COMMISSION ON HUMAN RIGHTS
REPUBLIC OF THE PHILIPPINES

INPUTS OF THE COMMISSION ON HUMAN RIGHTS OF THE PHILIPPINES (CHRP) FOR THE STUDY ON "INDIGENOUS PEOPLES RIGHT TO DATA, INCLUDING DATA COLLECTION AND DISAGGREGATION"

24 FEBRUARY 2025

1. The Commission on Human Rights of the Philippines (hereinafter the "Commission" or CHRP)[1] submits its written inputs for the Study on *"Indigenous Peoples right to data, including data collection and disaggregation"* of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP).

2. The inputs from the Commission took into consideration local and international reports from government, civil society, the media, and international non-governmental organizations. This submission also utilized the Commission's own documentation of independent monitoring activities and statements, which were subjected to the internal deliberations of the Commission En Banc.

Challenges to data collection and disaggregation concerning Indigenous Peoples

3. The Indigenous Peoples Rights Act (IPRA) of 1997[2] is the cornerstone of Indigenous Peoples' rights in the country. The law recognizes their right to self-determination, ancestral domains, and cultural integrity. It also defines indigenous peoples in Section 3 h) Indigenous Cultural Communities/Indigenous Peoples, as:

> *"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 [Indigenous Cultural Communities/Indigenous Peoples] 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 non-indigenous 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*

[1] As the National Human Rights Institution (NHRI) of the Philippines, the Commission on Human Rights has the mandate vested by the 1987 Philippine Constitution and the Paris Principles to promote and protect the full range of human rights including civil and political rights, and economic, social and cultural rights. It has the responsibility to regularly report and monitor human rights situations and violations, and recommend steps in advancing the realization of human rights and dignity of all. The Commission has "A"-status accreditation from the Sub-Committee for Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI).

[2] The Indigenous Peoples Rights Act (IPRA) of 1997, Republic Act No. 8371, available at https://www.officialgazette.gov.ph/1997/10/29/republic-act-no-8371/, (last accessed January 17, 2025).

been displaced from their traditional domains or who may have resettled outside their ancestral domains;"

4. The definition of Indigenous Peoples may change due to circumstances such as some Indigenous Peoples may choose not to publicly identify themselves as members of an Indigenous People group due to fear of discrimination, stigma, or conflict. On the other hand, some Indigenous Peoples may not identify with the cultural and religious practices, traditions, and values of their respective group but may still occasionally choose to self-identify as Indigenous Peoples – for example, when shifts in cultural or personal mindsets reduce the fear of discrimination, stigma, or conflict or when benefits and privileges accrue to Indigenous Peoples' self-identification[3]. This may lead to inconsistencies in the identification of Indigenous communities and affect their data collection.

5. Indigenous communities continuously raise the concern about data disaggregation. They emphasize the importance of breaking down data into more specific categories to capture a more accurate understanding of the unique challenges faced by Indigenous men, women, and gender-diverse individuals, who often experience inequalities differently due to intersecting factors of gender and indigeneity. Disaggregated data reveals the specific needs and challenges of Indigenous women and men, enabling governments and organizations to design policies that are responsive to address these differences. Further, it highlights issues and guides efforts to close gaps and outcomes.

6. In the Commission's 2017 National Inquiry on the Human Rights Situation of the Indigenous Peoples[4] One of its key findings is that the state is deficient in gathering and disaggregating data on Indigenous women, Indigenous youth & children, internally displaced Indigenous Peoples and Indigenous older persons to render them specific targets of government assistance and expenditures. There is insufficient monitoring of Indigenous Peoples' rights to access to basic services as well as Indigenous Peoples' collective rights to ancestral domain development.

