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CONTENT ANALYSIS OF FREE AND PRIOR INFORMED CONSENT IMPLEMENTATION: BASIS FOR POLICY INTERVENTION

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ABSTRACT

This study examines the challenges and lived realities surrounding the implementation of Free and Prior Informed Consent (FPIC) among Indigenous Cultural Communities (ICCs). Although legal frameworks and policies exist to safeguard Indigenous rights, numerous violations and procedural inconsistencies continue to be reported. The study aims to explore these gaps and deepen understanding of Indigenous perspectives on peace, strong institutions, and governance, particularly in relation to the protection of their collective rights and decision-making systems. Using an indepth review and analysis of secondary data, the research draws from related literature, policy documents, and documented complaints from ICCs to identify recurring issues in FPIC implementation. Through this documentary analysis, the study systematically examined patterns of compliance, institutional challenges, and community experiences reflected in existing records and scholarly works. The findings reveal persistent barriers, including the disregard for established Indigenous protocols, bureaucratic obstacles in the FPIC process, limited awareness and understanding of Indigenous rights among stakeholders, power imbalances between communities and external actors, lack of genuine consultation, and instances of manipulation or coercion. These challenges undermine the integrity of FPIC mechanisms and weaken trust between Indigenous communities and implementing institutions. The study concludes that strengthening peaceful and accountable institutions is essential to addressing these concerns. Policies must prioritize respect for Indigenous governance systems, meaningful participation, and community empowerment. By reinforcing Indigenous Political Structures and leadership capacities, communities can enhance legitimate decision-making processes and contribute to sustainable and equitable development. This research therefore provides a foundation for informed policy reform and strategic planning aimed at advancing equality, institutional credibility, and long-term peace within Indigenous communities.

KEYWORDS: Indigenous Cultural Communities, Leadership, Challenges, FPIC Protocols, Genuine Consultation.

1. INTRODUCTION

In recent years, the implementation of Free and Prior Informed Consent (FPIC) in the Philippines has faced substantial criticism due to persistent issues of exploitation, inconsistent monitoring, and procedural irregularities. Free and Prior Informed Consent (FPIC) refers to the specific right granted to Indigenous Peoples (IPs) to safeguard their welfare, territories, and identities, including the right to withhold or withdraw consent for projects affecting their ancestral domains (Food and Agriculture Organization of the United Nations [FAO], n.d.). In the Philippines, FPIC is institutionalized through the Indigenous Peoples' Rights Act (IPRA) of 1997 and is widely recognized as a mechanism for participatory and sustainable development. Despite its strong legal foundation, recent empirical studies suggest that FPIC implementation often falls short of its intended purpose. Rather than functioning as a genuine mechanism for self-determination, FPIC processes are frequently reduced to procedural compliance shaped by bureaucratic and economic interests (Montambeault & Papillon, 2023). Globally, similar patterns have been observed, where states formally adopt FPIC but limit its transformative potential in practice (Bennett, 2024). Scholars argue that FPIC operates within complex political and economic systems characterized by unequal power relations among Indigenous communities, state institutions, and private corporations (Hanna & Vanclay, 2021; Owen & Kemp, 2020). These inequalities often result in situations where consultation occurs without meaningful consent, reducing Indigenous participation to a symbolic exercise. In this sense, FPIC risks becoming a legitimizing tool for extractive projects rather than a mechanism for protecting Indigenous rights. The operationalization of FPIC also raises critical questions regarding inclusion, decision-making authority, and what constitutes valid consent. As noted by Mahanty and McDermott (2013), these dimensions are crucial in contested landscapes where competing claims over land and resources persist. Without addressing these structural concerns, FPIC implementation remains vulnerable to manipulation, exclusion, and conflict. In the Philippine context, the gap between legal recognition and actual implementation remains significant. Studies highlight institutional weaknesses, limited stakeholder understanding, and conflicting development priorities as major constraints (Holden & Jacobson, 2021; Oxfam, 2020). Furthermore, the absence of recent empirical case integration in policy analysis limits the practical applicability of existing research. Thus, this study

aims to examine the implementation of FPIC in the Philippines through qualitative content analysis of policy documents and empirical studies. By incorporating recent case-based evidence and providing deeper analytical interpretation, this paper seeks to contribute to policy discourse and strengthen the implementation of FPIC as a rights-based governance mechanism.

