

The Philippine ICCA Bill: A Policy Brief

*Philippine Association For
Intercultural Development (PAFID)*

The Philippine ICCA Bill is a proposed legislation for the appropriate recognition of Indigenous Peoples' and Local Communities' Conserved Areas and Territories (ICCA) in the country. This proposed measure seeks to provide guidelines in the protection and strengthening of ICCAs in the Philippines for their contribution to biodiversity conservation.

In the House of Representatives, it is indexed as House Bill No. 115 filed on 30 June 2016 in the current 17th Congress of the Philippines. The recognized author of the bill is Rep. Teddy B. Baguilat of the Lone District of Ifugao.

In the Senate, the counterpart bill was authored by Sen. Loren Legarda in the 16th Congress of the Philippines, filed on 22 January 2015, and indexed as Senate Bill No. 2580. It is yet to be re-filed in the 17th Congress.

The long title of the bill is *"An Act protecting and strengthening the Indigenous Community Conserved Areas, Recognizing their contribution to biodiversity conservation, establishing for the purpose of the National ICCA Registry, appropriating funds therefor and for other purposes."*

The short title is *"Indigenous peoples and local communities conserved areas and territories Act of 2016."*

Rationale/Importance or relevance to the Philippines

To understand fully well the relevance of this bill requires a broad understanding of the ICCA concept. Suffice it to say, it is not a new concept.

According to the Global ICCA Consortium, "for thousands of years, indigenous peoples and local communities, both sedentary and mobile, have played a critical role in conserving a variety of natural environments and species. They have done this for a variety of purposes - economic, cultural, spiritual, and aesthetic, among others. At present, there are many thousand ICCAs across the world, including forests, wetlands, and landscapes, village lakes, water catchment, rivers and coastal stretches, and marine areas (2010)."

The Consortium concurs that "the history of conservation and sustainable use in many of

these areas is much older than government-managed protected areas, yet they are often neglected or not recognized in official conservation systems. Many of them face enormous threats."

Fortunately, the Consortium reports, there is also a growing recognition of ICCAs and acknowledgement of their role in the conservation of biodiversity.

The 5th IUCN World Parks Congress (Durban, 2003) and the 12th Conference of Parties (COP 12, Hyderabad, 2012) of the Convention on Biological Diversity (CBD) accepted ICCAs as legitimate conservation sites that deserve support and, as appropriate, inclusion in national and international systems. Some governments have already included them within their official Protected Area Systems.

But what are ICCAs? The International Union for the Conservation of Nature (IUCN) defines "ICCA as natural and/or modified ecosystems containing significant biodiversity values, ecological services and cultural values, voluntarily conserved by indigenous peoples and local communities, both sedentary and mobile, through customary laws or other effective means. They range from very small to large

stretches of land and waterscapes.” The IUCN describes ICCAs as important complement to official protected areas (PAs) that would help conserve critical ecosystems and threatened species, and maintain essential ecosystem functions (e.g. water security). They are, according to the IUCN, the basis of cultural and economic livelihoods for millions of people, securing resources (energy, food, water, fodder) and income.

The Global ICCA Consortium posits that ICCAs offer crucial lessons for participatory governance of official PAs, and they are useful in resolving conflicts between PAs and local people. The Consortium asserts that ICCAs offer lessons in systems of conservation that integrate customary and statutory laws.

The Consortium explains that ICCAs are built on sophisticated collective ecological knowledge and capacities, including sustainable use of wild resources and maintenance of agrobiodiversity, which have stood the test of time. More importantly, the Consortium affirms that ICCAs play a crucial role in securing the rights of IPs and local communities to their land and natural resources through local governance – de jure and/or de facto.

The IUCN estimates that the global coverage of ICCAs is comparable to governments’ protected areas (12% of terrestrial surface). Globally, 400-800 million hectares of forest are owned or



Source: Philippine Association for Intercultural Development, Inc. (PAFID)

administered by communities. In 18 developing countries with the largest forest cover, over 22% of forests are owned by or reserved for communities. In some of these countries (e.g. Mexico and Papua New Guinea) the community forests cover 80% of the total (Molnar et al., 2003). More land and resources are under community control in other ecosystems. By no means all areas under community control are effectively conserved (i.e. can be considered ICCAs), but a substantial portion is.

