous and NCIP representatives set the date and venue for a Community Assembly, where the community may give or deny their consent.

If the decision is positive, the agreed terms and conditions of indigenous peoples are reflected in a Memorandum of Agreement (MOA), to be presented to the proponent. Key elements include detailed measures to conserve and protect any affected portion of the ancestral domain that is critical for watersheds, mangroves, wildlife sanctuaries or forest cover. The concerned indigenous community finally issues the FPIC through its authorized representatives, upon signing or affixing thumb marks on each page of the MOA. This embodies the indigenous peoples development plan, for areas not covered by ancestral domain claims, or the ADSDPPs within the ancestral domains. These are to be submitted to ADB for review and concurrence.

Source: Indigenous Peoples Development Framework for the Integrated Natural Resources and Environmental Management project, April 2010

Analysis

The proposed INREM project had not been approved by ADB at the time of preparing this toolkit. Yet it provides considerable scope for enhancing the capacity of indigenous peoples to manage their lands and natural resources in accordance with their customary practices. It also provides for an important role for NCIP, in implementing the FPIC process at the project level. And like the earlier CHARM project, it can make a potentially important contribution to consolidating ancestral domains in a number of upland areas in different provinces, and in integrating the ADSDPPs with other mechanisms of local development planning.
Applying Safeguards for Indigenous Peoples: Practical Guidance

Purpose
This section offers practical guidance and How To’s in applying safeguards for indigenous peoples in projects and what to avoid to ensure that indigenous peoples concerns are fully addressed and respected in agriculture and natural resources management projects. It proposes a culturally appropriate means of dealing with indigenous communities to ensure that their concerns are heard, respected, and considered in all levels of the project cycle. It is a challenge for project implementers and development practitioners to be able to present a development project to indigenous communities in a way that will allow them to critically analyze the project’s long term impact rather than focus on its immediate rewards. Tool 4 provides guidance to help meet that challenge.

These are the How To’s of the toolkit: how to engage indigenous leaders and communities in project design, monitoring, implementation and evaluation.

Why introduce development projects in the Agriculture and Natural Resource Management sector?
Most of the projects in agriculture and natural resource management aim to improve agricultural productivity and ensure sustainable resource management practices as part of the Philippines’ poverty reduction and rural development strategy. The Philippine government and the Asian Development Bank believe that supporting indigenous peoples and rural poor through agricultural productivity and natural resources management projects will address rural poverty.

Issues in the agriculture and natural resources management sector include:
- Land tenure issues, including “open access” to public lands
- Land use conflicts
- Deforestation due to logging and agricultural expansion
- Lack of appropriate technology for sustainable upland farming systems
- Inadequate agricultural support services including access to credit for small farmers, extension services, and capacity building
- Lack of access to basic services and inadequate post-harvest facilities including farm to market roads and community irrigation and water systems development
Ensuring Safeguards for Indigenous Peoples in Projects

An Indigenous Peoples Plan is required in all projects that will affect or might impact indigenous communities. The Indigenous Peoples Plan (IPP) is part of the safeguard requirements to ensure that significance or potential impacts on indigenous peoples will be addressed. The IPP is outlined as follows:

A. Assessment of Social Impact
   (i) Reviews the legal and institutional framework applicable to Indigenous Peoples in the project context.
   (ii) Provides baseline information on the demographic, social, cultural, and political characteristics of the indigenous peoples communities.
   (iii) Identifies key project stakeholders using a culturally appropriate and gender-sensitive process for meaningful consultations at each stage of project preparation and implementation, taking the review and baseline information into account.
   (iv) Assesses the potential adverse and positive effects of the project using a gender-sensitive analysis of the relative vulnerability of the affected indigenous communities given their circumstances and close ties to land and natural resources.
   (v) Includes a gender-sensitive assessment of the affected indigenous peoples perceptions about the project and its impact on their social, economic, and cultural status.
   (vi) Identifies measures to avoid or minimize and mitigate adverse effects and ensure that the indigenous peoples receive culturally appropriate benefits under the project.

