

Implementing FPIC in MIMAROPA Region: An assessment of factors influencing NCIP AO No. 3 (Series of 2012)

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Abstract

The study explored how the NCIP MIMAROPA implements the FPIC process in the region and the influencing factors that affect its performance. A qualitative-descriptive method has been used in this study. The study revealed that NCIP MIMAROPA implements the FPIC process using the prescribed guidelines of NCIP Administrative Order No. 03, Series of 2012. However, there are negative influencing factors that obstruct the agency to successfully implement FPIC in the region. These factors are insufficient workforce; language barrier between IPs and NCIP personnel; IPs fear on the effect of the project in their lives and ancestral lands; IPs misconception on the use of NCIP in the FPIC process; political and social pressure from the proponents, and weak internal communication. The findings' analysis has also proven that NCIP MIMAROPA has weaknesses in clarifying its goals and objectives, in its organizational structure, in facilitating a clear two-way communication, and in properly monitoring the FPIC process. It is recommended that NCIP revisit its organizational structure to countercheck if its regional offices existing workforce can still perform in their maximum potential. It would also be beneficial for the NCIP MIMAROPA to capacitate their personnel by enhancing their skills through learning and development programs that will equip the personnel with appropriate knowledge and skills to perform their role.

Keywords: informed consent, NCIP MIMAROPA, policy implementation, indigenous cultural communities administrative guideline, structural vacancy

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1. Introduction

Free, Prior, and Informed Consent (FPIC) is a principle-based approach that allows Indigenous Peoples to participate in decisions relating to developments, plans, or activities that may affect their ancestral domains, resources, and cultural integrity. Provided that the Indigenous Cultural Communities/ Indigenous Peoples (ICCs/IPs) shall be properly apprised and afforded the opportunity to free, prior, and informed consent or dissent prior to the implementation of the proposed project. This process upholds and protects the common rights and interests of Indigenous peoples. In the Philippines, the rights of ICCs/IPs are legally recognized through the Republic Act No. 8371 or the Indigenous Peoples' Rights Act (IPRA) of 1997, which recognizes the rights of ICCs/IPs to ancestral domains, self-governance, cultural integrity, and self-determination. To put these provisions into action, the National Commission on Indigenous Peoples (NCIP) issued Administrative Order No. 03, Series of 2012, providing the Revised Guidelines on the Exercise of Free and Prior Informed Consent (FPIC) and Related Processes. These guidelines provide the procedures for securing FPIC prior to the implementation of projects, programs or activities that may affect Indigenous communities and their ancestral domains.

While the legal and policy framework is in place, implementing FPIC remains a major challenge. As Collins (2016) pointed out, in the Philippines, the implementation of FPIC has often been to the letter of the law rather than its spirit, allowing some project proponents to bypass meaningful community participation or to "engineer consent." In line with this, Campbell (2012) suggested that highly prescriptive and top-down FPIC procedures might constrain Indigenous communities' effective participation and decision-making. Further, while revising the FPIC Guidelines, consultations revealed that some recommendations from indigenous communities and CSOs were not reflected in the final policy (Tebtebba Foundation, 2012, as cited in Collins, 2016). Violations of the conduct of the FPIC processes in terms of community consultations, negotiation and signing of memoranda of agreement, and post-FPIC activities were reported by the Department of Environment and Natural Resources-Forest Management Bureau (DENR-FMB) and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) (Department of Environment and Natural Resources-Forest Management Bureau [DENR-FMB] & Deutsche Gesellschaft für Internationale Zusammenarbeit [GIZ], 2020).

While previous studies have acknowledged the challenges of implementing FPIC in the Philippines, there is limited empirical evidence on the organizational and implementation factors that influence the use of the Revised FPIC Guidelines from the perspective of NCIP personnel in the MIMAROPA Region. There remains, therefore, a lack of context-specific evidence to inform improvements in the regional implementation and to strengthen the policy processes that govern FPIC.

This study aimed to evaluate the application of the NCIP Free, Prior, and Informed Consent (FPIC) Guidelines in the MIMAROPA Region, identify the factors that positively and negatively influence their implementation from the perspective of NCIP personnel, and propose interventions to strengthen the implementation of Administrative Order No. 03, Series of 2012.

2. Methodology

Research Design - The study applied the qualitative-descriptive research method. The qualitative descriptive method was utilized since the study involves information- gathering about the factors influencing the implementation of NCIP AO 3, Series of 2012 as observed and practiced by the NCIP MIMAROPA Region.

Participants - The study involved NCIP personnel from MIMAROPA Region who were directly involved in

the implementation of the FPIC Guidelines. Participants were selected through total enumeration to allow all eligible personnel to participate in the study. They came from the NCIP Regional Office, Provincial Offices in Oriental Mindoro, Occidental Mindoro, and Palawan, and Community Service Centers in the region. The participants were provincial officers, heads of community service centers, technical personnel, and regional administrators with functions related to the implementation of Administrative Order No. 3, Series of 2012. They provided various viewpoints on FPIC implementation, based on their differing positions, years of service, educational backgrounds, and ethnic affiliations.