2. MATERIALS AND METHODS

The methodological approach adopted in this study is a qualitative research design utilizing content analysis. Content analysis is a systematic research method used to identify patterns, themes, and meanings within qualitative data, enabling researchers to interpret both explicit and implicit messages in texts while considering their broader socio-political context (Columbia University, n.d.). A systematic literature review was conducted to gather and analyze data relevant to the implementation of FPIC in the Philippines. The study examined ten (10) empirical peer-reviewed articles, including recent studies published between 2018 and 2024, to strengthen the contemporary relevance of the findings. Additionally, five (5) legal and policy documents were analyzed to assess the institutional framework governing FPIC implementation. The selection criteria prioritized empirical studies conducted in the Philippine context, particularly those focusing on extractive industries and Indigenous governance. Secondary data, including documented complaints and reports from Indigenous Cultural Communities in Davao del Sur, were also incorporated to contextualize the findings. To enhance analytical depth, the study moved beyond descriptive coding and employed thematic interpretation, linking identified patterns to broader theoretical discussions on governance, power relations, and participatory rights.

3. RESULTS AND DISCUSSION

This study examines the challenges in the implementation of Free and Prior Informed Consent (FPIC) in the Philippines. While FPIC is a fundamental human right essential to Indigenous self-determination, its implementation reveals structural and institutional constraints that undermine its effectiveness. The analysis identified five major themes: (1) bureaucratic processes, (2) lack of understanding among stakeholders, (3) power imbalances, (4) manipulation and coercion, and (5) lack of genuine consultation.

Theme 1. Bureaucratic Processes in Attaining FPIC

The recognition of Indigenous peoples' rights to ancestral domains includes regulatory safeguards administered by government agencies to prevent land dispossession. In the Philippines, the NCIP's Implementing Rules and Regulations institutionalize procedural requirements for FPIC, including defined timelines and mandatory activities. While these mechanisms are intended to ensure accountability, they also impose rigid bureaucratic structures that may conflict with Indigenous customary governance systems (Manuel, 2004 as cited in Carino, 2005). The revised FPIC guidelines outline sequential procedures—posting of notices, validation of elders, consultative meetings, and consensus-building assemblies—which collectively take approximately 67 to 77 working days (Penalba, n.d.). Although designed to standardize due process, these timelines reflect a state-centric administrative logic that does not align with Indigenous decision-making practices, which are often iterative, relational, and consensus-driven (Doyle, 2009 as cited in Penalba, n.d.). This institutional mismatch highlights a deeper structural issue: FPIC is operationalized through bureaucratic rationality rather than Indigenous epistemologies. As a result, the process risks becoming procedural rather than substantive. Empirical studies support this tension. For instance, Hanna et al. and Papillon & Rodon (widely cited in more recent 2019–2022 FPIC analyses) demonstrate that over-bureaucratization often leads to “tick-box compliance,” where formal requirements are met without ensuring genuine consent. Similarly, Mahanty & McDermott found that procedural rigidity in Southeast Asian mining contexts reduces Indigenous participation and delays meaningful engagement. The limited issuance of FPIC Certification Precondition (CP) between 2002 and 2006 (NCIP, 2010 as cited in Penalba, n.d.) further illustrates how bureaucratic complexity constrains implementation. Rather than facilitating Indigenous rights, these processes can inadvertently marginalize them by privileging administrative efficiency over cultural legitimacy. Thus, bureaucratic processes do not merely delay FPIC—they reshape its function into a compliance mechanism that risks undermining its rights-based foundation.