In 2010, the CBD reported that “in addition to officially-designated protected areas, there are many thousand Community Conserved Areas (CCAs) across the world, including sacred forests, wetlands, and landscapes, village lakes, catchment forests, river and coastal stretches and marine areas” and “some studies show that levels of protection are actually higher under community or indigenous management than

under government management alone” (Global Biodiversity Outlook 3, pp 40-41).

A World Bank Independent Review in 2009 (Nelson and Chomitz) revealed that a study on the levels of environmental degradation and effectivity of the different modes of forest protection and governance (strict protection, multiple-use, and traditional governance of IPs) showed that “traditional resource management practices of ICCS are more effective in protecting the forest than strict protection of the Government alone.”

In 2011, a Senior Scientist of the Center for International Forestry Research (CIFOR) reported that the “levels of forest destruction are higher in areas that have been declared as strict protection parks by the government compared to areas traditionally protected by ICCAs” (Manuel Guarigata, Sr., 2011).

MAIN FEATURES OF THE ICCA BILL

- Provides for a system of recognition, registration, protection and promotion of the covered lands, providing penalties to any act of desecration of the abovementioned areas. Furthermore, a law specifically for ICCAs would provide the necessary government mandate, especially the annual budget and people needed to manage the ICCAs (Section 5 and Section 14).
- Establishes a national ICCA registry to ensure the availability of official information on ICCAs. The National ICCA Registry shall contain records of all pertinent information voluntarily submitted by the concerned ICC/IP regarding their respective ICCAs. (Sections 10, 11 and 14).
- The ICCAs shall be “declared as no go zone for mining and other destructive forms of natural resource exploration, development and utilization. These activities shall likewise be not allowed outside the ICCAs if it will adversely impact the ICCA” (Section 6).
- Provides incentives in the development of sustainable livelihood opportunities for ICCs/IPs particularly those consistent with traditional practices and resource use that contribute to the sustainable development and proper management of the ICCAs (Sections 19 and 20).
- Inclusion in the Comprehensive Land Use Plans and Forest Land Use Plans. The ICCAs recorded in the National ICCA Registry shall be included and duly reflected in the Comprehensive Land Use Plan (CLUP) of the concerned local government unit (LGU). National government agencies shall likewise ensure that the ICCAs are recognized in land use plans covering lands of the public domain (Section 12).
- Inclusion in the Protected Area Management System. In cases where ICCAs overlaps with Protected Areas, the ICCAs shall be recognized and included in the management systems of protected areas and KBAs. Indigenous Knowledge Systems and Practices (IKSPs) and Customary Laws of ICCs/IPs duly documented shall be recognized and respected. ICCA plans and conservation practices shall be harmonized into the Protected Area Management Plan of the protected area (Section 13).
- Has penal provisions against those who violate the Law (Sections 21 and 22). In addition, the prosecution for offenses set forth in Section 21 of this proposed law shall be without prejudice to any liability for violation of Republic Act No. 8371 (Indigenous Peoples Rights Act of 1997) and other criminal or civil liabilities.

In the Philippines, ICCAs include sacred sites and natural features, indigenous territories, cultural landscapes and seascapes. They are found in both terrestrial and marine ecosystems in the country. The ICCA sites also represent different biogeographic regions. They can be found from the mountain ridges to the coral reefs. They provide habitats to a high diversity of flora and fauna.

Based on the IUCN definition of ICCAs, at the very least, there could

be as many ICCAs as there are indigenous cultural communities in the Philippines. There could even be more because ICCAs are not limited and exclusive to areas conserved by indigenous peoples but include other areas conserved by other local communities.

The extent of the area that ICCAs cover in the Philippines is still to be determined. But the number and coverage of approved Certificate of Ancestral Domain Title (CADT) would be a good indicator.

The approval of CADT depends on the ability of the claimant community to prove that “they traditionally had access to it for their subsistence and traditional activities” practiced in observance of their customary laws (IPRA Sec. 3a).

As of 30 September 2010, the NCIP has approved 156 Certificate of Ancestral Domain Titles (CADT) having a total area of 4,249,331.544 hectares of land and water. These areas are part of the 6 to 7 million hectares of land and water that the NCIP estimates could still be recovered as ancestral domains.