7. The lack of disaggregated data on Indigenous Peoples in the Philippines, particularly on their ethnicity and the number of Indigenous women and girls, has made it difficult to explore gender expressions and identities within these communities. Without this data, Indigenous groups struggle to push for evidence-based interventions that promote health equity. At present, research, policy-making, and decision-making processes are dominated by non-Indigenous actors, often conducted without proper consultation with Indigenous communities. These systemic issues are rooted in discriminatory assumptions about race and health, which continue to undermine the right of Indigenous women to self-determination. As a result, the existing public health system fails to effectively address the needs of Indigenous women and girls, as it does not incorporate a reproductive justice framework that is inclusive of their realities.[5]

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[3] No Data, No Story: Indigenous Peoples in the Philippine, World Bank, available at https://thedocs.worldbank.org/en/doc/baa43cc91ec55266a538e9023c528bd7-0070062024/no-data-no-story-indigenous-peoples-in-the-philippines#:~:text=The%20report%2C%20%E2%80%9CNo%20Data%2C,Indigenous%20Peoples%20in%20the%20country., (last accessed January 17, 2025).

[4] 2017 National Inquiry on the Human Rights Situation of the Indigenous Peoples, available at https://chr-observatories.uwazi.io/api/files/1569144771893flty436ajjw.pdf, (last accessed January 17, 2025)

[5] Sectoral Monitoring on the Situation of Indigenous Women and Girls during the COVID-19 Pandemic, available at https://chr2bucket.storage.googleapis.com/wp-content/uploads/2022/08/08153513/2022.-Sectoral-Monitoring-on-the-Situation-of-Indigenous-Women-and-Girls-During-the-Pandemic.pdf, (last accessed February 7, 2025).

8. In 2018 the Philippine Identification System Act[6] was passed which aims to establish a single national identification system for all citizens and resident aliens, providing a valid proof of identity to simplify public and private transactions. To ensure inclusivity, the Philippine Statistics Authority (PSA) has partnered with the National Commission on Indigenous Peoples (NCIP) to facilitate the registration of Indigenous Peoples.[7] While PSA announced registration of 90 million Filipinos in the national ID program,[8] challenges abound: the ID system is vulnerable to hacking, state surveillance and privacy violations and can infringe civil liberties.[9] If the system is not implemented properly, national ID systems can lead to social exclusion.[10]

9. Possible challenges in data collection the CHRP has identified:

a. The absence of an ethnicity variable in national censuses has led to the underrepresentation of Indigenous Peoples in official statistics.[11]
b. The Philippines is home to over a hundred Indigenous Peoples groups with rich ethnolinguistic diversity. Standardized data collection methodologies often fail to capture this diversity, leading to the oversimplification of Indigenous Peoples' identities and issues[12]
c. Many Indigenous Peoples communities reside in remote areas, making it challenging for registration officers to reach them. Innovative approaches, such as the "PhilSys Birth Registration Assistance Project," aim to address these challenges by bringing registration services directly to these communities.[13]

Data on Indigenous women

10. The Magna Carta of Women (Republic Act No. 9710) is a comprehensive human rights law in the Philippines that aims to eliminate discrimination against women, with a particular focus on marginalized groups, including indigenous women.[14] sec.28 states that *"The State shall recognize and respect the rights of Moro and indigenous women to practice,*