Theme 2. Lack of Understanding and Information Among Stakeholders

FPIC is intended to safeguard Indigenous peoples' right to self-determination, yet its implementation is undermined by significant gaps in understanding among key stakeholders. Reports from the United Nations Special Rapporteur indicate

that extractive companies frequently proceed with exploration activities without securing FPIC, reflecting a fundamental misunderstanding of its legal and ethical significance. Cases from the Cordillera Region and Palawan reveal how projects were initiated without FPIC based on assumptions that areas were not recognized as ancestral domains (Yangot, 2012). This justification reflects not only legal misinterpretation but also a broader systemic failure to recognize Indigenous rights frameworks, particularly given that ancestral domain claims do not depend solely on formal titling under IPRA. This issue extends beyond corporations to include government actors and local stakeholders, resulting in fragmented and inconsistent implementation. Mitchell et al. (2019) emphasize that insufficient understanding of Indigenous laws and governance systems undermines the possibility of meaningful consent. More recent studies reinforce this point. For example, Owen & Kemp highlight that lack of stakeholder knowledge is a primary driver of conflict in extractive projects, while Ward & Smuts found that information asymmetry systematically disadvantages Indigenous communities during negotiations. This imbalance is not merely informational but structural. Unequal access to knowledge redistributes power, enabling external actors to shape outcomes in their favor. Consequently, FPIC becomes vulnerable to manipulation, coercion, and misrepresentation. The inability to ensure informed participation directly contradicts the objectives of SDG 16, particularly in promoting inclusive decision-making and access to information. In this sense, the lack of understanding transforms FPIC from a mechanism of empowerment into a site where Indigenous rights are compromised.

Theme 3. Power Imbalances Between Indigenous Communities and Stakeholders

Power asymmetries remain a central barrier to the effective implementation of FPIC. Indigenous communities often operate within socio-political environments where state institutions and corporations hold disproportionate economic, legal, and political power (Gilberthorpe, 2014 as cited in Wilson, 2019). These imbalances significantly constrain the ability of Indigenous groups to negotiate equitable outcomes and to assert their rights over ancestral domains. The persistence of poverty, limited access to education, and weakened cultural systems among Indigenous populations reflects how extractive industries reproduce structural inequalities (Pegg, 2006 as cited in Wilson, 2019). From a political economy perspective, FPIC

processes are embedded within neoliberal frameworks that prioritize resource extraction and investment flows over social equity. Ferguson and Gupta (2002) argue that state authority is increasingly reconfigured through transnational corporate influence, often bypassing local governance structures. Comparative empirical studies reinforce this dynamic. Bebbington et al. demonstrate that mining projects in developing regions frequently exacerbate inequalities by concentrating benefits among elites while marginalizing local communities. Similarly, Leifsen et al. found that power imbalances lead to “manufactured consent,” where agreements are shaped by pressure rather than genuine community approval. These findings suggest that FPIC does not operate in a neutral environment but within deeply unequal power relations. As such, even when procedural requirements are met, the outcomes may still reflect structural coercion. Without addressing these inequalities, FPIC risks legitimizing decisions that do not genuinely represent the will of Indigenous communities.

Theme 4. Lack of Genuine Consultation with Indigenous Communities

The expansion of extractive industries has intensified pressures on Indigenous territories, often outpacing the mechanisms designed to protect them. In the Philippines, the “one-stop access” system allows corporations to coordinate directly with national agencies, effectively bypassing local governments and Indigenous governance structures (Carino, 2005). This creates conditions where consultation is minimized or entirely absent. Empirical cases, such as those involving the Subanen and communities in Mindoro, illustrate how extractive activities were initiated without meaningful engagement or consent. In many instances, communities were informed only after project implementation had begun, while critical information regarding environmental and social impacts remained inaccessible (Yangot, 2012). Recent studies confirm that such patterns are not isolated. Conde & Le Billon and more recent follow-ups (2019–2021) show that inadequate consultation is a leading cause of conflict between Indigenous communities and extractive companies. Furthermore, Temper et al. highlights that procedural consultation without genuine participation often results in long-term socio-environmental harm. These findings indicate that the issue is not simply the absence of consultation but the erosion of its quality. When consultation is reduced to a procedural requirement,

it becomes a tool for legitimizing predetermined outcomes rather than a space for meaningful dialogue. This undermines the very essence of FPIC as a process grounded in respect, participation, and self-determination.

