

### III. Indigenous Peoples Framework

#### 1.0 Background

HARVEST is a demand-driven project and in cases where indigenous peoples (IPs) are affected during project implementation, there is a need to protect their rights. To ensure that indigenous peoples communities are present, the Project should deliberately seek their genuine involvement in project decision-making. These Procedural Guidelines seek to ensure that affected Indigenous Peoples communities are informed, meaningfully consulted and mobilized to participate in the planning, implementation and monitoring of projects to be supported by HARVEST. The Guidelines support the priority given to Indigenous Peoples by the Government of the Philippines (Republic Act 8371-Indigenous Peoples Rights Acts Law), the United Nations Concept of Native Title, and the World Bank's Operational Directive 4.10 (Indigenous Peoples)

#### 2.0 Objectives

The Indigenous Peoples Framework (IPF) seeks to ensure that where indigenous peoples are found as a community within the areas affected by program intervention, they are informed, meaningfully consulted and mobilized to participate in the project decision-making. By doing so, the following specific objectives are expected to be met:

- a) Positive effects to their cultural communities shall be enhanced;
- b) Potentially adverse effects on their communities shall be avoided whenever feasible;
- c) Unavoidable adverse effects shall be minimized, mitigated or compensated, and
- d) Benefits for IPs are received with more certainty and that project design is culturally appropriate and gender and inter generationally inclusive.

#### 3.0 Definition of Indigenous Peoples

**"Indigenous Peoples"** will be used to refer to cultural communities, tribal groups that can be identified in particular geographical areas by their presence in varying degrees of the following characteristics:

- Self identification as member of a distinct indigenous cultural group and recognition of this identity by others;
- Collective attachment to geographically distinct habitats or ancestral territories in the project area;
- Customary cultural, economic, social or political institutions that are separate from those of the dominant society; and
- An indigenous language, often different from the official language of the country or region.

#### 4.0 Social Assessment and Need for IP Plans.

A Social Impact Assessment (SIA) will be conducted once the project is enrolled under HARVEST to determine if there are project-affected population, land acquisition and asset loss/es that may result from the project's implementation. The results from the assessment will form part of the ESIA.

Since there could be a possibility of IP communities that can get positively or negatively affected during project implementation, this Framework is provided to

ensure that potential impacts on the cultural way of life among IP communities are avoided or mitigated if effects are negative, and that positive impacts are maximized by ensuring that they are culturally appropriate.

IP Plans shall be formulated and guided by this Framework to help ensure the meaningful participation of the affected IP community. It shall also document the incorporation of social assessment to help ensure cultural appropriateness of project benefits and how these may be better accessed by IPs. Also, it will incorporate measures to avoid, mitigate and/or compensate for adverse impacts.

## 5.0 Legal and Institutional Guidelines

The Philippines is recognized for its progressive policy and legal support for Indigenous Peoples rights. It has supported various international agreements and conventions to protect the rights and culture of IPs, among them: Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; United Nations Draft Universal Declaration on the Rights of Indigenous Peoples.

The 1987 Constitution, laid the foundation for the recognition of the rights of the IPs to their ancestral domains and their power of dominion over their lands and resources. Among its pertinent provisions are:

- a) Section 17, Art. XIV: *“customary laws governing property rights or relations shall be applied in determining the ownership and extent of ancestral domains; and*
- b) Section 22, Art. II, Section 5, Art. XII: *“...the rights of indigenous peoples to natural resources pertaining to their lands shall be specially safeguarded...”* These rights include the right of the IPs to participate in the use, management and conservation of natural resources.
- c) The right to stay in their territory and not be removed from there except when relocation is necessary as an exceptional measure, as in the case of an ecological disaster or armed conflict. IPs have a right to return to their territories once the ground for relocation ceases.

Congress passed Republic Act No. 8371, the Indigenous Peoples Rights Act of 1997. The law states certain requirements in activities and programs affecting Indigenous Peoples. Some relevant provisions include:

- a) Chapter III, Section 7b: *“...IPs have the right to an informed and intelligent participation in the formation and implementation of any project, government or private that will impact on their ancestral domain...”*
- b) Chapter IV, Section 16: *“...IPs have the right to participate in decision-making, in all matters which may affect their rights, lives and destinies, through procedures determined by them as well as to maintain and develop their own indigenous political structures...”*

Under this law, IPs are vested with the right to self-governance and empowerment. This is operationalized through the mechanism of Free and Prior Informed Consent (FPIC). The NCIP is mandated to ensure that IP rights and concerns are protected and advanced in projects proposed that affect their ancestral domains.