B. The Information Disclosure and Consultation - Participation Components:
   (i) Describes the information disclosure arrangements and consultation and participation processes that were carried out during the project preparation;
   (ii) Summarizes comments and concerns raised during consultations and how can these be addressed in project design;
   (iii) Describes participation mechanisms to be used during implementation to ensure indigenous peoples participation;
   (iv) Confirms disclosure of the draft and final IPP to the affected indigenous communities.

C. Beneficial and Mitigated Measures
How if at all have indigenous peoples derived benefits from projects in your sector? What kind of benefits? Can they be measured—in terms of poverty reduction, environmental benefits, improved education, agricultural productivity, protection of cultural resources?
D. Capacity Building
What are the main needs for further capacity building of government institutions in addressing indigenous peoples issues in the agriculture and natural resources sector?

What are the needs of indigenous peoples organizations that will enable them to more effectively represent the interests of indigenous peoples?

E. The Grievance Redress Mechanism
Describes procedures to redress grievances by affected indigenous peoples.

F. Monitoring, Reporting and Evaluation
This section outlines the mechanisms that are appropriate to the project for monitoring and evaluating the implementation of the Indigenous Peoples Plan.

G. The Institutional, Implementation, Monitoring and Reporting Arrangements
Describes the mechanisms and benchmarks for monitoring and evaluating the implementation of the IPP appropriate for the project and specifies arrangements for participation of indigenous communities in the preparation and validation of monitoring and evaluation reports.

The HOW TO’s
The following “How To’s” will assist project designers to ensure that substantive discussion will be covered in preparing Indigenous Peoples safeguard planning documents that donors may require.

1. How to Gather Culturally Appropriate Baseline Information

The following table lists elements that should be considered when collecting baseline data for the social impact assessment of the Indigenous Peoples Plan. It constitutes a list of “questions to ask” while collecting data.

This cultural assessment tool will help the project team to identify the indigenous decision making processes, leadership patterns, economic, social, and gender aspects of a given indigenous community. The participation of a trained anthropologist will be helpful in gathering baseline data to describe the characteristics of the indigenous communities.

<table>
<thead>
<tr>
<th>Political</th>
<th>Economic</th>
<th>Social</th>
</tr>
</thead>
<tbody>
<tr>
<td>• How are leaders identified in hunting-gathering societies? Swidden agriculture-based societies? Wet-rice cultivating societies?</td>
<td>• How do they make a living? (Hunting-gathering, fishing, swidden agriculture, wet-rice cultivation, and wage labor). • What is the role of sharing?</td>
<td>• How do family relations influence the way the society is organized? • How egalitarian is the society? Is there a</td>
</tr>
</tbody>
</table>
Indigenous communities are diverse, for example, flexibility and mobility characterize hunting gathering societies, like the Aeta, who have no formal leadership structure or, until fairly recently, permanent settlements. In contrast, wet-rice cultivators such as the Ifugao are sedentary and have the concept of property ownership. Land can be inherited and passes from one generation to the next following strict rules. The project team needs to fully appreciate this diversity of cultures to be able to design projects suited to the realities of the indigenous peoples.

Representing Indigenous Voices
In engaging indigenous communities, conducting formal data-gathering exercises may heighten the barrier between the outsider who is doing the data gathering, and the insider who is providing the data. Building trust will not happen overnight—there is a need to spend the time necessary to gain the confidence of the elders, leaders and community members. Integration—becoming comfortable with a community and having its members become comfortable with you—is an essential part of being able to understand the lives of the indigenous communities and gain a deeper understanding of their economic, political, social systems. Opportunities to obtain valuable insights can be provided by:

Story-telling. This is an everyday part of the lives of indigenous peoples. Stories about hunting, fishing, gathering wild honey from the forest are common as are accounts of personal or clan conflicts and how they were resolved. Stories capture everyday life—humor and gossip, which are an integral part of the oral tradition of indigenous communities. Story telling is a means of passing on beliefs and values of a
culture in the hope that future generations can connect the past with the future (Tuhiwai Smith 2006).

