

IPRA 101

Atty. Harriet N. Abyadang

FIRST PHILIPPINE INHABITANTS

- 40,000 years ago in Palawan
- 13,000 years ago came the Aetas
- 2,300 years ago came the Malays
- 10th century came the Muslim traders

BANAUE RICE TERRACES



2,000 years old

Fire Mummies of KABAYAN



As early as 2000BC

Apo ANNO

12th century Mighty Benguet Hunter



Nabalikong, Buguias, Benguet

Elephant Hill, Rizal, Kalinga

- Ancient fossils and artifacts like stone flakes (tools)
- Pres. Ferdinand Marcos, thru PD No. 1109 (March 28, 1977), declared the archaeological areas in Cagayan Valley region and in the provinces of Kalinga and Apayao as archaeological reservation (68 sites).
-“preliminary findings indicate that Cagayan Valley and Kalinga-Apayao could have been the habitation of the oldest human beings in the Philippines.”

ETHNOGRAPHIC MAP

CORDILLERA & REGION I

Bontoc;
Balangao, Isneg
Tinguguan,
Kankanaey
Kalanguya
Karao, Ibaloi,
Ayangan, Ifugao,
Tuwali, Kalinga
Yapayao, Bago,
Gaddang

ISLAND GROUPS

Agutaynon,
Tagbanua,
Dagayanen, Tao't
Bato,
Batak, Palawanon
Molbog, Iraya
Mangyan,
Hanunuo
Mangyan, Alangan
Mangyan, Buhid
Mangyan,
Tadyawan
Mangyan,
Batangan
Mangyan,
Gubatnon
Mangyan,
Ratagnon
Mangyan,
Cuyunon, Ati
Sulod/Bukidnon,
Magahat
Korolanos, Ata,
Bukidnon, Escaya,
Badjao

NORTHERN & WESTERN MINDANAO

Subanen, Talaandig, Higaonon, Matigsalog,
Umayamnon, Manobo, Kamigin, Yakan,
Sama, Badjao / Sama Laut, Kalibugan, Jama
Mapon

LEGEND:

- CAR and REGION I
- REGION II
- REST OF LUZON
- ISLAND GROUPS
- EASTERN & SOUTHERN MINDANAO
- CENTRAL MINDANAO
- NORTHERN & WESTERN MINDANAO

REGION II/ CARABALLO MOUNTAIN RANGE

Agta, Kalanguya,
Bugkalot, Isinai,
Gaddang, Aggay
Dumagat, Ibanag,
Itawis, Ivatan

REST OF LUZON / SIERRA MADRE MOUNTAIN RANGE

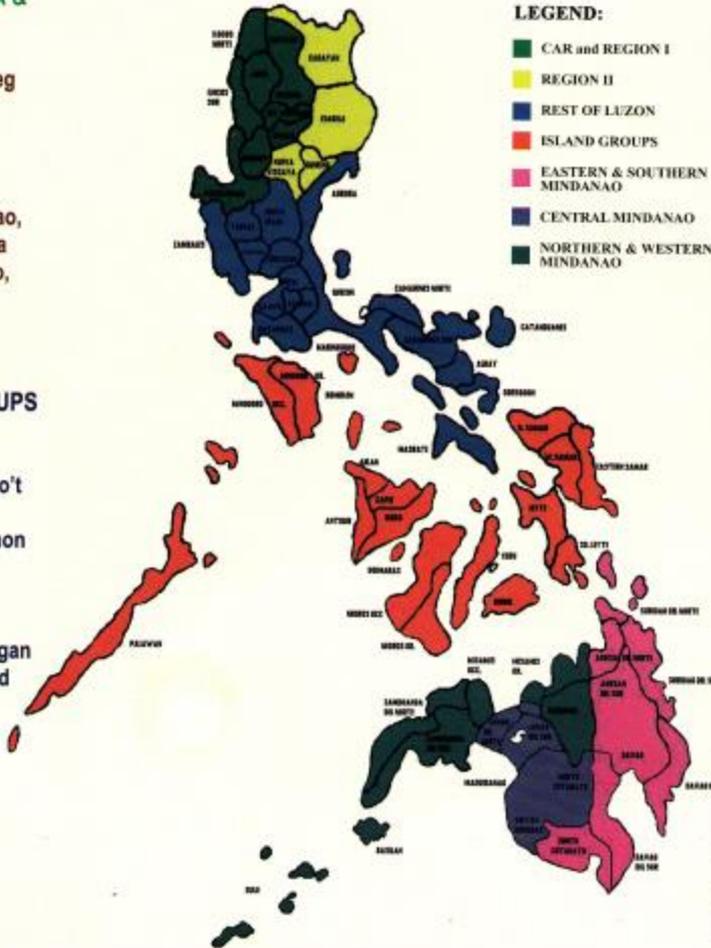
Aeta, Negrito, Baluga,
Pugot, Abelling,
Agta, Dumagat,
Remontado,
Bugkalot, Cimaron,
Kabihug, Tabangnon,