Pursuant to Section 80 of the IPRA law, some relevant implementing rules and regulations are used for guidance:

a) Right to Stay in Territories and Not to be Displaced Therefrom (Rule 3, Part II Sec.4 (a,b, c) . The rights of ICCs/IPs to stay in their territories shall remain inviolate. No ICCs/IPs shall be relocated without their free and prior informed consent or through any means other than eminent domain.

b) All persons or entities allowed under the Act to participate in land development, utilization, exploitation, and extraction of natural resources, and government offices or agencies allowed to undertake or implement infrastructure projects within ancestral lands/domains, shall submit to the NCIP, through the concerned Regional Office, a culture-sensitive Environmental Conservation and Protection Program (E CPP) stating in detail the environmental impact of such activities or projects proposed, control and rehabilitation measures and financial resource allocations therefore, implementation schedules, compliance guarantees and evaluation and monitoring schemes (Rule 3,Part II Sec 6 (b).

c) Rule 4, Part 3, Sec 7 (a, b, c), Development and Cultural Activities Subject to Free and Prior Informed Consent (FPIC). Policies, programs, projects, plans and activities in ancestral domains subject to free and prior informed consent shall include but not be limited to the following

- Exploration, development, exploitation and utilization of natural resources within ancestral domains/lands;
- Research in indigenous knowledge, systems and practices related to agriculture, forestry, watershed and resource management systems;
- Displacement and Relocation

d) NCIP AO #3 Series of 2012 Revised Guidelines on Free and Prior Informed Consent and Related Processes. Of particular interest in this issuance are 1) recognition of the possibility of and the need to guarantee protection of displaced and relocated IPs (Section 2, Objective g); 2) a more liberal procedure for getting FPIC for non extractive projects (Section 24); and 3) requiring validation procedure instead of FPIC requirements for foreign funded projects undertaken in cooperation with NCIP (section 41), and 4) dispensing with FPIC requirements for emergency projects.

e) WB OP/BP 4.10 (Indigenous Peoples). This policy contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples. For all projects that are proposed for Bank financing and affect Indigenous Peoples, the Bank requires the borrower to engage in a process of free, prior, and informed consultation. The Bank provides project financing only where free, prior, and informed consultation results in broad community support to the project by the affected Indigenous Peoples. Such Bank-financed projects include measures to (a) avoid potentially adverse effects on the Indigenous Peoples' communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. Bank-financed projects are also designed to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender and intergenerationally inclusive.

f) JICA's Guidelines for Environmental and Social Considerations.

## 6.0 Guiding Principles

a) HARVEST shall ensure that poor communities of Indigenous Peoples are given dedicated consultation and decision-making processes, especially when projects pose potential adverse impacts to them as a community. The Project must assure that IPs do not suffer adverse effects during and after project implementation as well as receive culturally compatible social and economic benefits.

b) LGUs must ensure at all times that development processes implemented by the Project foster full respect for the Indigenous Peoples' dignity, human rights and cultural uniqueness.

c) Consensus of all IP members affected must be determined in accordance with their respective laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the project activity, in a language and process understandable to the community. The conduct of field-based investigation and the process of obtaining the Free and Prior Informed Consent (FPIC) shall take into consideration the primary and customary practices of consensus-building, and shall conform to Section 14 (Mandatory Activities for Free and Prior Informed Consent) of NCIP Administrative Order No.3, series of 2002, and A.O. #3 Series of 2012 (Revised Guidelines on FPIC and related processes).

d) HARVEST must ensure that none of its infrastructure or related projects will damage non-replicable cultural property. In cases where infrastructure projects (i.e. roads, irrigation, etc.) will pass through sites considered as cultural properties of the IPs, HARVEST must exert its best effort to relocate or redesign the projects, so that these sites can be preserved and remain intact in situ.

e) The Indigenous Peoples should be consulted to ensure that their rights are not violated and that they be compensated for the use of any part of their domain in a manner that is acceptable to the tribe. *The compensation for affected land and assets will follow the Resettlement Compensation Framework prepared by the Project*

f) In the event that a project involves land acquisition or use of other resources which may adversely affect Indigenous Peoples, HARVEST shall:

- Require that the agreed upon policy framework for compensation for land and other asset acquisition be followed;
- Not to allow work to start on the project unless the documentation of the consultations and the corresponding agreements are submitted; and
- Not to allow work to start on the project until compensation and/or other required rituals have been completed to the satisfaction of the indigenous tribes affected (and the same should likewise be documented).

## 7.0 Partnership-Building with LGUs and IP Institutions

HARVEST will facilitate the productive partnerships between the local government, IP communities (as represented by their tribal councils), and National Commission on Indigenous Peoples (NCIP) or Office of the Southern Cultural Communities (OSCC) whether these are found at the community, barangay, municipal or ancestral domain levels.