**Claiming ancestral lands.** The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) recognizes that indigenous peoples have suffered from historic injustice due to colonization that resulted in the loss of their traditional lands. Many indigenous peoples in the country have started the long journey of claiming their ancestral domains. In order for the government to recognize the legitimacy of the claims, indigenous communities must provide documented proof that they are the rightful owners of the land they claim. Evidence must include stories and accounts of places, events and ancestors from former generations. These accounts can be a rich source of indigenous knowledge and community history for outsiders and also the younger generations of the community.

Key players during the social impact assessment phase are project consultants, anthropologist, the executing agency and ADB safeguard staff.

2. **How to Conduct Meaningful Consultations with Indigenous Communities**

This second HOW TO involves a typical scenario in a community meeting where a project preparation team is discussing a proposed ADB-funded project in the area. The challenge for the project team is to ensure that broad community participation will be achieved by the end of the meeting. The objective of the consultation is to ensure that indigenous peoples’ concerns are heard, respected, and will serve as an input in the project design.

**The Scene:**
The community facilitator opens the discussion about the proposed project that will focus on agricultural productivity and reforestation. Immediately, one of the tribal leaders stands up and confidently gives his point of view, in the process becoming quite excited. He is so involved in his thoughts that he does not pay attention to other community members. Others try several times to ask questions and make suggestions, but the leader dominates the discussion. Other community members are meek, listening silently, some not understanding all of what is being discussed but afraid to ask questions.

**The Challenge:**
How will you handle the situation as a community facilitator? How will you make sure that the leaders will not dominate the discussion, and that others’ voices are also heard?

**Practical advice in handling community consultations:**
- Indigenous peoples often live in isolated communities. Make sure there has been proper groundwork done to guarantee members of the communities will attend
the consultation meetings.Partnering with local NGOs who have already gained the trust of the communities is an advantage.

- The project team should be aware of the decision making processes of the particular indigenous group to be able to capture the communities’ perspective, and not just that of their leaders.
- Before the meeting the group should decide on what language to use to ensure the participants will be comfortable and can fully participate in a language that they all understand.
- Make sure that the facilitator is aware of non-verbal communications and is sensitive to group processes. The facilitator should be concerned with both process and outcome.
- Aside from the facilitator, it is helpful if there is also a process observer who documents not just the proceedings but also the process of the meeting.
- The project team must believe that people’s participation is crucial in any development process, and they are not just conducting the consultation because it is a requirement.
- Schedule meetings so they are convenient for community members to attend. Avoid busy times, such as harvesting season, fiesta, and other events that are important to the community.

**How to facilitate a meaningful consultation with indigenous communities:**

1) Create an inviting atmosphere where participants will be comfortable to speak. This will raise the chances that they will freely participate in the meeting.
2) Though time consuming, it is helpful if participants are given a chance to introduce themselves and the village they represent. It gives them the feeling that they are truly part of the meeting.
3) Use visuals, video, or any other forms of popular education to introduce the objectives, activities and the benefits of the project.
4) Do not use highly technical terms. Use terms and concepts within the indigenous peoples experience that they can relate to.
5) Highlight the role of community participation in the sustainability of the project.
6) As a facilitator, make sure that participants truly listen, understand, and are knowledgeable about the project that will be undertaken in their community.
7) Listen to the concerns of the people.
8) Be open to other points of view and facilitate the formulation of alternative ideas and options that will be beneficial to the project and the people.
9) Summarize the main points and agreements of the consultation.

3. **How to Assist the Indigenous Communities to arrive at a Decision Concerning a Project**

This tool is intended to guide indigenous communities to arrive at an informed decision on development projects that may affect them, their land and their livelihood. It will help them to decide whether the project will be of benefit or detriment to them.
Community Matrix Analysis

<table>
<thead>
<tr>
<th>What are their expectations from the project?</th>
<th>What strengths or potential or potentials do they have which the project can tap?</th>
<th>What weaknesses or obstacles do they have which may hinder their active involvement?</th>
<th>How should the project deal with the stakeholders in the community? What action should the project take?</th>
</tr>
</thead>
</table>

Source: Handbook of Gender Responsive Participatory Tool for Community Based Forest Management (1999)

The project facilitator should ensure that as many members as of the community as possible participate and that they are able to express all their concerns regarding the project. The process will help guarantee that development projects are defined and analyzed from the perspective of the community.