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[6] REPUBLIC ACT NO. 11055, available at https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/2/85056, (last accessed January 21, 2025).
[7] PSA pushes for an inclusive PhilSys; continues to prioritize IP registration, available at https://psa.gov.ph/content/psa-pushes-inclusive-philsys-continues-prioritize-ip-registration, (last accessed January 21, 2025)
[8] 90M Filipinos Now Registered to the National ID System, Philippine Statistics Authority, 20 September 2024, available at https://psa.gov.ph/content/90m-filipinos-now-registered-national-id-system (last accessed February 5, 2025).
[9] Cybersecurity group reports possible leak of PH IDs on 'dark web', Luisa Cabato (Inquirer), 4 April 2024, available at https://technology.inquirer.net/133517/cybersecurity-ph-identification-cards-data-leak (last accessed February 5, 2025); On the CBMS Data Breach, Philippine Statistics Authority, 13 October 2023, available at https://psa.gov.ph/content/cbms-data-breach (last accessed February 5, 2025) ; Gov't adopts cybersecurity measures for nat'l ID system, Lade Jean Kabagani (Philippine News Agency), 13 October 2020, available at https://www.pna.gov.ph/articles/1118388 (last accessed February 5, 2025) ; and Philippine ID system is set up for failure, Jamael Jacob, Esq (Ateneo De Manila), 24 October 2022, available at https://www.ateneo.edu/analysis-opinion/2022/10/24/philippine-id-system-is-set-up-for-failure (last accessed February 5, 2025).
[10] Philippine ID system is set up for failure, Jamael Jacob, Esq (Ateneo De Manila), 24 October 2022, available at https://www.ateneo.edu/analysis-opinion/2022/10/24/philippine-id-system-is-set-up-for-failure (last accessed February 5, 2025).
[11] Data: Leaving No Indigenous Peoples Behind in the Achievement of the SDGs, TEBTEBBA, available at https://indigenousnavigator.org/files/media/document/Tebtebba-IN%20Policy%20Brief%20-%20Data%20Gathering%20%281%29.pdf, (last accessed January 21, 2025).
[12] No data, no story: What the absence of Indigenous Peoples-specific data reveals, available at https://blogs.worldbank.org/en/opendata/no-data-no-story-what-absence-indigenous-peoples-specific-data-reveals, (last accessed January 21, 2025).
[13] PSA Expands PhilSys Registration Efforts With Innovative "PhilSys on Boat" Initiative, available at https://psa.gov.ph/content/psa-expands-philsys-registration-efforts-innovative-philsys-boat-initiative, (last accessed January 20, 2025).
[14] Republic Act 9710: The Magna Carta of Women, available at https://pcw.gov.ph/magna-carta-of-women/, (last accessed January 20, 2025).

promote, protect, and preserve their own culture, traditions, and institutions and to consider these rights in the formulation and implementation of national policies and programs. To this end, the State shall adopt measures in consultation with the sectors concerned to protect their rights to their indigenous knowledge systems and practices, traditional livelihood, and other manifestations of their cultures and ways of life: Provided, That these cultural systems and practices are not discriminatory to women."

11. The Commission in its "Written Statement for the Virtual Day of General Discussion on the Rights of Indigenous Women and Girls,"[15] raised the following:"

a. indigenous women and girls face "triple discrimination based on gender, ethnicity, and socioeconomic status,"[16] making them among the most vulnerable within indigenous communities. This often leads to their issues being overlooked and underreported.
b. the need to "develop a system for the collection, recording and reporting of data pertaining to indigenous women."[17] Without such disaggregated data, it is challenging to monitor changes in their situation and to develop targeted policies and programs.
c. indigenous women often have "low levels of education and illiteracy,"[18] This can hinder their participation in data collection processes. These barriers impede accurate data gathering and the development of effective interventions.

12. Please also refer to answers in *Challenges to data collection and disaggregation concerning Indigenous Peoples*

Data and sustainable development

13. The Sustainable Development Goals (SDGs), established by the United Nations in 2015, provide a universal framework aimed at addressing various global challenges, including poverty, inequality, and environmental degradation. While the SDGs do not explicitly mention Indigenous Data Sovereignty, some goals and specific indicators are relevant:

- Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture; Indicator 2.3.2: *Average income of small-scale food producers, by sex and indigenous status*[19]
- Goal 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all; Indicator 4.5.1: *Parity indices* (female/male, rural/urban, bottom/top wealth quintile and others *such as* disability status, *indigenous peoples* and conflict-affected, as data become available) *for all education indicators on this list that can be disaggregated*.[20]
- SDG 10: Reduced Inequalities[21]: This goal emphasizes the need to empower and promote the social, economic, and political inclusion of all, irrespective of identity which includes their ethnicity. Ensuring that Indigenous Peoples have control over their data is crucial for their inclusion and self-determination.

