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## CRITICAL ETHNOGRAPHY'S APPLICATION IN GOVERNANCE: UPHOLDING INDIGENOUS PEOPLES' RIGHTS AND ADDRESSING CONFLICTS

### HIGHLIGHTS

- The Philippine's Indigenous Peoples Rights Act (IPRA) of 1997 recognizes, respects, and promotes four bundles of rights of Indigenous Cultural Communities/ Indigenous Peoples: right to Ancestral Domain; right to self-governance and empowerment; social justice and human rights; and right to cultural integrity.
- Along the IPRA, identity is a critical factor for governance structures, approaches, and discourses. In the context of access to and ownership over land and resources, assertion is the manifestation of identity.
- Overlapping mandates of government agencies and high potential for conflicts require a response of the State to identity-based assertion and recognition of rights which avoids discrimination, abuse and exacerbation of conflicts over the access to land and resources.

### THE IMPERATIVES OF THE STATE'S RECOGNITION OF THE INDIGENOUS PEOPLES' RIGHTS

With the State's recognition and promotion of the rights of Indigenous Peoples in the Philippines through the 1987 Constitution and the Indigenous Peoples Rights Act (IPRA) in 1997, members of the Indigenous Cultural Communities (ICCs) began seeking formal recognition of their Ancestral Domains with the assistance of the specially mandated National Commission on Indigenous Peoples (NCIP). With this Ancestral Domain/Land, the other rights of Indigenous Peoples, as enshrined in the IPRA, are asserted and held. According to administrative regulations, applications for certificates of Ancestral Domains must be accompanied with proofs of indigeneity. This is important because discourse on ownership of the Ancestral Domain, based on questions of identity, impacts resource use, spatial planning, representation in local legislative bodies, as well as the curbing of one of the longest Maoist insurgencies in Asia.

The NCIP, which is the lead agency for the implementation of the IPRA, must ensure that all the bundles of rights of Indigenous Peoples are recognized. This is a challenging task within a complex and internally contested governance system, especially since NCIP's predecessor office was not anchored on a rights-based approach: capacities then focused on delivery of services, mostly medical in nature. Today's staff, largely coming from this predecessor office, are from related professions. Thus, a majority of today's NCIP staff still are trained nurses, midwives and social workers, and the fact that the introduction of the new IPRA law was not followed by systemic adjustments, but rather through adaptation by existing agencies, means that the NCIP faces diverse challenges delivering on its tasks and mandate.

In the formal process of land titling based on identity, strengthened capacities to practice critical ethnography is important to ensure that the rightful claimants are accorded their rights. The certificate of Ancestral Domain and ethnography is the basis for other government (support) processes: E.g. NCIP is mandated to provide support to the Indigenous Peoples in the formulation of their Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) and its integration with local government plans and other plans of the line agencies, e.g. health, investments, conservation, etc. While 206 certificates for Ancestral Domains in the Philippines have been issued, the majority, is not yet registered with the Land Registration Administration (LRA), which would silence contests over ownership. In cases where claims are contested by other stakeholders, the LRA will not grant the final titling.

### THE REFORM STRATEGY: STRENGTHENING THE FRONTLINES AND RE-THINKING THE SYSTEM

The Conflict Sensitive Resource and Asset Management (COSERAM) Programme promotes governance of natural resources to ensure access for the marginalized population. It helps to strengthen the capacities partner organizations and other interested parties. It develops and strengthens methods, tools and approaches in order to find peaceful and sustainable solutions to conflicts over the use and management of land and natural resources.

The Philippine Constitution's recognition of the ICCs and the IPRA legislation are key pillars of the social reform agenda in the country (alongside agrarian reform, for example). However, after 18 years of IPRA, the escalation of conflicts centred on land and resources requires the re-thinking governance approaches.



A two-pronged strategy is emerging: strengthening of the frontlines of land security and support to the re-organization of the governmental structures to adopt a rights-based approach. The strengthening of the frontlines involves capacity building guided by field experiences and lessons learnt throughout the first phase of COSERAM (2011-14) in order to enhance the proof of the claim over Ancestral Domain, based on identity/indigeneity, to stand in court.

The ethnography to be produced for claims of Ancestral Land has to be culturally appropriate and legally sound. Capacities must therefore not only deal with skills on processing claims of Ancestral Domains, but also providing enabling policy structures amidst overlapping mandates. To thresh out overlapping and contesting land titles, all the four title-issuing agencies in the country have to come to a common understanding of what the IPRA and the recognition of ICCs' rights implies to the agencies' prior-existing mandates regarding land and resources.

## MULTI-LAYERED, PARALLEL AND CONVERGENT EFFORTS

Land ownership, resource use, spatial planning, and insurgency are policy arenas that involve several stakeholders from the Philippine state, non-state actors, local and foreign corporations, and private individuals either as farmers, settlers or prospectors. The COSERAM Programme provides support to government Line Agencies both on individual (tasks related) and organizational level. The individual level focuses on a layer close to the ground, involving rights-holders (Indigenous Peoples) and the field personnel of NCIP tasked to support the delineation and titling process. In this, capacity building on critical ethnography is essential for the generation of proofs which is critical to ensure non-discrimination as well as avoidance of abuse of claims based on indigeneity and the IPRA. Acknowledging that concerned agencies are composed of individuals with their own perspectives on indigeneity and what may be the limits and possibilities with regards to their mandates, the attempt to put critical ethnography into the centre is helpful, e.g. in spatial planning, resource utilization and management for timber and non-timber products.

Platforms for dialogue focus on the duty-bearers (government agencies), ensuring full and meaningful participation of rights-holders. COSERAM supports joint platforms where issues relevant to all stakeholders involved are discussed and solutions are crafted, based on existing mechanisms like Joint Administrative Orders between different agencies. All stakeholders involved focus on land as the overarching frame where mandates converge, overlaps occur, conflict escalates, and where, for Indigenous Peoples, identities are determining assertion and ensuring rights.

The approaches on different layers are mutually reinforcing in the attempt to harmonize the different governance regimes while strengthening the rights of Indigenous Peoples.

## REFLECTIONS

The rights provided for in the IPRA law are largely correlated with the individual claimant's identity and the proofs proffered for these claims, as well as the capacities of mandated government agencies, the NCIP and other Line Agencies, to interface and integrate these rights in their respective processes. Critical ethnography is therefore an important lens to increase the constancy of proofs as entry-point for the provision and protection of rights. It remains, however, a challenge, relevant not only for the Indigenous Peoples but also for the Line Agencies, since chokepoints and checkpoints are located in the daily implementation and work of agencies' ground personnel as well as in the systemic setting. If unresolved, tensions between governance approaches and claims-taking of recognized rights may lead to escalation of conflicts and even latent conflicts in the Philippine fragile setting.

The cooperation within COSERAM has, however, shown thus far that the Indigenous Peoples and the State can jointly respond to issues and concerns. Capacity development, focused on critical ethnography, and re-organizing the system are difficult and yet necessary steps in ensuring that right-holders may enjoy the full extent of these rights and that the duty-bearers fulfil their respective mandates without sacrificing the others' mandate.

For more information about GIZ's support, see <http://coseram.caraga.dila.gov.ph/> or contact Ms. Birthe Meyer, [birthe.meyer@giz.de](mailto:birthe.meyer@giz.de)