4. How to Strengthen Indigenous Peoples in Representing their Concerns

The strengthening of indigenous peoples organizations will not happen overnight. It demands commitment and time on the part of the community and the assisting agency. Putting people first in any development project requires a strategy to facilitate indigenous peoples empowerment.

**Strategy 1**
Build the capacities of elders or leaders who are regarded by community members as leaders and relied upon to advance community concerns. Traditionally, indigenous leadership was clear in a given society and leaders usually possessed a certain degree of wisdom, integrity, and dignity. But at present, some indigenous leaders appear to be more interested in advancing their own interests that those of their communities. In this strategy, it is important to make sure that the leaders truly represent the interests of the indigenous community.

**Strategy 2**
Strengthen consensus-building through indigenous socio-political structures in arriving at a collective decision. Cultural practices should be tapped to ensure participation among community members.

**Strategy 3**
Support appropriate indigenous practices and processes, e.g. natural resource management practices.
5. How to Set Up a Culturally Appropriate Grievance Redress Mechanism

The tool describes the procedures to redress grievances of the affected indigenous communities. The procedures should be accessible to the community and should be culturally appropriate and gender sensitive.

The basic premise of this model is an incorporation of indigenous practices with strong community organizing activities, from the project preparation to evaluation of the project. The agriculture and natural resources management sectors in the Philippines can learn from the insights of a local NGO in Indonesia that was engaged by ADB for the Earthquake and Tsunami Emergency Support Project. The NGO, Bina Swadaya, was in charge of community empowerment and organizing activities in this agriculture and fisheries sector project. The project recognized the importance of a village level community mobilization officer whose job it was to facilitate community strengthening. The officer was able to develop local leaders and community members able to express themselves in the different levels of project implementation, including grievance redress mechanisms. The project also built on culturally accepted mechanisms in resolving conflicts. Village Level Internal Conflict Resolution then to the next level.

As a first step, the project should recognize that indigenous peoples have traditional conflict resolution mechanisms that are a part of their social structure. For example, indigenous communities in the Cordilleras have a system of resolving disputes called amam-a panglakayen, where a group of male elders facilitates deliberation of problems, but the decision making is participated in by all the members of the community (CHARM II Appraisal Annex 2).
The role of the community mobilization officer is to document the process, and if the problem is not resolved at the community level then it goes to the next higher level. The premise is that the Executing Agency has set up grievance committees in the project at various levels.

The ADB Safeguard Policy Statement of 2009 requires the borrower to establish a system where indigenous peoples concerns in a project can be aired and addressed. In 2010, a transport project in Sri Lanka formulated guidelines on how to design a grievance redress mechanism. The guidelines specify that:
   a) There is a clear set of goals, objective and scope
   b) There is an anticipation of different kinds and types of grievance that an individual or community might raise
   c) There is a clear structure with identified roles and functions of the personnel for handling the resolution of the grievance process
   d) There is a clear procedure for documenting and handling complaints with a clear timeframe toward a resolution

If at one time the indigenous peoples indicate a desire to withdraw from the project after a series of community consultations, the project implementers should not take the decision as entirely negative, but should consider it as a reason to reflect, listen, and learn from mistakes in order to make future implementation more responsive to the needs of the people.

6. How to Ensure Indigenous Peoples Participate Effectively in Monitoring Projects

The tool is called participatory impact monitoring (PIM), which was introduced by development institutions in Germany during the 1990s. The tool is commonly used to systematically monitor and document project outcomes. It is participatory since it builds on dialogue between the project staff and the community.

