

Legal Framework for Protected Areas: Philippines

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Abstract

This paper examines the National Integrated Protected Areas System (NIPAS) Act of 1992 (Republic Act No. 7586) by looking into its legislative history, the legal and policy implications of its provisions, the changes the law has undergone since its enactment, and the pertinent issues concerning its implementation. The problems that are identified in this study essentially concern inconsistencies and overlaps between the NIPAS Act and other related laws which in turn create confusion regarding the powers and responsibilities of particular institutions. Notable among these conflicts is the one related to the ancestral domain claims of indigenous peoples and NIPAS Act-designated protected areas. This highlights the difficulty involved in harmonizing the aim of protecting the environment with the equally significant mandate to recognize the rights of certain groups. It has likewise been observed that while the Act provides penalties for prohibited activities within protected areas, and clearly sets forth its objectives and the environmental principles to be applied, its effective enforcement is hampered by disputes between the Department of Environment and Natural Resources (DENR)—the primary implementing agency and administrator of the system created under the NIPAS Act—and local governments which sometimes assert jurisdiction over protected areas located within their respective territories. This is particularly true with regard to coastal and marine habitats that serve as important sources of livelihood and therefore contribute to the economic growth of a city or province. With these challenges in mind, the present study discusses the measures that have been, or ought to be, taken by the actors involved in the implementation of the Act in order to reconcile their jurisdictional disputes. The goal of the NIPAS Act to rationalize the management of all protected areas in the country is faced with another constraint: that of obtaining finances. It has been found that only a few protected areas are currently generating sufficient income, and the problem of low collection of fees can partly be attributed to the lengthy bureaucratic process for fund releases. The lack of funding and the tediousness of the process of formally establishing a protected area result in a situation where currently designated protected areas constitute a mere fraction of the scientifically identified priority biodiversity sites.

The results of this study reveal that in certain instances community-based initiatives to preserve natural habitats can significantly complement government efforts. This suggests that decentralization of the management of protected areas is a feasible option, if not a more viable one, given the difficulties sometimes encountered by the national agency responsible.

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Acronyms and abbreviations

CENRO	community environment and natural resources officer
DA	Department of Agriculture
DENR	Department of Environment and Natural Resources
EIA	environmental impact assessment
ICC	indigenous cultural community
IP	indigenous peoples
IPAF	Integrated Protected Areas Fund
IPRA	Indigenous People's Rights Act (1997)
IUCN	International Union for Conservation of Nature
KBA	key biodiversity area
LGU	local government unit
NCIP	National Commission on Indigenous Peoples
NGO	non-governmental organization
NIPAS Act	National Integrated Protected Areas System Act (1992)
NIPAS IRR	NIPAS Implementing Rules and Regulations (1992)
PAMB	protected area management board
PAWB	Protected Areas and Wildlife Bureau
PCSD	Palawan Council for Sustainable Development
PENRO	provincial environment and natural resources officer
Revised IRR	Revised Implementing Rules and Regulations of the NIPAS Act (2008)

1 Introduction

- 1 The National Integrated Protected Areas System (NIPAS) Act¹ was approved on 1 June 1992, days before the historic United Nations Conference on Environment and Development, popularly called the ‘Earth Summit’, in Rio de Janeiro. As its title indicates, the law is intended to provide a rational way of organizing and managing the country’s many different types of conservation areas into a system of uniformly created and managed protected areas.
- 2 The NIPAS Act marked the beginning of radical changes in environmental legislation in the Philippines that emerged from the peaceful People Power Revolution of 1986. As soon as the Constitution of 1987 was ratified by the people, the President reorganized the bureaucracy, restructuring the Department of Environment and Natural Resources (DENR) to include an upgraded Protected Areas and Wildlife Bureau (PAWB). The PAWB was tasked with formulating policies and guidelines “for the establishment and management of an Integrated Protected Areas System.”²
- 3 The Philippines had a national parks law as early as 1932,³ which was followed by a series of laws and decrees creating individual national parks until the 1970s. During this period, the aims of parks management were largely to remove settlers and other unauthorized occupants from the parks, and to enhance recreation and tourism (Villamor, 2006, citing other sources).
- 4 The People Power Revolution of 1986 led to a surge of advocacy. Non-governmental organizations (NGOs) that were instrumental in deposing a dictator were now taking up development concerns including environmental protection, the rights of indigenous peoples and social equity. The power of this advocacy can be seen in the strong provisions of the 1987 Constitution concerning indigenous people’s rights, the right to a clean environment, the conservation of natural resources, equitable access to natural resources and social justice. Timber was a major export from the 1960s to the early 1980s, with the business run mostly by an elite few. By the mid-1980s, the country was already seeing the effects of deforestation and the loss of habitats. As soon as the new administration took office after the ratification of the Constitution, there were moves to recast environmental laws to give greater access to poor and marginalized segments of the population, and to shift policy from resource exploitation to conservation.
- 5 In 1987, the DENR initiated the formulation of a conceptual framework for a Philippine Strategy for Sustainable Development. After a long process of consultation with various sectors and language refinement, a draft was presented to the Cabinet in 1989 and approved through a Resolution.⁴ The underlying goal of the Strategy was to “achieve economic growth with adequate protection of the country’s biological resources and its diversity, vital ecosystem functions, and overall environmental quality.” One of the key strategies was to establish an integrated protected areas system, which emphasized the preservation of the “variety of genes, species and ecosystems” (Philippine Government, 1989).