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[15] Written Statement for the Virtual Day of General Discussion on the Rights of Indigenous Women and Girls, available at https://chr.gov.ph/written-statement-for-the-virtual-day-of-general-discussion-on-the-rights-of-indigenous-women-and-girls/, (last accessed January 20, 2025).
[16] Id.
[17] Id.
[18] Id.
[19] 2030 Agenda and Indigenous Peoples, United Nations, available at https://social.desa.un.org/issues/indigenous-peoples/2030-agenda-and-indigenous-peoples/2030-agenda-and-indigenous-peoples (last accessed February 7, 2025).
[20] Id.
[21] Goal 10: Reduce inequality within and among countries, available at https://www.un.org/sustainabledevelopment/inequality/, (last accessed February 6, 2025)

- SDG 16: Peace, Justice, and Strong Institutions[22]: This goal advocates for responsive, inclusive, participatory, and representative decision-making at all levels. Recognizing Indigenous Data Sovereignty supports Indigenous Peoples' participation in governance and decision-making processes affecting their communities.

14. The report cited in this submission, "No Data, No Story: Indigenous Peoples in the Philippines" emphasizes the critical need for reliable data to understand and address the socio-economic conditions of Indigenous Peoples in the country. It highlights significant gaps in data collection, particularly regarding the intersectionality of ethnicity, poverty, and conflict.[23] This absence of comprehensive data leads to a lack of understanding of Indigenous Peoples' socio-demographic profiles and the extent of disadvantages they face in the Philippines. Moreover, without proper data, it is nearly impossible to propose accurate poverty reduction strategies or to improve social programs targeting Indigenous Peoples[24] that contribute to sustainable development.

15. The Indigenous Navigator (IN)[25] is a framework and set of tools for and by Indigenous Peoples to systematically monitor the level of recognition and implementation of their rights enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Sustainable Development Goals and the outcomes of the World Conference on Indigenous Peoples. This online portal, developed and managed by the Asia Indigenous Peoples Pact (AIPP), the Forest Peoples Programme (FPP), the International Work Group for Indigenous Affairs (IWGIA), the Tebtebba Foundation, the Danish Institute for Human Rights (DIHR), and the International Labour Organization (ILO), provides Indigenous organizations, communities, duty bearers, NGOs, and journalists with free access to resources and tools derived from community-generated data.[26] The IN enables Indigenous Peoples to document their conditions, enhancing their access to justice and development, while contributing to global efforts to document Indigenous issues.[27] In 2017, Indigenous organizations and communities in the Philippines adopted the tools, and in 2024, Tebtebba released a report on the Indigenous Navigator Framework's implementation, titled *The Indigenous Navigator: Human Rights, Sustainable Development Goals, and Indigenous Peoples in the Philippines.*[28] The report, based largely on secondary sources from 2008 to 2024, contributes to the availability of high-quality, reliable data on Indigenous Peoples' rights and development. This data further supports the realization of Indigenous Peoples' rights and complements community-based surveys by engaging national and local partners in data collection and review.

Data and the right to self-determination, the right to free, prior and informed consent, and Indigenous data governance and sovereignty

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[22]SDG 16: Peace, Justice, and Strong Institutions https://www.un.org/sustainabledevelopment/peace-justice/, (last accessed February 6, 2025)
[23] Supra note 3,pg 11.
[24] Id.
[25] Indigenous Navigator 2014-2024, What is the Indigenous Navigator?, available at https://Indigenousnavigator.org/what-is-the-Indigenous-navigator (last accessed 27 January 2025)
[26] International Work Group for Indigenous Affairs, The Indigenous Navigator: Self-Determined Development, available at https://iwgia.org/en/the-Indigenous-navigator-self-determined-development.html (last accessed 27 January 2025)
[27] Id.
[28] Raymundo D. Rovillos & Emma Liza A. Dacquigan, The Indigenous Navigator: Human Rights, Sustainable Development Goals and the Indigenous Peoples in the Philippines, available at https://Indigenousnavigator.org/publication/the-Indigenous-navigator-human-rights-sustainable-development-goals-and-the-Indigenous (last accessed 27 January 2025)

16. In the Philippines, the right of Indigenous peoples to control, manage, and protect their data which are connected to their respective cultures, lands, and communities faces several challenges, one of which is the lack of legal frameworks. There is no provision in the IPRA specifically promulgating Indigenous data governance and sovereignty.