The PIM tool can be applied in the indigenous communities with minor adjustments to the methodology. Most evaluation tools use questionnaires and surveys and have proven effective for data gathering. But for indigenous peoples, story-telling may be used instead of questionnaires as a methodology for collecting data. The role of community facilitator is critical in this process.

The tool is built on the basic principle that people should participate in all levels of project implementation and evaluation. It helps people to realize the positive and negative impacts of the project. Project staff may build on the strengths of the community to mitigate the negative impacts of the project.
Brainstorming with project staff on positive and negative impacts of the project

Discussion with villagers on project impacts (positive and negative)

Decision on impacts to be monitored

Development of indicators, questionnaires and tools

Decision on sampling procedure

Pre-test of tools and methodology

Collection of data

Analysis and assessment of results

Joint reflection on results and methodology

Source: Steps of Participatory Impact Monitoring (Enhancing Ownership and Sustainability 2001)
Guidance for Agency and Individual Assessment and Reflection

The tools in this toolkit are designed to provide analytical concepts and methods to ensure a holistic approach in safeguarding indigenous peoples rights at all levels of the project cycle. This final tool provides guidance as to how executing and implementing agencies can audit their own knowledge, strengths and weaknesses; and also how individual officials within these agencies can conduct their own self-assessment of their knowledge of indigenous peoples and their cultural values.

In order to make safeguard work effective, a clear understanding of how to integrate indigenous peoples concerns in development should be based on the agency’s previous experience of implementing projects. But the current situation and context of the major actors in a project need to be considered.

How to use this tool:
1) Map your agency’s status by critically analyzing its current situation and identify areas for action where the strategies can be implemented based on your agency’s context.
2) Assess your agency’s capacity to move the issues forward. What are its strengths and weaknesses in its ability to ensure that indigenous safeguards are implemented?
3) Develop a work program to ensure that concepts and analytical tools are incorporated in your work with indigenous peoples.

Where Are We as an Agency?

The purpose of this tool is to assess the capability, strengths, and areas for improvement of implementing agencies to ensure that indigenous peoples concerns are addressed in development projects.

Organizational Assessment and Audit Tool

Objective:
Identify the strengths, challenges, and strategies of the agency to effectively implement development programs with indigenous peoples.
**How to Use this Tool:**

This tool is designed to help you reflect on your organization's knowledge and practices as it relates to working with Philippine indigenous people. It is not a test and there are no right or wrong answers.

The information gathered can be used to identify issues, trends, strengths and opportunities to develop strategies to ensure that development programs are effectively implemented. Analyze your own agency based on the programs, engagements, and strategies in dealing with indigenous peoples.

**ORGANIZATIONAL ASSESSMENT AND AUDIT TOOL**

<table>
<thead>
<tr>
<th>Date:</th>
<th>Government Agency:</th>
</tr>
</thead>
</table>

Assessment completed by:

**Does your organization keep information on the cultural background, customary laws, indigenous natural resource management, and profile of indigenous peoples you are working with? Yes ____ No ____**

If yes, **how is this information collected and collated?**

If not, is there the capacity to start keeping this information?

________________________________________________________

**Identify any past or current programs or strategies that your organization has implemented to increase indigenous peoples participation in any development program.**

<table>
<thead>
<tr>
<th>List below:</th>
<th>Worked</th>
<th>Did Not Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. _________</td>
<td>_________</td>
<td>____________</td>
</tr>
<tr>
<td>b. _________</td>
<td>_________</td>
<td>____________</td>
</tr>
</tbody>
</table>

**Identify any policy or planning documents that your organization has, or had, which addressed Indigenous peoples’ concerns in project development.**

List below:

________________________________________________________

________________________________________________________

How would you rate your organization and staff’s current understanding and knowledge of indigenous people and culture?

- [ ] Blind, insensitive, unconcerned
- [ ] Seldom Notice them
- [ ] Often Respond to them
Has your organization ever implemented any strategies or training to increase organizational understanding and knowledge of indigenous people and indigenous culture?

*Summarize details of the strategies or training: Worked Did Not Work*

a. ______________________  _______________  ________________

b. ______________________  _______________  ________________

Does your organization have any indigenous members, staff or volunteers? If so, are their knowledge and experience utilized in planning and program implementation?