Theme 5. Manipulation and Coercion by External Entities

FPIC requires that consent be freely given, without coercion, manipulation, or undue influence. However, numerous documented cases reveal systemic violations of this principle. Instances involving the Mangyans and other Indigenous groups demonstrate how misinformation, forged consent, and indirect bribery have been used to secure project approval (Yangot, 2012; Carino, 2005). So-called development initiatives—such as infrastructure projects or financial incentives—are often deployed as strategic tools to influence community decisions (Gariguez, 2008). While these may appear beneficial, they frequently exploit existing socio-economic vulnerabilities, particularly in communities with limited access to basic services. More recent research supports these observations. Scheidel et al. document how coercion, intimidation, and economic inducements are common features in extractive conflicts worldwide. Similarly, Dunlap & Jakobsen highlight the role of militarization and violence in suppressing Indigenous resistance to extractive projects. These dynamics reveal that manipulation is not incidental but embedded within broader systems of power and resource competition. When consent is produced under such conditions, it cannot be considered “free” or “informed.” Instead, FPIC becomes a mechanism through which external actors secure legitimacy for projects that may not reflect the genuine will of affected communities.

4. REVIEW OF EXISTING LEGAL DOCUMENTS ON THE FREE AND PRIOR INFORMED CONSENT

NCIP Administrative Order No. 1. Series of 2012 otherwise known as “The Indigenous Knowledge Systems and Practices (IKSPs) and Customary Laws (CLs) Research and Documentation Guidelines of 2012”

This administrative order was promulgated under international laws and declarations that aim to safeguard Indigenous People’s rights and welfare. This legal document is the founding principle for establishing Indigenous communities’ sovereignty and authority over their ancestral domains. Under this AO, the Indigenous peoples are granted rights to

self-determination and have the utmost jurisdiction to determine the development priorities within their area that impact their lives, institutions, beliefs, spiritual health, and community in general. They are also free to pursue economic, social, and cultural growth. As rightful stewards of their ancestral domains, Indigenous peoples are entitled to ownership, governance, and active, meaningful participation in projects within their territories conducted by external entities. Their right to self-determination ensures that their consent, knowledge, and participation are integral to the decision-making process that concerns their cultural heritage and identity. Under the Section 4; H of the AO No. 1 s. 2012 “ICCs/IPs shall participate in formulating, implementing, and evaluating national, regional, and local development policies, plans, and programs, which may directly affect them”. The latter section of the document highlighted how the participation of IPs sheds light on their contributions and broader initiatives of the IP communities in preserving their heritage and promoting sustainable practices. The provisions state that “IPs shall participate in formulating, implementing, and evaluating policies, plans, and programs for national, regional, and local development, which may directly affect them. The regulation of access to community intellectual property and other resources is based on the recognition of ownership of these communities over their ancestral domains/lands” (Section 4, A). However, despite these existing provisions, it is unfortunate that the IP community has often been excluded from meaningful participation in the decision-making process of external projects and activities. The exclusion of the IP community is evident from the findings of a comprehensive review and analysis of journals and articles about the Free and Prior Informed Consent (FPIC) implementation in the Philippines. One of the themes generated from the review of FPIC journals is the need for genuine consultation with the Indigenous Communities. This finding reveals that Indigenous Peoples need to be more represented in capacity-building efforts led by external entities. Such marginalization emphasizes the need for inclusive and participatory approaches that actively engage the community and people in decision-making. This further reinforces the need for firm and consistent applications of the laws and regulations concerning the rights and welfare of the IP community to ensure equitable and sustainable development for IP communities.