SOUTHERN & EASTERN MINDANAO

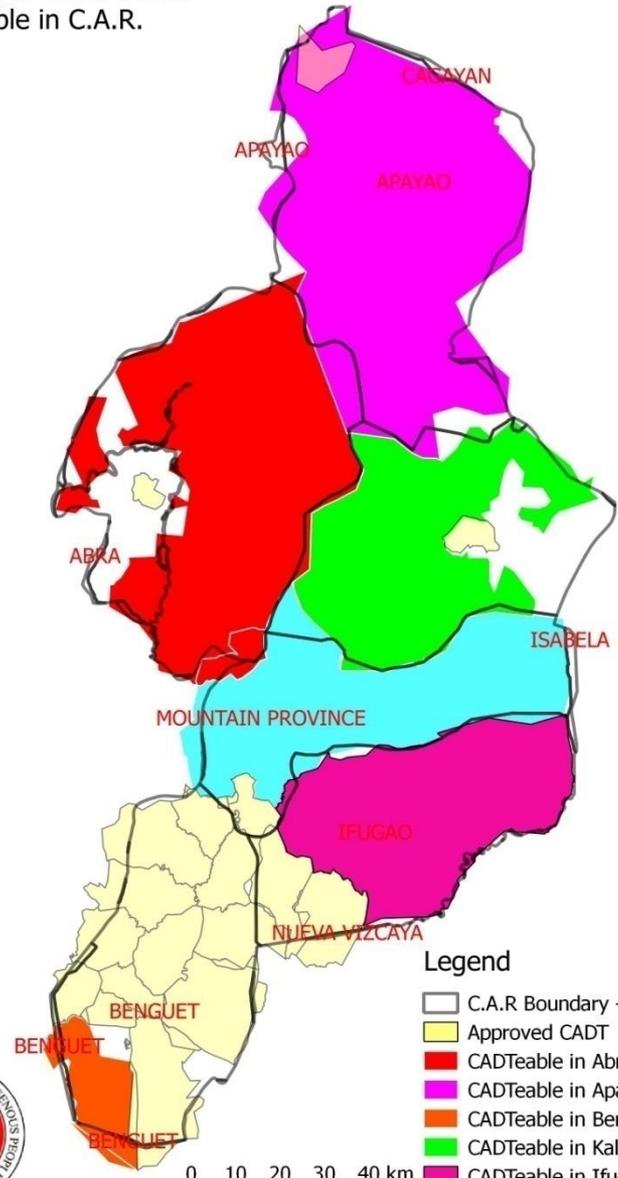
Manobo, Mandaya,
Mansaka, Dibabawon,
Banwaon, Bagobo,
Ubo Manobo,
Tagakaolo, Talaingod,
Langilan, Mamanwa,
Higaonon, Blaan,
T'boli, Kalagan,
Tagabawa, Manobo
Blit, Matigsalog,
Sangil, Tigwahanon

CENTRAL MINDANAO

Aromanon, Tiruray, Bagobo, Ubo Manobo,
Higaonon, Subanen, Maguindanao,
Maranao, Iranon, Karintik, Blaan,
Lambangian



MAP SHOWING THE APPROVED CADT's and CADTeable in C.A.R.