17. The IPRA of 1997, recognizes and promotes the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs), including the protection of their cultural heritage and traditional knowledge.[29] This legislation mandates the requirement of Free, Prior, and Informed Consent (FPIC) for any research or projects affecting Indigenous lands or knowledge systems, ensuring that ICCs/IPs have control over data pertaining to their communities.

18. NCIP Administrative Order No. 3, Series of 2012, titled "The Revised Guidelines on Free and Prior Informed Consent (FPIC) and Related Processes of 2012," outlines procedures to ensure that Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) can exercise their right to FPIC. While the document primarily focuses on consent processes for projects affecting ancestral domains, it also emphasizes the protection of Indigenous knowledge systems and practices. Specifically, Section 2(b) aims to "protect the rights of ICCs/IPs in the introduction and implementation of plans, programs, projects, activities and other undertakings that will affect them and their ancestral domains to ensure their economic, social and cultural well-being." This provision underscores the importance of safeguarding Indigenous data and cultural heritage from unauthorized use or disclosure.[30]

19. Executive Order No. 79 (2012) implements reforms in the Philippine mining sector. This executive order highlights the importance of protecting ICCs/IPs' rights, particularly concerning their ancestral domains, by requiring Free, Prior, and Informed Consent (FPIC) before any mining activities commence.[31] Although it does not directly address data sovereignty, it reinforces the principle of Indigenous consent, ensuring that any activities impacting Indigenous lands, resources, or knowledge must secure community approval beforehand

20. Executive Order No. 247 (1995)[32] prescribes guidelines and establishes a regulatory framework for the prospecting of biological and genetic resources for scientific and commercial purposes. It mandates that any research involving Indigenous communities must obtain their Free, Prior, and Informed Consent (FPIC), ensuring that Indigenous Peoples have control over data derived from their biological and genetic resources.

21. Republic Act No. 10066 (2009),[33] also known as the National Cultural Heritage Act, provides for the protection and conservation of the nation's cultural heritage, including Indigenous cultural properties. It recognizes Indigenous Peoples as primary stewards of their cultural heritage and mandates their involvement in the preservation and management of their cultural properties, thereby safeguarding Indigenous data.

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[29] Supra note 2.
[30] NCIP Administrative Order No. 3, Series of 2012, available at https://ncip.gov.ph/wp-content/uploads/2020/09/ncip-ao-no-3-s-2012-fpic.pdf, (last accessed February 5, 2025).
[31] Executive Order No. 79, available at https://lawphil.net/executive/execord/eo2012/eo_79_2012.html, (last accessedFebruary 5, 2025).
[32] Executive Order No. 247 (1995), available at https://lawphil.net/executive/execord/eo1995/eo_247_1995.html, (last accessed February 5, 2025).
[33] Republic Act No. 10066 (2009), available at https://lawphil.net/statutes/repacts/ra2010/ra_10066_2010.html, (last accessed February 5, 2025).

22. In December 2024, the Philippine Supreme Court affirmed that Baguio City is exempt from ancestral claims under IPRA, based on Section 78 of the act, which states that Baguio City shall remain governed by its charter. However, the Court also emphasized that indigenous peoples might still establish ownership over their lands if they can prove continuous occupation and possession since time immemorial, even within reservations. "It bears stressing that Baguio City is exempted from the coverage of IPRA except for native title, that is, ownership since time immemorial where the indigenous peoples are in open, continuous, and actual possession of the land up to the present."[34] This ruling underscores the importance of historical data and documentation in upholding indigenous land rights.[35]