NCIP Administrative Order No. 3 Series of 2012 otherwise known as “The Revised Guidelines on

the Exercise of Free and Prior Informed Consent (FPIC) and Related Processes”

The irregularities committed by companies and individuals within Indigenous ancestral domains undermine the rights of Indigenous people and clearly demonstrate blatant disrespect to the constituents and the community. The Special Rapporteur of the United Nations claims that extractive companies failed to understand and grasp the significance of Indigenous laws and traditions in an IP community. The existing laws and policies are not being communicated and explained effectively to outsiders, making it challenging to provide a strong basis for the parties' collective consent. Large companies and prominent entities lack genuine understanding and information about the dynamics and complexities of the IP community. The absence of awareness perpetuates a system of inequality and exploitation, totally disregarding the rights, dignity, and autonomy of IP communities. AO No.3, s. 2012 ensures the rights of IP communities by establishing fair procedures and standards for FieldBased Investigations and FPIC processes. It also imposed sanctions and punishments on anyone who infringed on these rights. As clearly stated in Section 2, B “Provide, and ensure compliance with the procedure and the standards in the conduct of Field-Based Investigation (FBI) and FPIC process, payment of fees, compensation for damages, execution of Memorandum of Agreements, observance of corporate social responsibility; and imposition of sanctions for the commission of prohibited acts and omissions as hereinafter provided”. The Administrative Order clearly outlines the process and procedures, providing detailed guidelines on what must be done before, during, and after the conduct of the FPIC. Nonetheless, despite its clear message, the provision was completely disregarded and overlooked. There is a continued gap between the stakeholders and their knowledge and awareness of Indigenous laws and rights. A significant challenge faced by Indigenous communities is the lack of sufficient information and understanding about the FPIC process. This absence of clarity prevents them from fully grasping the complexities involved, increasing the risk of negative outcomes during implementation. Consequently, extractive companies exploit this gap through manipulation, coercion, and bribery, leaving Indigenous communities vulnerable and compromising their rights and autonomy. The lack of enough understanding and information among stakeholders about FPIC and Indigenous rights is a prevalent issue among communities as evidenced by the review of

FPIC journals and processes in the Philippines. Due to this problem, equitable partnerships have not been established, resulting in unequal benefits from resource use within ancestral domains, leaving the Indigenous Peoples (IP) community particularly vulnerable to exploitation. How can a fruitful partnership be established when one party lacks information and understanding about the other, particularly regarding Indigenous Peoples? AO Section 2, D further asserts that the IP community must receive equal benefits and sharing since they are the primary owner of the land, "Ensure just and equitable partnership in environmental management, land use, development, and resource use within ancestral domains as well as benefit sharing, between and among the concerned ICCs/IPs and the prospective investor, government agency, local government unit (LGU), non-government organization (NGO) and other entities desiring to engage or collaborate in such undertaking". However, based on the findings, there is no transparency and full disclosure of information, and thus, Indigenous People are left out of the decision-making processes which contradicts Section 4, G which states "The processes under this shall be transparent to all stakeholders. The applicant shall make a full and accurate disclosure of information concerning the proposed program, project, or activity in a manner that is both accessible and understandable to the concerned community".

4.1. The United Nations Declaration on the Rights of Indigenous People

The United Nations Declaration on the Indigenous Rights of Indigenous People is the most comprehensive and visionary international legal document that addresses the issues and concerns of Indigenous Peoples' human rights. Under this declaration, Indigenous peoples are granted rights towards equality, non-discrimination, and full enjoyment of their civil, political, economic, and cultural rights. This serves as a shield against prejudices, propaganda, coercion, extortion, manipulation, and any other unjust doings and behavior directed towards them [Indigenous Peoples]. In relation to the practical application of the provisions of FPIC, the process implies that there should be no coercion, intimidation, or manipulation. In the Philippines, based on the result of the systematic review of FPIC implementation, Indigenous Peoples often experienced harassment and militarization because of their opposition to the extractive projects erected in their community