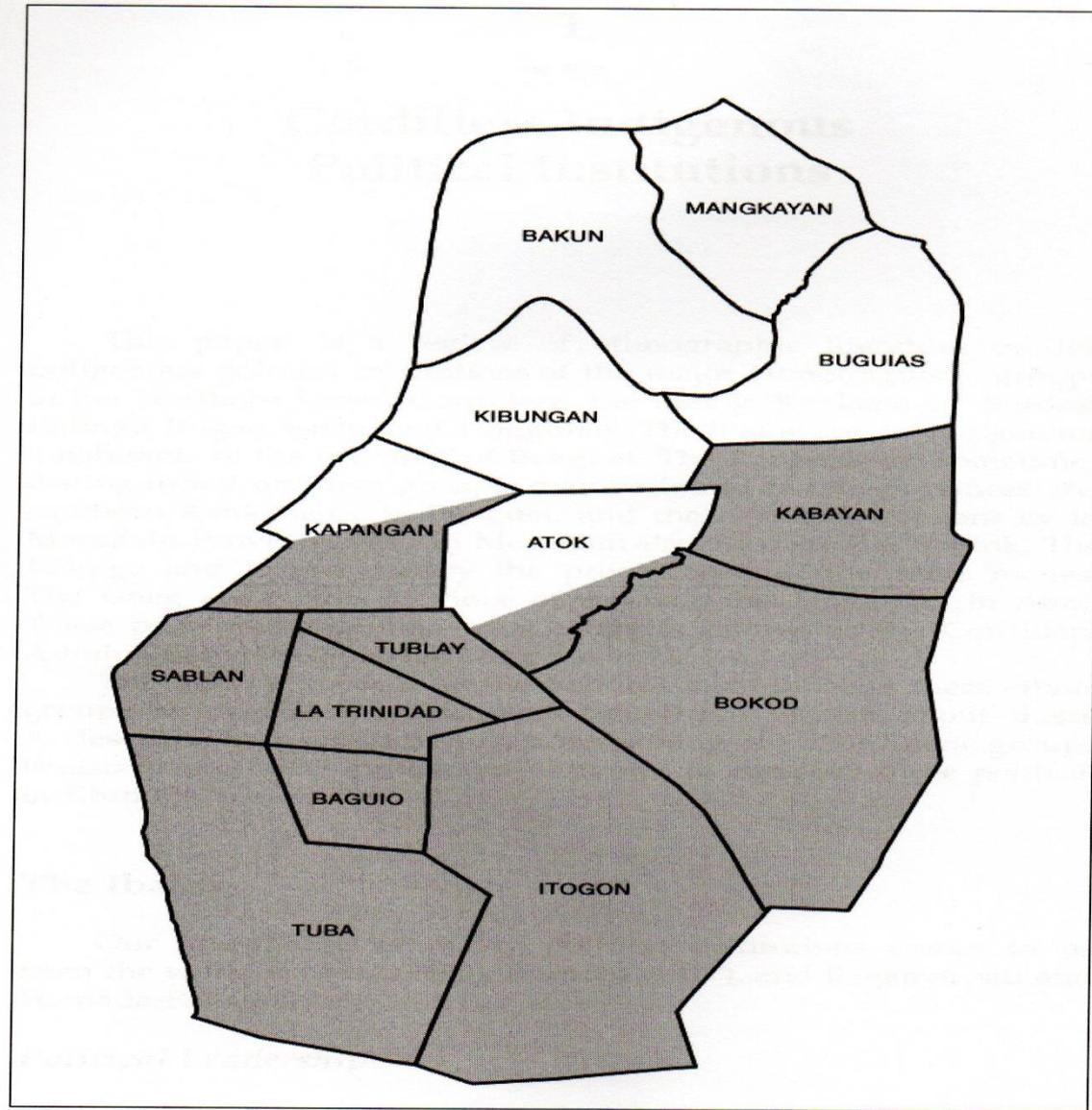
Legend

- C.A.R Boundary - Not Authoritative
- Approved CADT
- CADTeable in Abra
- CADTeable in Apayao
- CADTeable in Benguet
- CADTeable in Kalinga
- CADTeable in Ifugao
- CADTeable in Mountain Province



0 10 20 30 40 km

SCALE



Map 5 Map of Benguet province showing Ibaloy areas.

“Discovery” by Ferdinand Magellan in 1521



SPANISH COLONIZATION

February 13, 1565

Miguel Lopez de Legaspi Expedition



REGALIAN DOCTRINE

- Doctrine of Discovery
- in Laws of the Indies and the Royal Cédulas
- “the Philippines passed to Spain by virtue of ‘discovery’ and conquest. Consequently, all lands became the exclusive patrimony and dominion of the Spanish Crown.”

The AMERICAN OCCUPATION

“Spain ceded to the government of the United States all rights, interests and claims over the national territory of the Philippine Islands.”

- TREATY OF PARIS, 1898



Organic Act of July 1, 1902

property rights are to be administered for the benefit of the inhabitants, one who actually owned land for many years cannot be deprived of it for failure to comply with certain ceremonies prescribed either by the acts of the Philippine Commission or by Spanish law.

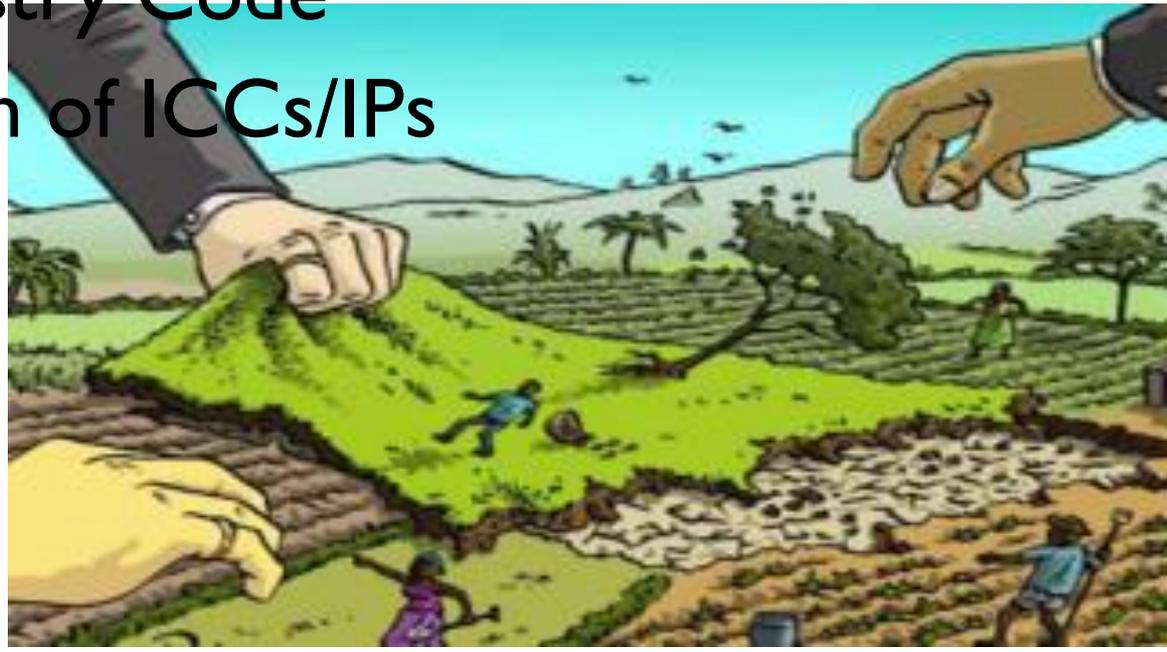
1935, 1973 & 1987 Constitution on the Regalian Doctrine