23. The key to respecting Indigenous Peoples collective rights is securing their free prior and informed consent (FPIC) for private and public interventions that affect their lands, customs and traditions.Collecting data for national policy-making will inevitably fall short of realizing Indigenous Peoples rights if this "limited sovereignty" of Indigenous Peoples is not taken into consideration. Any project or program devised by the technocrat will fail without bilateral negotiations beginning with FPIC and culminating in a Memorandum of Agreement (MoA) with provisions for voluntary mediation/ arbitration either under customary law or other mutually agreed upon arbitration processes. This is because the concepts of development will inevitably vary between government technocrats to Indigenous Peoples elders from tribe to tribe and from domain to domain. And this right to alternative development is at the very core of the advocacy for Indigenous Peoples rights.[36]

24. In the Philippines, FPIC is one of the mechanisms for exercising the right to self-governance and self-determination, it is a mechanism for the expression and attainment of the right to self-determination of the Indigenous Peoples. It is defined by the IPRA as "consensus of all members of the Indigenous Cultural Communities (ICCs)/Indigenous Peoples (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." It is enforced primarily by the NCIP through NCIP Administrative Order No. 03, Series of 2012. The reports of Indigenous Peoples during the National Inquiry of the Commission on Human Rights of the Philippines, however, reveal that the NCIP and all State duty bearers implementing the projects or programs affecting Indigenous Peoples, have been wanting in the enforcement of and compliance with this right.[37]

25. In recent consultations conducted by the Commission, Indigenous Peoples communities continue to raise the improper implementation of or non-compliance to the FPIC as a major issue in asserting their rights over their ancestral domains. Furthermore, testimonies during the public hearings across all regions reported the absence of FPIC for natural resource extraction businesses, government power generation projects, and tourism projects. Moreover, despite complaints filed by Indigenous Peoples with the NCIP, no remedies were forthcoming.[38]

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[34] SC: Baguio City exempted from ancestral claims under IPRA, Rappler, 20 December 2024, available at https://www.rappler.com/philippines/luzon/supreme-court-affirms-baguio-city-exempted-ipra-ancestral-land-claims/ (last accessed February 7, 2025).
[35] SC Affirms that Baguio is Exempt from IPRA, available at https://sc.judiciary.gov.ph/sc-affirms-that-baguio-is-exempt-from-ipra/, (last accessed January 21, 2025)
[36] Supra note 4
[37] Inputs of the Commission on Human Rights of the Philippines to the Human Rights Council-Expert Mechanism on the Rights of Indigenous Peoples (A/HRC/EMRIP/2020/2)
[38] Statement of Commissioner Faydah Maniri Dumarpa at the 109th Session of the UN Convention on the Elimination of All Forms of Racial Discrimination (11 April 2023), available at

26. The NCIP in May 2024 conducted its first consultation over the proposed new FPIC rules.[39] Indigenous Peoples, human rights defenders and organizers questioned that the process of revising the FPIC guidelines denied the right to consultation and meaningful participation of Indigenous Peoples.[40] They assessed these draft revised rules are being fast-tracked by the NCIP to the detriment of Indigenous Peoples, their cultural heritage, their land and the environment. NCIP admitted that the proposal for new FPIC rules was only created in 2022, a finalization workshop was held in 2023, and only one stakeholder's forum.[41]

27. NCIP's draft revised FPIC rules contains the following provisions that according to Indigenous Peoples and rights advocates, infringe on the rights of Indigenous Peoples and deny their genuine, meaningful, and inclusive participation:[42]

