

Open Governance Partnership (OGP) Colloquium

"The Role of PA in Cultural and Global Inclusivity"

Assessment of the National Commission on Indigenous Peoples' (NCIP) Implementation of the Free, Prior and Informed Consent (FPIC) Principle in the Bag-o and Kankanaey Communities in Santol, La Union

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Abstract

The Indigenous Peoples Rights Act (IPRA) of 1997 recognizes the right of Indigenous Peoples (IPs) to self-determination. The study aims to assess the implementation of the universal principle of *Free, Prior and Informed Consent* (FPIC) by the *National Commission on Indigenous Peoples* (NCIP). The effectiveness or ineffectiveness of the implementation will be measured in accordance with the 2012 FPIC guidelines. This study shall further tackle the characterization of the definition of “consent” (or the local term, “*pammalubos*”) under the following categories of the participation of actors, consensus-building, and in giving assurance to the IPs by the respective project proponent, in this case, the COHECO.

Background

- Ancestral domains of IPs as one of the concerns faced by the government
- FPIC Principle as an answer to the problem
- FPIC in the IPRA: Consensus of ICC members (IPRA, 1997)
- Reports of violation of IPs' rights even after enactment of the IPRA

Focus of the Research

- NCIP and the practice of FPIC
- IPs' awareness of the FPIC principle
- IPs' definition of consent

Objectives

- Define consent of IPs in Barangays Lettac Sur and Mangan
- Establish integration of FPIC principle in 2012 FPIC Guidelines
- Determine effectiveness or non-effectiveness of NCIP in implementation of 2012 FPIC Guidelines

Limitations of the Study

- **Location:** Barangay Lettac Sur and Barangay Mangaan in Santol, La Union
- **IP groups:** Kankanaey and Bag-o communities
- **Participants:** Pre-selected by IP leaders

Hurdles Encountered

- Language barrier
- Non-responsiveness of the COHECO, the project proponent, for an interview request

Review of Related Literature

- The IPRA mandates the NCIP to practice FPIC
- Each IP group's definition differs according to their respective culture and tradition
- Presence of studies with contradicting findings
- FPIC as avenue for IPs in voicing-out opinions
- Absence of monitoring and evaluation procedures

Methodology

Qualitative Descriptive
Method

Fieldwork Proper

Duration: Four Days

Team A: Day One and Day Two

- Setting-up of FGD for *Barangay* Lettac Sur and *Barangay* Mangaan
- IEC with IP leaders of seven (7) *barangays* affected by the transmission lines of the COHECO project

Team B: Day Three and Day Four

- FGDs in *Barangay* Lettac Sur and *Barangay* Mangaan

Fieldwork Proper: Day 1 and Day 2 (Team A)



Day 1:
NCIP Sudipen
Community Service
Center
(April 14, 2016)



Day 2:
Information, Education,
Consultation (IEC) with
IP Leaders
(April 15, 2016)

Fieldwork Proper:

Day 3 and Day 4 (Team B)



FGD with Brgy.
Lettac Sur
Community
(April 17, 2016)



FGD with Brgy.
Mangaan
Community
(April 18, 2016)

Data Gathering Techniques

- Purposive Sampling Method
 - Focused groups discussions (FGDs)
 - Interviews

Method of Analysis

- Content analysis
- Rating System

NA – Not Applicable, 1 – Dissatisfied, 2 – Neutral, 3 – Satisfied

Findings and Analysis:

Content Analysis

Categories							
Consensus-building		Local Synonyms		Actors		Assurance	
Word	Frequency	Word	Frequency	Word	Frequency	Word	Frequency
Majority	3	<i>Pahintulot</i> (Consent)	17	COHECO	11	Benefits	6
Representation	1	<i>Pammalubos</i> (Consent)	1	IP Leaders	2	Safety	3
Decision-making	2	<i>"Pavag"</i> (Agrees)	8	Land Owners	8	"Agreement"	1
Negotiations	2						
Meetings	11						
Consultation	4						
<i>Lahat</i> (Everyone)	23						
<i>Kasunduan</i> (Agreement)	8						

Findings and Analysis:

Rating System

Rating Scale	Free	Prior	Informed
3 – Satisfied	The IPs were able to vote yes or no whenever a decision has to be made	No structure was built without obtaining the consent of the IPs “sufficiently in advance” (one or more year prior the construction of the project)	The IPs have perfect information about the scope of the project and its entirety.
2 – neutral	The IPs were allowed to vote but they might have been coerced, manipulated, or intimidated subtly (e.g., Money as means of bribery)	A structure is yet to be made but the consent of the IPs were only obtained a month prior the construction of the project	There were lapses when it comes to information dissemination. The IPs might have misunderstood the agreement.
1 – dissatisfied	The IPs were coerced, intimidated and manipulated to give their consent	An activity commenced and a structure was built without consultation or consensus among the IPs	The scope of the project was not laid out to the IPs. There were no efforts made to explain the entirety of the project.
NA – Not Applicable	The guideline is not applicable to any of the forms of consent		

Findings and Analysis

Cross Tabulation of 2012 FPIC Guidelines

2012 FPIC Guidelines	Free	Prior	Informed	Total
1. Application for CP.	NA	3	NA	3/1 = 3
2. Attendance of the applicant(s) and representative(s) of the ancestral domains to the <u>Pre-FBI</u> Conference.	NA	3	3	6/2 = 3
3. Applicant must pay an FBI Fee.	NA	3	NA	3/1 = 3
4. Attendance to the General Assembly conducted by the FPIC Team.	3	3	2	8/3 = 2.66
5. Preparation, review and signing of the <u>MoA</u> and FPIC report.	3	3	2	8/3 = 2.66

Conclusion

- No precise definition of consent by IPs
- Consent can be categorized into:
 - 1) consensus building,
 - 2) local synonyms,
 - 3) actors, and
 - 4) assurance
- NCIP complied to the 2012 FPIC Guidelines
- NCIP is effective in complying to its mandate

Recommendations

- An overseeing body for the NCIP that shall conduct a monitoring and evaluation scheme
- Further studies on new cases of IP ancestral domain usage by project proponents

Thank you and *mabuhay!*