- Provides that “all lands of the public domain as well as all natural resources enumerated therein, whether on public or private land, belong to the State

Historical Injustices

- Land Grabbing
- Displacement due to government & private sector projects
- Restrictive/Depriving Laws: Mining Act of 1995, National Integrated Protected Areas Systems, Forestry Code
- Marginalization of ICCs/IPs



**INDIGENOUS PEOPLES
RIGHTS ACT
(RA 8371)**



R.A. No. 8371

Indigenous Peoples Rights Act of 1997,

An Act to Recognize, Protect and Promote the

◦ Rights of Indigenous Cultural
Communities/Indigenous People, Creating a
National Commission of Indigenous People,
Establishing Implementing Mechanisms,
Appropriating Funds Therefor, and for other
Purposes.

Principal Author - Senator Juan Flavies,

Approved on October 29, 1997

LEGAL FRAMEWORK:

1987 CONSTITUTION

Section 22 of Article II (Declaration of Principles and State Policies)

The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development.



Section 5 of Article XII (National Economy and Patrimony)

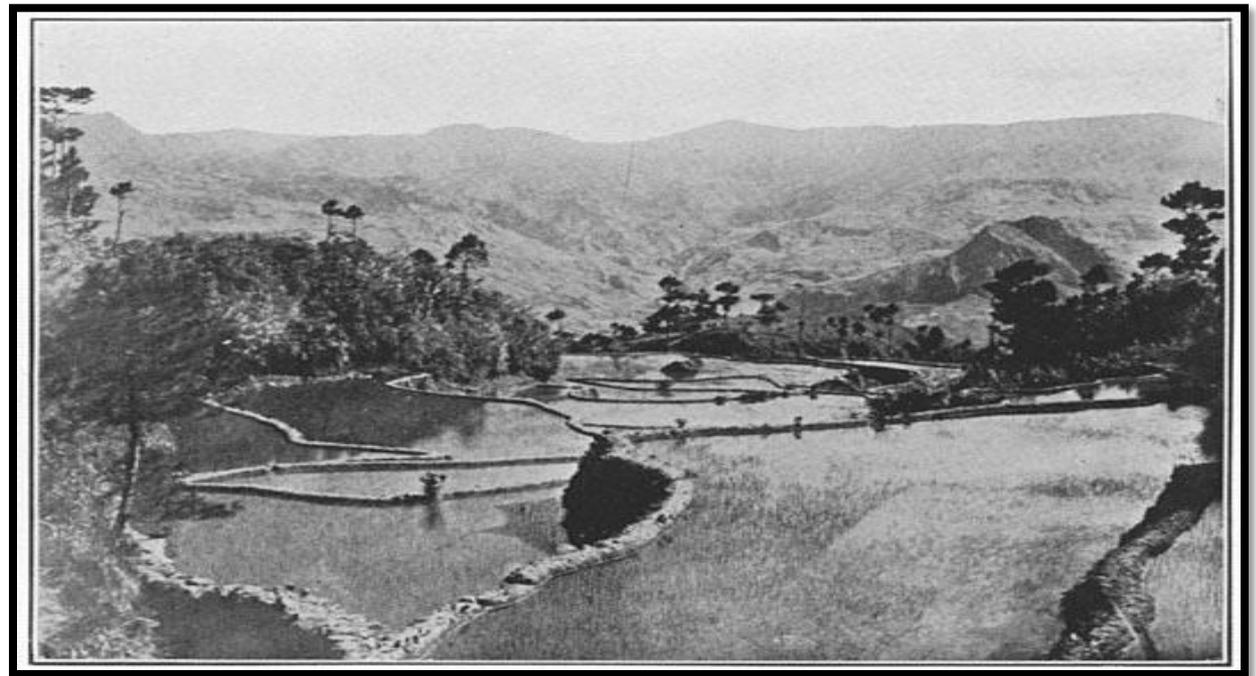
The State, subject to the provisions of the Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.



The Congress may provide for the applicability of customary laws governing property rights and relations in determining the ownership and extent of ancestral domain.

Section 6 of Article XIII (Social Justice and Human Rights)

The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands.



**Section 17 of Article XIV
(Education, Science and
Technology, Arts, Culture and
Sports)**

The State shall recognize, respect, and protect the rights of 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.