<table>
<thead>
<tr>
<th>Position</th>
<th>Number of Staff/Member</th>
<th>Function/Role</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

Are you aware of how your organization is perceived by indigenous communities or indigenous peoples organizations? ____Yes ______No

*Note any feedback you have received and how you have or could gather this feedback:*

__________________________________________________________________

Has your service ever deliberately designed a strategy or project to increase indigenous peoples access to your programs and services? ____Yes ______No

*Describe the strategies/outcomes Worked Did Not Work*

a. ______________________  _______________  ________________

b. ______________________  _______________  ________________

Comments: (Reflect on your strengths, weaknesses and what opportunities you can see as a government agency working with indigenous peoples.

<table>
<thead>
<tr>
<th>Strengths</th>
<th>Weaknesses</th>
<th>Opportunities</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

**Processing the Experience:**

**I. Institutional Memory: Remembering the Past**

In any organization or agency, change is bound to happen; new leadership, turnover of staff, and the implementation of new mandates or priorities are regular occurrences. In order to ensure continuity in an organization, institutional memory is essential. It connects past programs and decisions to the present challenges and can prevent having to reinvent the wheel. Here are some points for consideration:
a) Is there a process that ensures the “passing of the baton” from old to new leadership is smooth and guarantees that projects, programs and policies involving indigenous peoples will have continuity and not be dependent on the management style of the current leadership?

b) When was the last time you discussed the issues of indigenous peoples as a team, unit, or bureau? Do you have a common understanding when it comes to engaging indigenous peoples?

c) How do you connect past initiatives to the present challenges in implementing IP-sensitive programs?

II. Moving Forward

Organize the organizational audit into common themes. Use this table to identify an existing program, its strengths, and to identify areas for improvement in the agency where you work.

<table>
<thead>
<tr>
<th>Common Themes</th>
<th>Existing Program</th>
<th>Strengths</th>
<th>Areas for Improvement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research and Documentation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• profiling of indigenous peoples</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• cultural background</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• customary laws</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• indigenous natural resource management</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• land tenure systems and instruments</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Identified list of duly-recognized IP organizations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• strategies implemented to ensure that indigenous peoples’ participation is included in any development program</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Policy documents that ensure indigenous peoples’ concerns are being addressed in development programs</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Staff Development</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• program development to increase staff capability to deal with indigenous communities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Common Themes</td>
<td>Existing Program</td>
<td>Strengths</td>
<td>Areas for Improvement</td>
</tr>
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<td>---------------</td>
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<td>-----------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Linkages</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>• expansion/ reaching out to other indigenous communities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• access to development programs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• pool of experts (anthropologists, development workers, civil society groups)</td>
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</tbody>
</table>

**Connecting the Dots**
Reflect on the result of the assessment of your agency's current programs and strategies in dealing with indigenous peoples. What kinds of intervention does your agency provide for indigenous people? Are they “a help or a hindrance to transformation?” (see box at right)

**Summing Up:**
The success of any program with indigenous communities is contingent on the implementing agency’s committed and knowledgeable staff, sound strategies, and the appropriate attitude toward its partner communities. The individual and organizational audits are tools that may be used to assess individual and agency knowledge, attitudes, programs and capabilities. They will help to identify individual and agency strengths and areas that need improvement. What is critical is the individual and institutional commitment to improve practices in dealing with indigenous peoples. The assessment process can help to foster that commitment.

**A HELP OR A HINDRANCE TO TRANSFORMATION?**
Characteristics of practical projects that can serve the process of sustained development:
- projects should be the result of a process where people have seen the need for them.
- development programs must make the conscious effort to translate these projects into useful tools to hasten the establishment of an empowered society.
- projects operated on a collective basis can build the solidarity of the community.

Practical projects are detrimental to the process of transformation when:
- they spoil and alter the people involved through the dependence and grasping created in the donor-recipient relationship.
- they are seen as the functional end, and not as a means of the entire social transformation process.
- they eradicate self-reliance and make people dependent on development aid.
- they are managed by people outside the project community, and so can never take root in it.