These ancestral domains as a whole, or parts of it, contain ecologically valuable areas that have been sustainably managed since time immemorial by the local indigenous peoples (Novellino, 2008) and therefore would qualify as ICCAs. The ICCAs form some of the most important sections of the ancestral domain and often define their landscape and geography. Such is the case of the sacred lakes and coral reefs of the Calamian-Tagbanua of Coron Island and the Molbog of Balabac Island, both in Palawan.

PAFID (2011) estimates that between 60 and 65 percent (or roughly 4.5 million hectares) of the Philippines’ 6,838,822 hectares (DENR-FMB 2003) of remaining natural forests are within these ancestral domains. The organization believes that this could be attributed directly to the conservation efforts of indigenous peoples.

As of 2004, there are 99 protected areas in the Philippines covering 3,180,918.39 hectares declared under the NIPAS Act (DENR-PAWB 2004). At least 69 of these protected areas overlap with 86 ancestral domains and ICCAs of indigenous peoples. The aggregate area of overlap is almost a million hectares (PAFID 2011).

Among the notable examples are the ancestral domain of the Calamian-Tagbanua in Coron Island and its surrounding waters; the Igmale'ng'en sacred forests of the Talaandig community in Portulin, Pangantucan, Bukidnon; the ancestral domains of the Mangyan Tagabukid in Sibuyan Island, Romblon; and the Manobo ancestral domain in Sote, Bislig City, Surigao del Sur.

The ICCAs in the Philippines range from less than a hectare of forest patch used as a burial ground of revered tribal leaders in the island of Mindoro, or to a whole ancestral domain representing the areas that mobile or nomadic communities have traditionally roamed such as the 136,000-hectare Ilonggot ancestral domain.

The ICCAs in the Philippines are also of many kinds. There are sacred spaces, ranging from tiny forest groves and wetlands, to entire landscapes and seascapes. These include, among others, the sacred lakes in Coron Island; the sacred forests of the Talaandig and Manobo peoples on Mt. Kalatungan, and the sacred site of the Higaonon community on

Mt. Kimangkil, both in Bukidnon Province.

Some ICCAs are nesting or roosting sites, or other critical habitats of wild animals. Among these are the nesting place of the swift birds in Coron Island, and the critical habitats in Mt. Kalatungan. However, many ICCAs are under attack due to inappropriate development and educational models, religious intrusions, and externally driven change of local value systems. The traditional institutions managing ICCAs have been undermined by colonial or centralized political systems, whereby governments have taken over most of the relevant functions and powers.

These ICCAs are often encroached or threatened by commercial users, land/resource traffickers, or even community members under the increasing influence of market forces, for the valuable renewable and non-renewable resources (timber, fauna, minerals, etc.) they contain.

The ICCAs remain unrecognized in most countries, and the lack of political and legal support often hampers community efforts at maintaining them through traditional means.

The proposed Philippine ICCA Bill seeks to enhance and strengthen the interface between the Indigenous Peoples Rights Act (IPRA) of 1997 and the National Integrated Protected Areas System (NIPAS) Act of 1992. The IPRA mandates the promotion and recognition of the rights of

Indigenous Peoples as provided for in the 1987 Constitution. The NIPAS Act mandates that "ancestral lands and customary rights, and interest arising shall be accorded due recognition (Section 13)." It is also in accordance with the Convention on Biodiversity (CBD) which provides that the State shall foster the recognition and promotion of "other effective area-based conservation measures" aside from national parks and protected areas.

How civil society can support the bill?

The challenges confronting conservation in general, and ICCAs in particular, can be effectively faced jointly by communities and formal conservation agencies, with help from NGOs and others. This is beginning to happen in countries where ICCAs are formally recognized.

There are two things civil society can do to support this bill. It can help deepen the understanding of ICCAs with respect to varying historical and regional contexts. It can also help identify and support field-based initiatives where ICCAs can be crucially safeguarded, enabled, strengthened and/or promoted in practice.

The first will popularize the concept and drum up wider support for the enactment of the bill. The second will generate much needed baseline data and strengthen the communities' de facto governance of ICCAs in the country. ○