LEGAL BASES:

1987 Constitution

❖ ILO Convention 169

UN Draft Declaration on the Rights of Indigenous Peoples

Native Title (*Mateo Cariño Case,*

❖ *Cariño vs Insular Government*)





NATIVE TITLE

- Native Title refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest;

INDIGENOUS PEOPLES

section 3(H), IPRA

Refers to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of nonindigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

Four Bundle of Rights

- Rights to Ancestral Domains & Lands
- Rights to Self-Governance & Empowerment
- Rights to Social Justice & Human Rights
- Rights to Cultural Integrity



RIGHTS



I) Rights to Ancestral Domains and Lands (sec. 7)

- Ownership (native title);
- To develop and manage lands and natural resources;
- Stay in territories;
- In case of displacement;
- Regulate entry of migrants;
- Claim reservations;
- Safe and clean air and water;
- Resolve conflicts through customary law;
- FPIC

ANCESTRAL LANDS

Subject to Sec. 56 IPRA, refers to land occupied, possessed & utilized by individuals, families & clans who are members of the ICCs/IPs since time immemorial, by themselves or thru their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects & other voluntary dealings entered into by government & private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms & tree lots

ANCESTRAL DOMAINS

Subject to Sec. 56 IPRA, refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, & natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government & private individuals/corporations, & which are necessary to ensure their economic, social & cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, & other lands individually owned whether alienable & disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral & other natural resources, & lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence & traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators;





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RESPONSIBILITIES of ICCs/IPs to their Ancestral Domains

ICCs/IPs occupying a duly certified ancestral domain shall have the following responsibilities:

- a) **Maintain Ecological Balance.** — To preserve, restore, and maintain a balanced ecology in the ancestral domain by protecting the flora and fauna, watershed areas, and other reserves;
- b) **Restore Denuded Areas.** — To actively initiate, undertake and participate in the reforestation of denuded areas and other development programs and projects subject to just and reasonable remuneration; and
- c) **Observe Laws.** — To observe and comply with the provisions of this Act and the rules and regulations for its effective implementation.



2) Rights to Self-Governance & Empowerment -

- Freely pursue their economic, social and cultural development; Use commonly accepted justice systems, conflict resolution institutions, peace building mechanisms and other customary laws
- Participate in decision-making that may affect their lives and to maintain and develop their own indigenous political structures
- Representation in policy-making bodies and local legislative councils
- Determine their own priorities for development
- To organize (IPO)
- To be granted means to develop their own institutions and initiatives

3) Rights to Social Justice & Human Rights -

- Equal protection and non-discrimination. The fundamental human rights and freedoms enshrined in the constitution and relevant international instruments are guaranteed to ICCs/IPs
- Rights during armed conflict
- Non-discrimination and equal opportunity and treatment
- Basic Services
- Integrated system of education
- Rights of women, youth and children

4) Rights to Cultural Integrity -

- To preserve & protect their culture, traditions and institutions
- Access to various cultural opportunities
- Dignity and diversity of cultures
- Community intellectual rights
- Religious, cultural sites and ceremonies
- IKSPs and develop their own science & technologies
- Protect their resources and FPIC
- Sustainable agro-technological development
- Funds for archeological, historical sites & artifacts

National Commission on Indigenous Peoples

- The primary implementing agency of IPRA.
- It has 7 Commissioners appointed by the President: one for each ethnographic regions: Region I & Cordilleras; Region II; Rest of Luzon; Island Groups including Mindoro, Palawan, Romblon, Panay and the rest of the Visayas; Northern and Western Mindanao; Southern and Eastern Mindanao; Central Mindanao
- NCIP exercises administrative, quasi-legislative & quasi-judicial functions/powers





NCIP Powers & Functions

- To serve as the primary government agency through which ICC/IPs can seek government assistance and as the medium, through which such assistance can be extended
- To formulate and implement policies, plans, programs and projects for the economic, social and cultural development of the ICCs/IPs and to monitor the implementation thereof

- 
- To issue ancestral land/domain titles
 - To issue certification as a pre-condition to the grant of permit, lease, grant, or any other similar authority for the disposition, utilization, management and appropriation of the ancestral domain after the getting the mandatory consensus approval of the ICCs/IPs
 - To convene periodic assemblies of IPs to review, assess as well as propose policies or plans
 - To decide all appeals from the decisions and acts of the various offices within the Commission and overall claims and disputes involving rights of IPs

Free and Prior Informed Consent (FPIC)

Section 3(g):