## 8.0 Use of Appropriate Communication Media, Strategies and Tactics for IP Mobilization

a) Presentation meetings must be conducted in the local or native language. In addition, facilitators must use simple and uncomplicated process flows during these interactions with IPs. Local patterns of social organization, religious beliefs and

resource use must be reckoned with in the process of preparing any development response affecting the IPs.

b) Adherence by Project Implementers and Project Proponents to Documentation of Interactions with IP Communities and Compliance to Agreements Made. Project implementers must adhere to the requirements for documentation of meetings conducted with IP communities, especially those which pertain to acquisition by project proponents of the Free and Prior Informed Consent of IPs. The Executing Agencies, together with the provincial, municipal and barangay LGUs shall not proceed with project implementation unless the corresponding documentation of meetings with the IP communities are submitted to HARVEST-PMO and have been reviewed and evaluated.

#### 9.0 Participation in Development, Monitoring and Evaluation of Mitigation Measures

a) Where projects pose potential adverse impacts on the environment and the socio-economic-cultural-political lives of these IP communities, IPs must be informed of such impacts and their rights to compensation. Compensation for land and other assets to be acquired will follow the Project's Resettlement and Compensation Framework.

b) Should IPs grant their approval for such projects with adverse impacts, Executing Agencies must ensure that affected IP communities must be part of the development of action plans to ensure their involvement in the implementation, monitoring and evaluation of mitigation measures agreed upon.

c) Should potential effects be positive or beneficial to the IPs, specific plans shall be made to ensure that benefits are enhanced by ensuring its cultural responsiveness.

d) Project implementers must adhere to the requirements for documentation of meetings conducted with IP communities, especially those which pertain to acquisition by project proponents of the Free and Prior Informed Consent of IPs. The Project Proponent shall not proceed with project implementation, unless the corresponding documentation of meetings with the IP communities are submitted to LBP-PMO and have been reviewed and evaluated.

#### 10.0 Coordination, Supervision and Monitoring:

a) The barangay or municipal tribal council will be the liaison between the Project Proponent in all activities relating to the HARVEST

b) Supervision meetings/visits of project or project activities will be done periodically (frequency to be established during project implementation) by the Executing Agencies through their representatives, who will involve the local IP representatives in these meetings/visits. Documentation of such visits/meetings must be furnished to the nearest service center of the NCIP or OSCC, or its Provincial or Regional Office. The respective Focal Persons will monitor or help facilitate required follow-up actions to ensure that projects benefit the IPs according to the agreements made, and that compensation or mitigation measures as documented are completed on time.

c) Supportive Monitoring will be done regularly, involving affected IP communities and NCIP representatives, with emphasis on the following concerns: benefits received by IPs and resolution of issues lodged by them.

#### 11.0 Grievance and Redress Mechanism

A Grievance Redress Mechanism (GRM) for the project is necessary for addressing legitimate concerns of affected individuals and groups who raise issues of concern during project implementation. Effective management of grievances is especially important in the context of resettlement, where issues concerning entitlements may arise.

LBP will establish a grievance redress mechanism to address and resolve any project-related grievances from project-affected people or other members of the public. It will be managed by the Program Officer of HARVEST PMO. As a matter of policy, the project will not prevent any party from seeking legal remedies from any government judicial body or proper courts.

The GRM will be detailed out in the project operational manual with the following principles:

- Simplicity – procedures in filing complaints is understandable to users and easy to recall.
- Accessibility – filing complaints is easy through means that are commonly used by stakeholders, especially by the project-affected people.
- Transparency – information about the system is made widely available to all stakeholders and the general public.
- Timeliness – grievances are attended to and resolved in a timely manner.
- Fairness – feedback or complaints are validated thoroughly and subjects of complaints are given due process and opportunities for appeal.
- Confidentiality – identity of complainants remains confidential.

To achieve these principles, the GRM will be set up with the following features:

- Multiple Uptake Points: To build trust and confidence in the GRM, complainants will be provided with multiple channels to submit their complaints. These include, among others, postal mail, electronic messages, telephone, SMS, personal delivery/walk-in, or through the mainstream and social media. A project GRM hotline will be established to be managed by the PMO Program Officer.
- Timely resolution at the lowest possible level: The project will strive to attend to complaints in a timely manner. To do this, it will designate a GRM contact person at the project level. In addressing and resolving complaints, the project will build on existing mechanisms in the community (IP leaders, community leaders, barangay officials, barangay justice system, etc.). It is only when the complaint is not resolved at this level that the complaint goes to the next level of the GRM for resolution.