    a. Exemption of Certain Large-Scale Economic Activities: Sections 5 and 28 exempt certain activities such as mining exploration, bio-prospecting, and large-scale tourism from FPIC requirements. Despite the absence of full-scale extraction, these projects remain socio-economically and ecologically disruptive and should require a complete FPIC process.
    b. Inaccessibility of Environmental Information: Section 29 (G) erroneously invokes the Data Privacy Act to restrict access to environmental impact statements and other relevant information. The Indigenous Peoples Rights Act and the Philippine Environmental Impact Statement System Law mandate the disclosure of a project's ecological, socio-economic, and cultural impacts on Indigenous Peoples. The Data Privacy Act pertains to the personal data of individuals, not information related to juridical entities. Further, an Environmental Impact Statement should be mandatory.
    c. Military, Paramilitary, and Security Provisions: Sections 27 and 28 potentially exacerbate civil and political rights abuses against indigenous peoples by excluding military and paramilitary activities from FPIC requirements and requiring Indigenous Peoples to disclose security risks to project proponents, raising concerns over their safety and confidentiality.
    d. Non-Inclusion of Indigenous peoples as part of the Field-Based Investigation Team (FBI): The new rules fail to include any member of Indigenous peoples in the FBI Team under the guise that they may not be made accountable. However, this can be easily remedied by explicit contractual arrangements between the NCIP and the chosen community members.
    e. The Fixed Periods under the Rules, particularly for the Community Assembly: The new rules provide time-limits for the various steps of the FPIC, including the hard deadline of ten (10) days for conducting a Community Assembly. This

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https://chr.gov.ph/statement-of-commissioner-faydah-maniri-dumarpa-at-the-109th-session-of-the-un-convention-on-the-elimination-of-all-forms-of-racial-discrimination-11-april-2023/ (last accessed February 7, 2025).

[39] Indigenous people, groups seek 'genuine consultations' on revision of FPIC rules, Iya Gozum (Rappler), 13 June 2024, available at https://www.rappler.com/philippines/statement-indigenous-people-consultations-fpic-guidelines-june-2024/ (last accessed February 8, 2025).

[40] Ibid. 64 organizations and 102 individuals, including the Teduray and Lambangian Ancestral Domain Claim, Non-Moro Indigenous Peoples Center, and Sabokahan Tomo Kamalitanan (Unity of Lumad Women).

[41] Ibid.

[42] A Call for Effective and Genuine Consultation on the Revised FPIC Guidelines, Legal Rights Center, 19 June 2024, available at https://iprights.org/index.php/en/all-news/a-call-for-effective-and-genuine-consultations-on-the-revised-fpic-guidelines; and https://www.lrcksk.org/post/a-call-for-effective-and-genuine-consultations-on-the-revised-fpic-guidelines (last accessed February 8, 2025).

period is prohibitive and violates the community's right to follow customary laws. To begin with, the process ought to be provided by the communities themselves. FPIC is not mandatory for each stage of a project if mentioned in the Memorandum of Agreement (MOA); The new rules attempt to create an exception to the need for an FPIC for the various phases of a project by adding that this may be dispensed with if there is an existing MOA.

f. Reiteration of Community Participation: The proposed FPIC is focused on government-imposed institutional representations, structures, and priorities. It fails to recognize that some communities follow customary leadership or community structures outside the Indigenous Political Structures and Mandatory Indigenous Peoples Representations. Any FPIC rules should always consider the diversity of the community and the unique dynamics within their ancestral domains.

28. It was reported that NCIP planned to issue the new rules in June 2024. The current draft is not publicly available as of this writing and there is no update on the status of its issuance. The aforementioned provisions, if they remain unrevised and unresolved, can also impact indigenous data governance and sovereignty, as there is no evidence of a wider and inclusive consultations with Indigenous Peoples and Communities.

Recommendations from the Commission to EMRIP:

29. Asks the NCIP to bolster its partnership with The Philippine Statistics Authority (PSA) in the inclusion of Indigenous communities in the Philippine Identification system (PhilSys) and strengthen the generation and protection of the data on the Indigenous Peoples in the Philippines.

30. Urge relevant national and local government agencies to systematically collect and disaggregate data on Indigenous Peoples, including Indigenous women, children, youth, and older persons, to ensure that the programs are targeted and not fragmented.

31. Call NCIP’s attention on the continuous violation of the FPIC process and urge them to uphold the rights of Indigenous Peoples to be informed and consulted before any development project or activity is implemented in their ancestral domains. NCIP should conduct meaningful and inclusive consultations with Indigenous Peoples.