Research Instrument - The researcher was the key instrument in the study through gathering the NCIP personnel's insights on factors, performance, and issues they were encountering during the implementation of the FPIC provision. The interview was facilitated using the section B of the interview guide adopted from the GIZ and Community Department for REDD (CoDe REDD) dated December 2013. The responses gathered are regarded as reflective of the views of respondents, regardless of whether such may not be reliable with official or legal understandings of the FPIC concept.

Data Collection Procedure - Data collection was conducted through an in-depth face-to-face and virtual interviews with the NCIP MIMAROPA personnel as key informants in implementing Administrative Order No. 03, Series of 2012, in Region 4B. The researcher contacted the respondents via email to know their preferred time for an interview. Each email contained the context of the study and the importance of their input. The respondents also had the option to waive anonymity. In addition, they needed to indicate their consent to contribute to the study. The interview was audio recorded, with the permission of the respondent, and transcribed verbatim. All responses for each question were summarized and categorized accordingly.

Data Analysis - The data came from the responses of the respondents during the interview as well as from the personal experience of the researcher. Matters mentioned at most during the interview were treated as the factors that contributed in answering the research questions. The findings were further analyzed, and possible ways to address the gaps and weaknesses were formulated using the conceptual framework that was adapted from the implementation models developed by Anisur Rahman Khan and Shahriar Khandaker in one of their studies.

Ethical Considerations - The study surveyed the basic ethical principles of qualitative research. All participants gave their informed consent prior to data gathering, and participation was voluntary. Participants were informed of their right to refuse to participate or to withdraw from the study at any time without penalty. Privacy and anonymity of the participants were guaranteed during the research process except for those who volunteered to be identified. Audio recordings, interview transcripts, and other research materials were used only for educational purposes and were collected in a secure environment to protect the participants' privacy.

3. Results and Discussions

Based on the interviews, it was found that the NCIP MIMAROPA generally follows the procedures provided in Administrative Order No. 3, Series of 2012, in implementing the Free, Prior, and Informed Consent (FPIC) procedure. The participants reported that they regularly carried out field studies, community consultations, validated project documents, and monitored the compliance with the Memorandum of Agreement (MOA) after a Certification Precondition (CP) was issued. Personnel also mentioned the use of technical documents such as Certificates of Ancestral Domain Title (CADT), Ancestral Domain Sustainable Development and Protection Plans (ADSDPPs), maps, and geospatial data to assess projects affecting ancestral domains.

Although the prescribed procedures were largely adhered to, participants acknowledged challenges in implementation. There were cases of project proponents commencing activities before the required Certification Precondition had been obtained, and other cases where uncertainty was expressed as to whether formal audits would be carried out post FPIC implementation. Monitoring was reportedly done by Joint Monitoring Teams (JMTs), periodic field visits, and reports from Indigenous leaders, but these activities varied across implementation sites.

Analysis of the interview data identified one major facilitating factor and six barriers influencing FPIC implementation. The key enabling factor was the personnel's good understanding of the agency's mandate and the FPIC Guidelines. The participants were already familiar with the requirements of Administrative Order No. 3, Series of 2012, and committed to protecting the rights of Indigenous Peoples through transparent consultation and community engagement.

Table 1*Emergent Themes and Findings Influencing the Implementation of FPIC*

Category	Theme	Summary of Finding
Facilitating Factor	Personnel Understanding of the FPIC Guidelines	Participants demonstrated familiarity with the NCIP mandate and the procedures prescribed under Administrative Order No. 3, Series of 2012. This knowledge supported the implementation of consultations, validation activities, and community engagement.
Barrier	Insufficient Human Resources	Participants identified vacant technical positions and limited staffing as factors contributing to increased workloads and delays in field investigations, consultations, and the processing of Certification Precondition applications.
Barrier	Community Concerns and Misunderstandings	Participants reported that concerns regarding the potential effects of proposed projects on ancestral domains and livelihoods sometimes resulted in misunderstandings during community assemblies and delayed decision-making.
Barrier	Perceptions of NCIP Partiality	Participants reported that some Indigenous communities perceived NCIP as favoring project proponents, which affected confidence and trust in the FPIC process.
Barrier	Language Barriers	Participants identified difficulties in communicating technical concepts in local languages, although community elders sometimes assisted as interpreters.
Barrier	Political and Institutional Pressures	Participants reported that pressures associated with priority government projects could affect the consistent enforcement of FPIC requirements.
Barrier	Poor Internal Communication	Participants identified weaknesses in communication and document tracking among Regional Offices, Provincial Offices, and Community Service Centers as factors affecting implementation efficiency.

The key enabling factor was the personnel's good understanding of the agency's mandate and the FPIC Guidelines. The participants were already familiar with the requirements of the Administrative Order No. 3, Series of 2012, and committed to protecting the rights of the Indigenous People through transparent consultation and community engagement.