Specifically for issues involving IPs, there are three levels of issue resolution and these are:

- a) Barangay Level: All complaints shall be discussed and negotiations must be carried out in the specific communities where affected indigenous peoples live. The barangay and the tribal council concerned should facilitate this process and the PMO must ensure that affected IPs are properly represented. Resolution of conflicts should be encouraged at the lowest possible level, thru the facilitation of Municipal and Community Tribal Councils. Such meetings and interactions with affected IP households/communities must be documented and distributed to relevant stakeholders
- b) Regional Level: if not resolved, this will be elevated to the Regional NCIP for resolution

c) Central NCIP- Should the IP community still find the decisions rendered at the regional level unacceptable, they can elevate the issue to the central level office of the National Commission on Indigenous Peoples. The NCIP shall be tasked to coordinate with the project's PMO to ensure that the issue is resolved to the best interest of the affected IP community.

- System for receiving, sorting, verifying, and tracking. A simple system will be developed for more effective management of complaints to guide the PMO on the steps and arrangements from receiving, sorting, verifying, acting and tracking complaints. These will be detailed out in the operational manual. Complaints will be categorized and actions on the complaints will depend on the complaint category. The project will maintain a database documenting the salient details of complaints, including the dates they were received and when and what actions were taken. These documents will be available to the external monitoring team, World Bank and JICA. The project will monitor complaints and coordinate with the concerned LGUs and relevant government agencies as needed to resolve them adequately and expeditiously. LBP will keep the World Bank and JICA informed about significant complaints and the steps taken to resolve them through routine supervision and provide details in progress reports.

- Publicly disclosed and easily accessible. The complaints / grievance redress arrangements will be publically disclosed so that people are aware of where and how complaints will be managed. The GRM contact person assigned to the project will further ensure that people in the project's area of influence are aware of grievance management arrangements. Ideally complaints should be written, but if received verbally, the project contact person will ensure written documentation is made and that the complaint is dated and recorded.

Communities and individuals who believe that they are adversely affected by a World Bank (WB) supported project may submit complaints to existing project-level grievance redress mechanisms or the WB's Grievance Redress Service (GRS). The GRS ensures that complaints received are promptly reviewed in order to address project-related concerns.

Project affected communities and individuals may submit their complaint to the WB's independent Inspection Panel which determines whether harm occurred, or could occur, as a result of WB non-compliance with its policies and procedures. Complaints may be submitted at any time after concerns have been brought directly to the World Bank's attention, and Bank Management has been given an opportunity to respond.

For information on how to submit complaints to the World Bank's corporate Grievance Redress Service (GRS), please visit [www.worldbank.org/grs](http://www.worldbank.org/grs).

For information on how to submit complaints to the World Bank Inspection Panel, please visit [www.inspectionpanel.org](http://www.inspectionpanel.org).

The focal person shall be the Program Officer of HARVEST as designated by Lending Programs Management Group (LPMG) of LANDBANK whose address and contact numbers are as follows:

The Program Officer  
HARVEST  
Programs Management Department – I  
27th floor, LANDBANK Plaza, 1598 M.H. del Pilar corner Dr. J. Quintos Sts.  
Malate, Manila 1004  
Tel Nos: 522-0000 local 7450  
E-mail address: [lbpprogramsmanagement1@yahoo.com](mailto:lbpprogramsmanagement1@yahoo.com)

Documentation of complaints and its resolution shall be properly done and its summary shall be part of the regular monitoring of the project.



Annex IPF-1  
ELEMENTS OF AN INDIGENOUS PEOPLES PLAN

The Indigenous Peoples Plan (IPP) is prepared in a flexible and pragmatic manner, and its level of detail varies depending on the specific project and the nature of effects to be addressed. The Project Proponent should ensure the integration of the IPP into the project design.

The IPP includes the following elements, as needed:

1. A summary of the information referred to in Annex A, paragraph 2, (a) and (b) of WB Policy:
  - a. A review, on a scale appropriate to the project, of the legal and institutional framework applicable to Indigenous Peoples; and
  - b. Gathering of baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples' communities, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend.
2. A summary of the social assessment.
3. A summary of results of the free, prior, and informed consultation with the affected IPs' communities that was carried out during project preparation and that led to broad community support for the project.
4. A framework for ensuring free, prior, and informed consultation with the affected IPs' communities during project implementation (Section 9 of this Framework).
5. An action plan of measures to ensure that the IPs receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the LGU.
6. When potential adverse effects on Indigenous Peoples are identified, an appropriate action plan of measures to avoid, minimize, mitigate, or compensate for these adverse effects.
7. The cost estimates and financing plan for the IPP.
8. Accessible and culturally appropriate procedures tailored to the project to address grievances by the affected Indigenous Peoples' communities arising from project implementation. When designing the grievance procedures, the LBP borrower takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous Peoples.
9. Mechanisms and benchmarks appropriate to the project for monitoring, evaluating, and reporting on the implementation of the IPP. The monitoring and evaluation mechanisms should include arrangements for the free, prior, and informed consultation with the affected Indigenous Peoples' communities