*Source: Training for Transformation, a Handbook for Community Workers (1980)*
Individually Self-Assessment and Reflection Tool

Objectives:
Provide a venue to reflect on personal and professional awareness when it comes to dealing with indigenous peoples.

Assess the level of one’s capacity to engage indigenous communities.

How to Use the Tool:

This tool is designed to help you reflect on your personal and professional knowledge and practices as they relate to working with indigenous people. It is not a test and there are no right or wrong answers. The information will be used to identify trends, strengths and opportunities to develop the skills and capacity of staff to effectively deal with indigenous peoples.

Please review the questions and statements and respond as indicated or give the number indicating your level of knowledge, experience and comfort.

1. No knowledge or experience
2. Some knowledge and or experience
3. General knowledge and / or experience
4. Strong knowledge and experience
5. Highly developed knowledge and very experienced

<table>
<thead>
<tr>
<th>INDIVIDUAL SELF ASSESSMENT AND REFLECTION TOOL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Date</strong></td>
</tr>
<tr>
<td>1. How would you describe your knowledge of, and exposure to the various indigenous peoples in the Philippines and their diverse societies?</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2. How would you rate your understanding of the Indigenous Peoples Rights Act (IPRA)?</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>3. How would you assess your knowledge or familiarity with the ADB Safeguard Policy Statement?</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>4. How would you assess your grasp of the concept of Free Prior Informed Consent (FPIC)?</td>
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<tr>
<td>1</td>
</tr>
<tr>
<td>5. How would you describe your awareness of the concept of ancestral domain and the need to safeguard indigenous peoples rights to their lands?</td>
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<tr>
<td>1</td>
</tr>
<tr>
<td>6. How would you describe your knowledge of the different concepts of development—indigenous peoples vis-à-vis mainstream development aspirations?</td>
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<tr>
<td>1</td>
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</tbody>
</table>
### INDIVIDUAL SELF ASSESSMENT AND REFLECTION TOOL

<table>
<thead>
<tr>
<th></th>
<th>1</th>
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<th>3</th>
<th>4</th>
<th>5</th>
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<tbody>
<tr>
<td>7.</td>
<td>Are you aware of the different notions of poverty and wealth among the indigenous Philippine societies?</td>
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<tr>
<td>8.</td>
<td>How would you assess your understanding of indigenous leadership patterns and decision-making process?</td>
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<tr>
<td>9.</td>
<td>How would you assess your level of understanding of indigenous land tenure, economic, and natural resource management systems?</td>
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<tr>
<td>10.</td>
<td>How would you assess your level of curiosity to learn about indigenous peoples stories of the origins of the world, their knowledge of plants and animals, and their rituals and their importance in their lives?</td>
<td></td>
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<tr>
<td>11.</td>
<td>How would you assess your capacity to listen to indigenous peoples stories of significant events in their lives and stories of their struggles?</td>
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</tr>
<tr>
<td>12.</td>
<td>How would you assess your level of skill in disseminating information to indigenous communities in an understandable language, form, and manner?</td>
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<tr>
<td>13.</td>
<td>How would you assess your level of skill in communicating with indigenous peoples in a way that you know is culturally appropriate?</td>
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<tr>
<td>14.</td>
<td>How would you assess your capacity for ensuring that contingencies for adverse effects are incorporated in an Indigenous Peoples Plan?</td>
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<tr>
<td>15.</td>
<td>Are you aware of the indigenous peoples organizations that exist in your area of operation that are also struggling in defense of their land?</td>
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</tbody>
</table>

How often do you engage indigenous communities in your project? What projects have you implemented that involved indigenous peoples?

___________________________________________________________________

How do you guarantee that your development interventions are genuinely appropriate for the indigenous peoples that you are working with?

___________________________________________________________________

For projects affecting indigenous peoples, were any special considerations made for indigenous communities in the project design and implementation?

