

# **ORIENTATION ON THE FREE AND PRIOR INFORMED CONSENT (FPIC) PROCESS**

**22 FEBRUARY 2018  
SKYRISE HOTEL, BAGUIO CITY**

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# **RA 8371: INDIGENOUS PEOPLES RIGHTS ACT (IPRA)**

- **Signed into law on 29 October 1997**
- **Took effect on 23 November 1997**
- **Principal Author: Senator Juan Flavier**

## **Why is there an IPRA?**

- **to correct historical injustices**
- **to fulfill constitutional mandate**
- **to observe international norms**

## **Sec. 57. Natural Resources within Ancestral Domains**

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



# **Sec. 59. Certification Precondition**

**All departments 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 certification shall only be issued after a field-based investigation is conducted by the Ancestral Domains Office of the area concerned: Provided, That no certification shall be issued by the NCIP without the free and prior informed and written consent of ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or production sharing agreement while there is a pending application for a CADT: 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.**

# WHAT IS FPIC?

**FPIC is 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.**

# TYPES/CATEGORIES OF FPIC PROCESS

## NCIP AO NO. 03, SERIES OF 2012

### **1. FULL-BLOWN (Sec. 19)**

2. ABBREVIATED/SIMPLIFIED (Sec. 24)

3. VALIDATION PROCESS (Part VI)

A. Community-Solicited/Initiated (Sec. 39)

B. Gov't Projects in Cooperation with NCIP and LGU Projects Sec. 40)

C. Foreign-Funded Projects in Cooperation with NCIP (Sec. 41)

### **D. TRADITIONAL RESOURCE-USE (Sec. 42)**

### **E. EXERCISE OF PRIORITY RIGHTS (Part VII)**

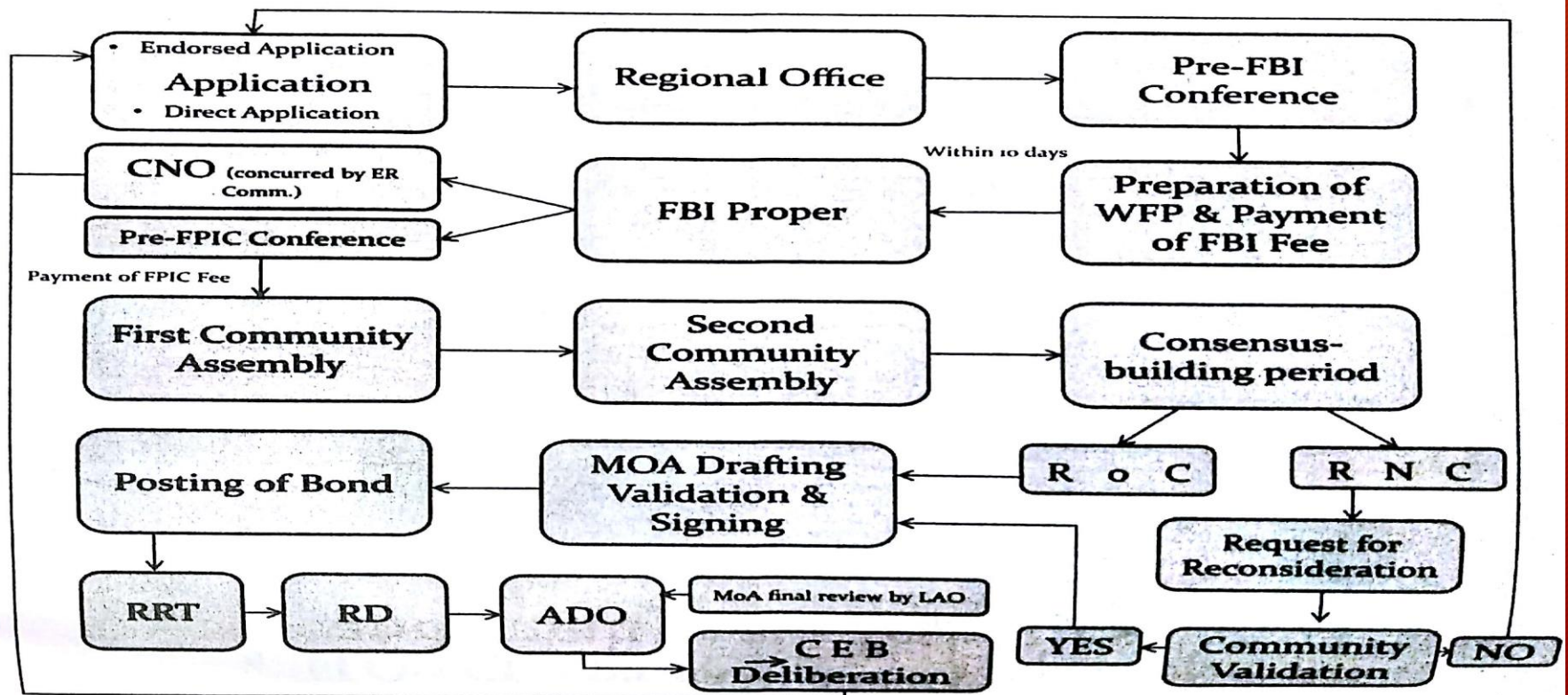
## NCIP AO NO. 01, SERIES OF 2012

4. RESEARCH AND DOCUMENTATION (AO NO. 1, S. 2012)



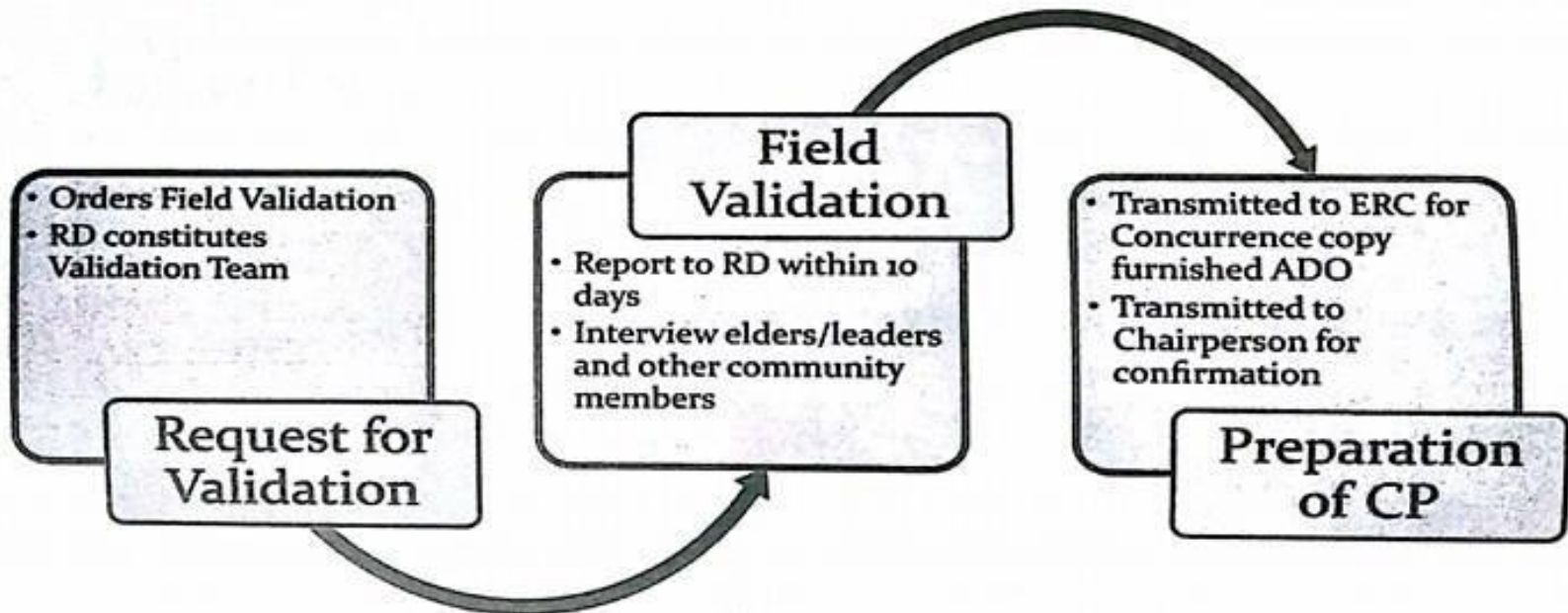
# FULL-BLOWN FPIC PROCESS

## ■ FLOWCHART FOR EILSA (Extractive, Intrusive, large Scale Activities)



# TRADITIONAL RESOURCE-USE

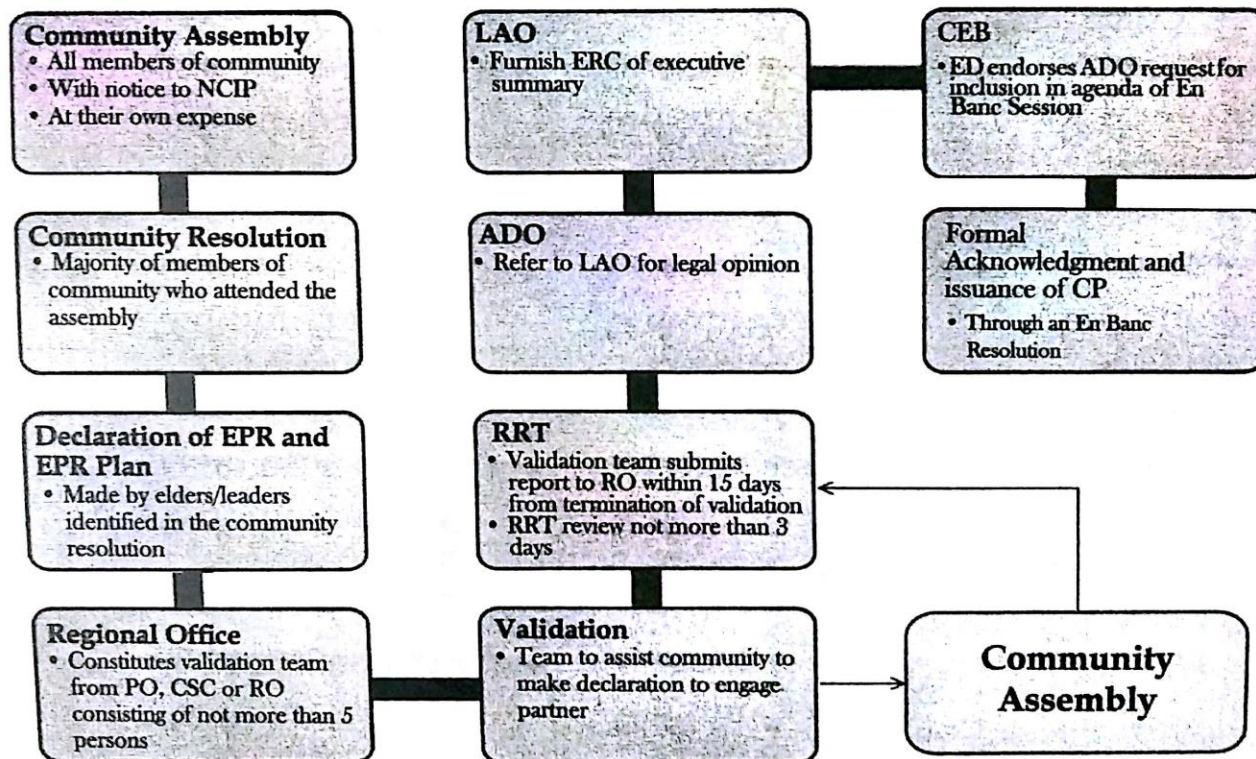
## ■ Validation Process for PART VI (Other Process)





# EXERCISE OF PRIORITY RIGHTS

## ■ FLOWCHART FOR EPR (Exercise of Priority Rights)



# WHEN IS FPIC NOT REQUIRED

- Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected. [Sec. 56, RA 8371]
- Existing contracts, licenses, concessions, leases and permits for the exploitation of natural resources within the ancestral domain may continue to be in force and effect until they expire. Thereafter, such contracts, licenses, concessions, leases and permits shall not be renewed without the free and prior informed consent of the IP community members and upon renegotiation of all terms and conditions thereof. All such existing contracts, licenses, concessions, leases and permits may be terminated for cause upon violation of the terms and conditions thereof. [Part II Sec. 6, IRR RA 8371]

# 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.**



# PROHIBITED ACTS

- BY THE APPLICANT
- BY NCIP OFFICER OR EMPLOYEE
- BY THE IP COMMUNITY or Member and/or Elders/Leaders
- Other Prohibited Acts by NGOs/CSOs/GAs/LGUs & Other Groups

# **NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP)**

## **FUNCTIONS and PROGRAMS**

**Delineation of AD/AL (Issuance of CADT/CALT)**

**Issuance of Certificate of Confirmation (COC)**

**Educational Assistance Program (EAP)**

**Quasi-Judicial and Quasi-Legislative**

**Legal Assistance (IP Legal Assistance, Documentation of Customary Laws,**

**Facilitation of Selection of Indigenous Peoples Mandatory Representative (IPMR)**

**Basic Services (Health, Culture, Socio-Economic Services)**

**Facilitation of Free and Prior Informed Consent (FPIC) Process/Issuance of CP/CNO**



**Thank you...**