without their knowledge and consent. There were extrajudicial killings of indigenous leaders and human rights defenders, arbitrary detentions, harassment, and the designation of Mangyan leaders as terrorists (Yangot, 2012 & Carino, 2005). The lack of genuine consultation and buy-in of Indigenous peoples at the earliest stage of development of government and private initiatives has a ripple effect on the lives of the people in the community. These situations can lead to scenarios of conflict that have spiraled into violence which puts Indigenous people in a very disadvantageous position. Manipulation and coercion of extractive companies and entities to Indigenous Peoples are some of the challenges faced by IP communities, including the Philippines, the Mangyans for example. The FPIC process in the country [Philippines] was compromised by deceit and bribery, eroding its integrity through unethical practices such as manipulating community members, distorting information, and exploiting vulnerabilities to secure agreements that may not truly represent the will or best interests of the affected populations. Article 7, Section 1 of the United Nations Declaration on the Rights of Indigenous People states that "Indigenous individuals have the rights to life, physical and mental integrity, liberty, and security". Additionally, it was also written in section 2 of the same article that "Indigenous peoples have the collective right to live in freedom, peace, and security as distinct peoples and shall not be subjected to any act of genocide or any act of violence, including forcibly removing children of the group to another group". However, despite the UNDRIP, Indigenous peoples continued to suffer from marginalization and inequalities which often resulted in manipulation and coercion. These kinds of happenings within an IP community are a manifestation of the widespread power imbalances between extractive companies and individuals and Indigenous peoples. These disparities create a significant gap between the interests and capacities of indigenous organizations and those of more recognized entities. As a result, this split impedes IP communities' economic and social growth, leaving them with limited access to resources and opportunities that directly and indirectly affect their way of life. The provisions of the (UNDRIP) safeguard Indigenous rights against all forms of violence and abuse. It offers a comprehensive framework addressing critical aspects such as self-determination, the Free and Prior Informed Consent (FPIC) process, nondiscrimination, and numerous other rights that Indigenous communities are entitled to uphold and enjoy.

4.2. *The International Labor Organization Convention 169*

Some of the major concerns that are a hindrance to the development of Indigenous Peoples in the Philippines are power imbalances between the IP community and extractive companies, manipulation and coercion, and the bureaucratic processes of obtaining FPIC. These issues clearly highlight the disparities in power relations and dynamics, illuminating how power, influence, and control are distributed unevenly among people, organizations, or groups in a particular setting. With these issues at hand, the Philippine government together with the National Commission on Indigenous People, these problems were brought into force to the International Labor Organization Convention No. 169. Article 3 Section 2 of the ILO Convention states that “No form of coercion shall be used in violation of the human rights and fundamental freedoms of the people concerned, including the rights contained in this Convention” This provision highlights the need for consultation and active participation of IP community to ensure that their rights are considered and to eliminate power imbalances, exploitation, and coercion by extractive industries. Moreover, the provision aims to protect against any form of pressure that might be used to undermine the autonomy and selfdetermination of IP communities. It aims to establish a fair framework in which Indigenous Peoples' perspectives are valued and given priority, promoting moral and sustainable business practices that are consistent with human rights and international labor standards. Indigenous rights are wellprotected by international laws and declarations, however, in the Philippines, IP communities continue to experience marginalization and oppression. Lumad killings and the bombing of Lumad schools are very prevalent, and Indigenous People are being displaced from their ancestral lands. Based on the findings in the review of the FPIC journal, one of the reasons why the implementation of the FPIC in the Philippines remained a challenge is because of the bureaucratic process of obtaining it. The Tebtebba Foundation (2012), referenced in Collins and Ali (2016), states that while the Indigenous Commission raised several significant concerns during the development consultations for the guidelines, some of them were omitted, such as the elimination of the community decision-making deadline. Extractive industries and indigenous communities have different goals when it comes to FPIC. One prioritizes profit, while the other prioritizes cultural preservation and integrity. The effectiveness of the traditional decision-making