The analysis also identified six barriers. Firstly, the agency did not have enough human resources to carry out field investigations, consultations, and process Certification Precondition applications in a timely manner. Delays in the delivery of services and increased workload were due to unfilled technical positions such as Provincial Officers, Legal Officers, Engineers, and Community Service Center Heads. Second, participants shared that indigenous communities often raised concerns on the possible impacts of proposed projects to their ancestral domains and livelihoods. These concerns sometimes resulted in misunderstandings at community assemblies and delayed the decision-making process. Third, some respondents argued that Indigenous communities have misinterpreted the facilitative role of NCIP and perceived the agency as partial to project proponents, which eroded confidence in the FPIC process. Fourth, language barriers between NCIP staff and Indigenous communities hampered communication, although community elders were available to serve as interpreters. Some technical concepts were not well translated into local languages, making it difficult for community members to fully understand the implications of the project. Fifth, respondents cited political and institutional pressures, particularly on government-funded projects, that sometimes compromised compliance with FPIC requirements. Lastly, poor internal communication between Regional Offices, Provincial Offices, and Community Service Centers affected information sharing and document tracking, thus affecting the efficiency of FPIC implementation.

The study results indicated that the FPIC process required by Administrative Order No. 3, Series of 2012, is a systematic way of keeping the rights of Indigenous Peoples in MIMAROPA Region. The study results show that NCIP MIMAROPA has provided an institutional foundation for implementing FPIC, as evidenced by its

personnel's awareness of the processes and their readiness to facilitate the involvement of Indigenous Peoples. However, the actual implementation of the policy depends on the organizational capacity, operational constraints, and external factors in applying FPIC principles.

While the FPIC guidelines are clear in terms of the procedure for consultation, validation, and decision-making, the study results show that the effectiveness of the policy is highly dependent on the capability of the institution tasked to implement it. The capacity constraints of NCIP offices in terms of human resources, technical support, and operational resources may affect the timely ability of NCIP offices to conduct field validation, consultation, monitoring, and compliance assessments. This highlights the significance of considering administrative capacity as a critical factor in implementing policy requirements. But a good policy framework is not enough without the requisite institutional support and resources.

The results further indicate that FPIC should be perceived as more than a procedural obligation. It is a participatory process that requires trust, good communication, and meaningful engagement between the NCIP and Indigenous communities. The different understandings of FPIC, language, and community perceptions suggest the need for culturally appropriate communication strategies that are sensitive to indigenous knowledge systems and community contexts in their implementation. Good communication strategies promote transparency, avoid misinterpretations, and allow the stakeholders to make better choices. The results also show that external pressures such as the implementation of priority government projects can affect the consistency of the enforcement of FPIC. However, despite the best efforts of the NCIP staff to adhere to the guidelines, institutional constraints and external pressures can compromise their capacity to exercise full oversight and decision-making power. These realities require better coordination mechanisms, clearer institutional mandates, and better monitoring systems to prevent putting the FPIC method at risk.

The conceptual outline of the study indicates the importance of institutional capacity, communication mechanisms, and monitoring practices in shaping the application of FPIC. The findings indicate that the successful implementation of FPIC is a function of the balance between the need for regulatory compliance, organizational readiness, and actual participation of indigenous communities. Addressing these issues will help make FPIC implementation in the MIMAROPA Region more responsive and sustainable and help better protect the rights of the Indigenous Peoples.

4. Conclusions and Recommendations

The study concluded that the NCIP MIMAROPA generally follows the FPIC rules and guidelines under NCIP Administrative Order No. 3, Series of 2012. However, deviations from the prescribed process may occur, particularly in implementing government-priority projects, due to the need for authorization from higher management. The findings also revealed that organizational and institutional limitations, including inadequate staffing, capacity-building needs, weaknesses in monitoring and communication systems, and the need to improve existing procedures, affect the effective implementation of FPIC in the region.

To address these concerns, the study recommends strengthening the NCIP MIMAROPA's capacity-building and continuous learning programs, filling vacant plantilla positions, reviewing and restructuring the organization to align with its workload and responsibilities, and revisiting the FPIC process to determine whether appropriate provisions or modified guidelines may be established for government-initiated projects while still protecting the rights and interests of Indigenous Peoples.

The results also have implications for education in practice. The findings emphasize the need to enhance practitioners' and teachers' knowledge of Indigenous Peoples' rights, FPIC principles, cultural sensitivity, and culturally responsive communication. Professional development and training may provide educators and practitioners with the knowledge and skills to interact with Indigenous peoples in a respectful and effective way.

The findings highlight for students the need to understand FPIC not just as an administrative requirement, but

as a participatory process associated with human rights, cultural identity, community decision-making and sustainable development. Educational activities such as case studies, community-based learning, fieldwork, and discussions on Indigenous Peoples' rights can help students better understand the practical challenges involved in implementing FPIC.

The findings indicate the need for schools and educational institutions to incorporate Indigenous Peoples' rights, the principles of FPIC, cultural sensitivity and community participation in their relevant academic programs and institutional actions. Schools may also collaborate with NCIP offices and Indigenous communities to support seminars, research activities, community-based learning and culturally responsive educational initiatives. These efforts can help future professionals communicate effectively with Indigenous communities, respect their rights, and contribute to more inclusive and participatory development processes.

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