___________________________________________________________________

Did you implement the project any differently than you would have done if there were no indigenous people involved?
INDIVIDUAL SELF ASSESSMENT AND REFLECTION TOOL

_________________________________________________________

How do you ensure that there are culturally appropriate and gender sensitive grievance mechanisms in any development project?

___________________________________________________________________

Reflect on your strengths, weaknesses, changes you have made in your practices in the past and what opportunities you can see to ensure that indigenous peoples’ concerns are addressed in a given development project.

___________________________________________________________________

___________________________________________________________________

ASSESSMENT:_________________________________________________________________

Total possible - 75 Result___________________________________

<table>
<thead>
<tr>
<th>Result Range</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>38 or less</td>
<td>1. No knowledge or experience</td>
</tr>
<tr>
<td>39 – 49</td>
<td>2. Some knowledge and or experience. Requires development</td>
</tr>
<tr>
<td>50 – 60</td>
<td>3. General knowledge and / or experience Capable</td>
</tr>
<tr>
<td>61 – 71</td>
<td>4. Strong knowledge and experience. Comfortable</td>
</tr>
<tr>
<td>72 +</td>
<td>5. Highly developed knowledge and very experienced. Confident</td>
</tr>
</tbody>
</table>

**Processing the Experience**
Scoring: Tally your scores. After the scoring, reflect on your strengths, challenges, and opportunities of improving your engagement with indigenous peoples.

**Individual Reflection**
Take some time to evaluate your personal reasons for working with indigenous peoples. Ask yourself, why am I working with this sector? What is my motivation?

Being honest with yourself; ask yourself if you may have unseen prejudices or biases towards indigenous peoples. Do you truly view indigenous peoples as your equals?

*This self-rated assessment will provide the opportunity to assess your current capacities for working with indigenous peoples. The individual reflection focuses on the quality of your experience working with indigenous peoples. Have your views or*
attitudes changed when it comes to dealing with indigenous communities? Or given your experience of working with indigenous peoples do you feel you are already well versed in their culture and the issues they face, especially in the area of resource management?

Connecting the Dots
Check yourself and your tendencies in working with indigenous communities.
What kind of development facilitator are you?

Facilitator A: Believes that people are receivers of information and need to be filled with knowledge, therefore, sees development as a package of interventions ready to be implemented in indigenous communities.

Facilitator B: Believes that people are active participants and are involved in the social construction of knowledge; believes that development should be based on the needs of indigenous communities.

Application of Knowledge and Cultural Awareness
In order to be effective in working with indigenous peoples, one must start with the evaluation of individual practices, knowledge, and cultural competency in dealing with them. The checklist serves as a benchmark of one’s understanding of indigenous peoples.

The success of the design and implementation of projects with indigenous peoples is based on the appreciation that indigenous peoples have the capacity to manage their own ancestral domain and all the resources therein. It is rooted in the basic faith and trust in people’s capacity to chart their own development based on their own cultural context.

Learning Curve: Where am I?
Questions to ask yourself:
How will I ensure that I am culturally sensitive in dealing with Indigenous Peoples in designing and implementing agriculture and natural resources management projects?

Project Preparation
What are the key elements that I need to consider as a project preparer in designing a project for indigenous peoples?

1) Am I familiar with the customary rights of the indigenous peoples?
2) Do I have initial knowledge of their existing land tenure systems and ownership practices?
3) Do I know enough about the spiritual, cultural and resource management practices of the target indigenous group to be able to design a project involving their ancestral lands and territories?
4) Am I aware of present conditions in the context of the indigenous peoples’ traditional practices in agriculture and natural resources management?
5) How can I balance between “target oriented” vis-à-vis “process oriented” approaches in designing a project? How can I ensure there is room for flexibility in developing process oriented goals?
Project Implementation

1) Is there existing data on indigenous resource management practices? How will I ensure that data will be factored in during the implementation of the project?

2) How will I ensure there is a connection between the project’s package of development interventions and the expressed needs and realities of the community?

3) How can I establish a balance between “target oriented” vis-à-vis “process oriented” approaches in implementing a project?
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