processes has been diminished because they are often longer and more dispersed. ILO No. 169 does not explicitly address the bureaucracy but lays out clear principles for consultation and participation as written in Article 6 Section 1, which is the essential foundation of the FPIC. Article 6, Section 1 highlighted the importance of consultation, following appropriate procedures, and establishing means for the full development of IP communities. The irrelevant part of the provision is as stated below: “(a) consult the people concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly; (b) establish means by which these peoples can freely participate, to at least the same extent as other sectors of the population, at all levels of decisionmaking in elective institutions and administrative and other bodies responsible for policies and programs which concern them; (c) establish means for the full development of these peoples' own institutions and initiatives, and in appropriate cases provide the resources necessary for this purpose”. The bureaucratic challenges in the Philippines highlight the need for a process that is both accessible and culturally sensitive. This approach would help mitigate inefficiencies and emphasize the role of representative institutions to ensure that Indigenous rights are actively considered in decision-making and prevent the undermining of IP rights.

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) The International Covenant on Economic, Social, and Cultural Rights (ICESCR) is a legal framework that protects and promotes the economic, social, and cultural rights of all people, particularly the IP community, to ensure that they attain just and favorable work and living conditions. Provisions of the ICESCR address problems of the IP community such as the lack of understanding about IP customary laws power imbalances, and the absence of consultation, all of which are relevant to the challenges in attaining the FPIC. The major findings in the literature review of FPIC implementation in the Philippines are the following: Bureaucratic Processes in Attaining FPIC, Lack of Understanding and Information among Stakeholders about FPIC and Indigenous Rights, the Lack of Genuine Consultation, Power Imbalances, and the Undermining of IP Rights, Culture, and Tradition. Article 2, Section 1 of ICESCR calls on member states to take measures to maximize available resources for the benefit of the people to

achieve progress, including those related to FPIC to ensure the enjoyment of rights without unnecessary bureaucratic delays. As the provision writes “.... to achieve progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”. Bureaucratic processes undermine the ability of the IP community to protect their cultural heritage and autonomy, therefore this must be eliminated. Indigenous People have the right to take part and enjoy the benefits of scientific progress and its applications conducted within their ancestral domain. Also revealed in the literature review of FPIC journals that stakeholders lack basic information and understanding about Indigenous rights and customary laws. This kind of issue is still present despite the existence of laws and regulations that outline the Indigenous rights and their autonomy. For example, Article 13 Section 1 of the ICESCR states the importance of access to information and knowledge which applies to stakeholders and Indigenous communities. Unawareness of this principle is a violation of Indigenous Rights. Moreover, Article 1, Section 1 of this document, highlighted the significance of the IPs' right to self-determination, including the ability to freely pursue and participate in social, economic, and cultural undertakings, emphasizing that genuine consultation is essential in upholding the principle of FPIC. As the provision states “All people have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development”. Additionally, power imbalances between Indigenous communities and stakeholders are another concern in the FPIC implementation in the Philippines. This problem hinders the

development of marginalized communities, the IP communities for example. It is clearly stipulated in Article 2, Section 2 how the ICESCR promotes equal rights for all, including the elimination of power imbalances which often result in discrimination and exploitation. As the provision writes, “...guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. These issues are prevalent in Philippine society but remain unresolved despite the presence of international declarations and laws, showing the gap between policy and implementation.

5. CONCLUSION

The implementation of FPIC in the Philippines reflects a significant gap between policy intent and actual practice. The challenges identified in this study—bureaucratic inefficiencies, lack of understanding, power imbalances, manipulation, and weak consultation processes—are not merely procedural issues but structural constraints embedded in governance systems. Addressing these challenges requires a shift from compliance-based approaches toward rights-based and context-sensitive frameworks. This includes aligning FPIC processes with Indigenous governance systems, strengthening institutional accountability, and enhancing stakeholder capacity. Finally, FPIC should function not as a procedural requirement but as a transformative mechanism that empowers Indigenous communities and ensures equitable and sustainable development.

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Data Availability: All data analyzed in this study were derived from publicly available, credible online journal articles. No primary data involving human participants was collected. The materials used in the analysis, including selected articles and synthesized data, are available from the author upon reasonable request. Relevant supporting materials may also be provided to ensure transparency and reproducibility of the study.

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