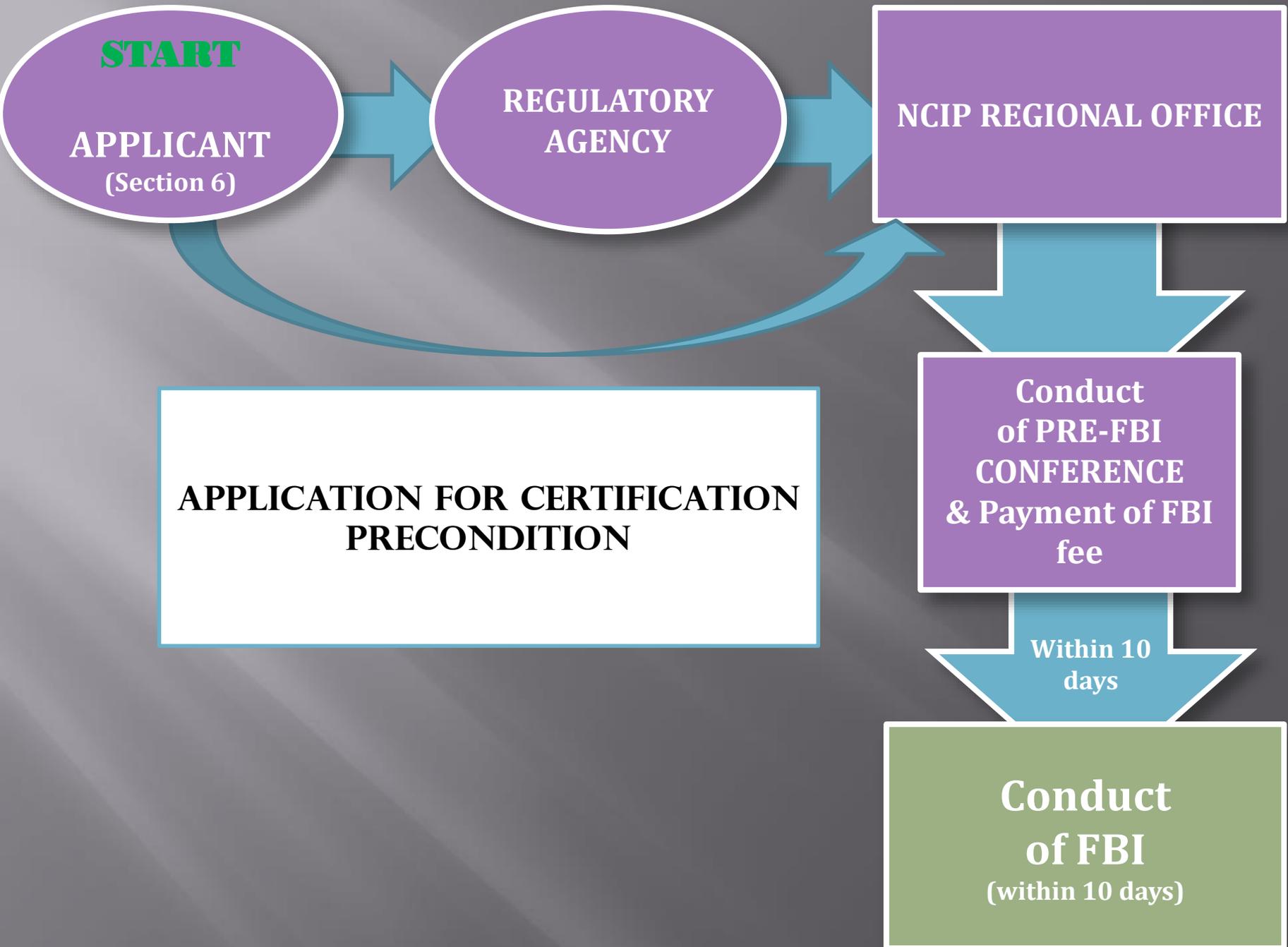
The consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference, coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community.



Sec. 59. Certification Precondition – all department and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certificate shall only be issued after a field-based investigation is conducted by the Ancestral Domain Office of the area concerned: Provided, That no certificate shall be issued by the NCIP [National Commission on Indigenous Peoples] without the free and prior informed and written consent of the ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or -controlled corporation may issue concession, license, lease, or production sharing agreement while there is pending application CADT [Certificate of Ancestral Domain Title]: Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.

***NCIP Administrative Order No. 3
Series of 2012***

**THE REVISED GUIDELINES ON
FREE AND PRIOR INFORMED
CONSENT (FPIC)
AND RELATED PROCESSES OF
2012**



START

APPLICANT
(Section 6)

REGULATORY AGENCY

NCIP REGIONAL OFFICE

APPLICATION FOR CERTIFICATION PRECONDITION

Conduct of PRE-FBI CONFERENCE & Payment of FBI fee

Within 10 days

Conduct of FBI
(within 10 days)

**CONDUCT
OF FBI**

**CONDUCT OF
FPIC**

YES

OVERLAP?

NO

**Regional Director
issues
Certificate of
NON-OVERLAP
(CNO)**

Applicant shall execute an undertaking for the conduct of FPIC should it be discovered later that there is, in fact, an overlap with an AD.

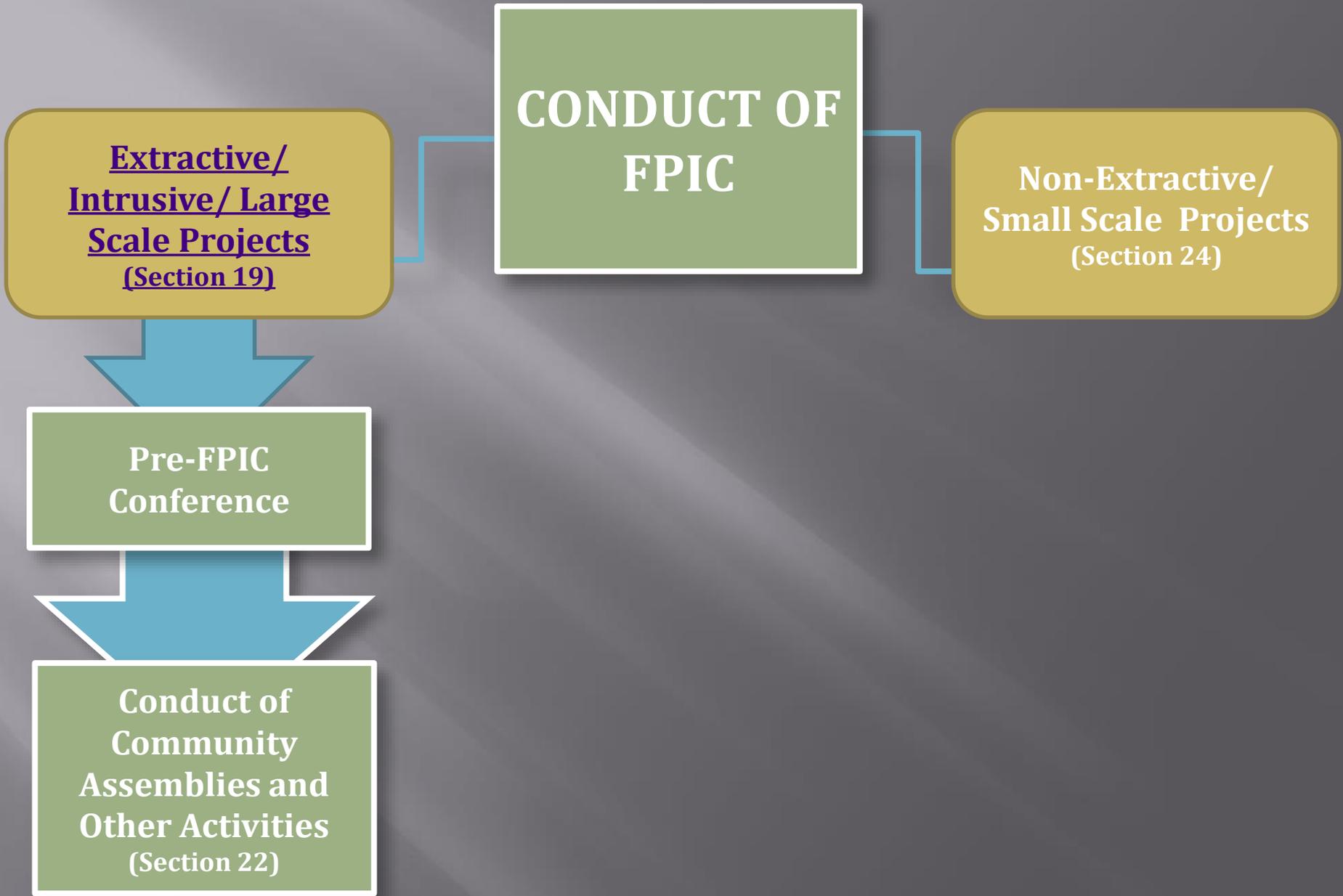
Who
exercises
right to FPIC?



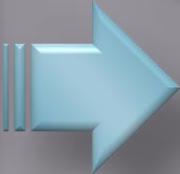
WHO MAY EXERCISE RIGHT OF FPIC.

(Section 20)

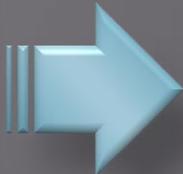
All ICCs/IPs who are owners of the ancestral domain have the right to exercise FPIC on/for any of the activities listed in the immediately preceding section; *Provided, that in case the AD is owned by two (2) or more ICC/IP sub-groups, or under a unified claim, provisions of their duly executed and validly existing agreement shall be followed, if any, otherwise, all ICCs/IPs sub-groups, tribes shall all participate in the decision-making in accordance with their applicable customary law/s; Provided further, that when there are two or more domains affected, the ICCs/IPs owning such domains shall exercise the right to FPIC separately; Provided furthermore, that affected migrant IPs inside the domain/s may participate in the exercise of the right to FPIC if expressly allowed by the domain owners.*



**FIRST
COMMUNITY
ASSEMBLY**



**SECOND
COMMUNITY
ASSEMBLY**



**Consensus-
Building
Period**



FAVORABLE?



**Resolution of Consent
and MOA signing**



Resolution of Non-consent

**FPIC Team shall
submit a formal
report with
recommendation/s
(Section 26)**

**COMMUNITY
ASSEMBLIES
(Section 22)**

POST FPIC ACTIVITIES

-
- **Submission of Report. (sec. 26)**
 - **Request for Reconsideration. (sec. 27)**
 - **RRT Review. (sec. 28)**
 - **Inaction. (sec. 29)**
 - **Dormant Certification Precondition. (sec. 30)**
-

SALIENT FEATURES

EXCLUDED AREAS

The following areas are excluded from any activity except for the exclusive purposes for which they are identified:

- 1. Sacred grounds and burial sites of indigenous communities;**
- 2. Identified international and local cultural and heritage sites;**
- 3. Critical areas identified or reserved by the ICCs/IPs for special purposes; and**
- 4. Other areas specifically identified by ICCs/IPs in their ADSDPP.**

MEMORANDUM OF AGREEMENT

This document shall embody the provisions agreed upon in the negotiations including the payment of royalties to the IPs/ICCs. A community master plan on the use of royalties and other benefits must be incorporated or accompany the MOA.

- **Prepared by the FPIC Team**
- **Written in the language or dialect of the ICCs/IPs concerned, and thereafter translated into English and/or Pilipino.**

PARTIES:

- **Applicant/proponent**
- **ICC/IP**
- **NCIP**
- **Any other party that may be necessarily involved**

ROYALTIES AND OTHER BENEFITS

The utilization of the financial benefits received shall be embodied in a document prepared by the IPs/ICCs. It shall be used for programs and projects that will redound to the well-being and benefit of the ICCs/IPs. Part of it may be used for the delineation and titling of their ancestral domain or a formulation of their community master plan, if there is still none. It should have allocations for: Livelihood and social development projects; Education and training of members; Capitalization for cooperative development; Credit facility; Salaries or wages of persons engaged to perform professional services; Mutual assistance, and the like

SIMULTANEOUS APPLICATION

No two (2) or more applications of similar subject shall be simultaneously entertained at any given time covering the same area while an application is being processed therein, neither shall another be given due course while a previous application is being processed.

APPLICABILITY OF CUSTOMARY LAWS

Customary laws and practices shall be the primary consideration in all issues.

PROHIBITED ACTS

- 1. The applicant among others:
Employment of threat, coercion, or intimidation; Bribery.**
- 2. NCIP Officer or employee
Acceptance or receipt of money, gifts, or any valuable things from the applicant; Use of falsified narration of facts.**
- 3. IP community or member and/or Elder/leader
Solicitation and acceptance or receipt of gifts, money or other valuable things from the applicant; consorting or mediating with the applicant to unduly influence the result of the FPIC Process.**
- 4. NGOs/ CSO/,GAs/LGUs/Other Groups
Undue influence or interference with the FPIC process or to the community.**

OR!!!

EXERCISE OF PRIORITY RIGHTS

Should the community decide to exercise their priority right in the harvesting, extraction, development, or exploitation of any natural resource within their AD, they shall so declare through a community resolution done during a community assembly called for the purpose.

Should the community later on manifest that it does not have the financial or technical capability or capacity to undertake the activity, they may engage a partner but subject to FPIC.

COMMUNITY
ASSEMBLY

Y
e
s

Community
Resolution



Declaration
of
EPR &
EPR Plan

Declaration of EPR & EPR Plan

- a. Gen. info. on the AD & the ICCs/Ips; indigenous land use plan, if any;
- b. Purpose of the declaration;
- c. Natural resource for development, harvesting, extraction or exploitation;
- d. Location and area of the proposed site/s accompanied by maps;
- e. PPAs or undertakings to be pursued to realize the purpose of the EPR;
- f. Scope and duration of operational plan/s for every activity;
- g. Capability to undertake or to engage a qualified partner;
- h. Conformity with the ADSDPP &/or the Environmental Conservation and Protection Program of the concerned ICCs/IPs;
- i. Existence of a IPO;
- j. Recognition and Observance of IP Governance/Decision-making processes;
- k. Existence and feasibility of EPR Plan & ECPP;
- l. In the absence of an ADSDPP provision, or non-existence of an ADSDPP, a statement that it shall be so included in the existing ADSDPP or in the one that shall be subsequently formulated.
- m. How income &/or benefits will be managed, shared, used and accounted for;
- n. Name & personal circumstances of the authorized elders/leaders who made the declaration & their signatures or thumb-marks.



NCIP
RO



VALIDATION



Engage Partner

Declaration



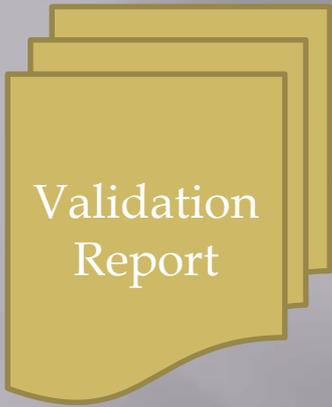
Community
Assembly

Yes

MOA on
Partnership



Validation
Assembly



Validation Report

to the NCIP Regional Director (subject to RRT)



to the Ancestral Domains Office (subject to Legal Affairs Office)



to the CEB CEB Reso.



Formal acknowledgment Not to conform



Copy to the Commissioner

Note: Still subject to Regulatory Agency

THE END

THANK YOU!!!