1 Republic Act No. 7586, An Act Providing for the Establishment and Management of National Integrated Protected Areas System, Defining its Scope and Coverage, and for Other Purposes, 1 June 1992.

2 Executive Order No. 192, Providing for the Reorganization of the Department of Environment, Energy and Natural Resources; Renaming it as the Department of Environment and Natural Resources and for Other Purposes, 10 June 1987, section 18.

3 Act No. 3915, An Act Providing for the Establishment of National Parks, Declaring Such Parks as Game Refuges, and for other Purposes, 1 February 1932.

4 Cabinet Resolution No. 37, Approving the Conceptual Framework of the Philippine Strategy for Sustainable Development, 29 November 1989.

Advocacy to establish an integrated protected areas system received a boost from donor funding. In 1990, a team of international and Filipino experts was engaged to prepare preliminary management plans for 10 priority sites. The effort was originally funded through the World Bank-financed Environment and Natural Resources Sector Adjustment Programme (1991), and later supported by a technical assistance grant from Japan and the World Bank which funded preliminary management plans for 10 priority areas under the Conservation of Priority Protected Areas Project with a time frame of seven years (1994–2001). The technical assistance also enabled the drafting of a bill on integrated protected areas that was presented to Congress in 1991. This bill was eventually passed as the NIPAS Act in June 1992. In the same month, the DENR, as the primary administrator of the Act, came out with implementing rules and regulations to operationalize the provisions of the law.⁵ The speed with which the law and its implementing rules were approved is significant. At that time, the World Bank was designing a grant to continue the work that had begun on the 10 previously identified priority areas, and it was important that the framework of the NIPAS Act was already in place before the project proceeded. In contrast, other environmental laws took decades to be approved, and implementing rules are typically issued months or even years after the law is passed.

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Almost immediately after the Act was approved, two major donor projects were initiated to support its implementation. The World Bank-supported Conservation of Priority Protected Areas Project funded full implementation in the 10 sites that were originally identified and studied prior to the approval of the NIPAS Act. The European Union (EU) supported a parallel project, the National Integrated Protected Areas Programme, that funded full implementation in another eight sites. The results of these projects are discussed in the relevant sections below.

7

More than 17 years have passed since the NIPAS Act came into force. In the first 12 years, minor changes were made in the implementing rules to refine the administrative processes of establishing and managing the system. From 2004 to 2008, the DENR issued four major implementing rules dealing with very contentious implementation issues:⁶

8

- DENR Administrative Order No. 2004-32, Revised Guidelines on the Establishment and Management of Community-Based Program in Protected Areas, issued on 31 August 2004;
- DENR Administrative Order No. 2005-21, Revised Guidelines on the Establishment and Management of Integrated Protected Areas Fund, issued on 14 October 2005;
- DENR Administrative Order No. 2007-17, Rules and Regulations Governing Special Uses within Protected Areas, issued on 25 July 2007; and
- DENR Administrative Order No. 2008-17, Amending Section 10 of DENR Administrative Order No. 25 Series of 1992 and Providing Criteria in the Identification and Procedures in the Delineation and/or Demarcation of Management Zones within Protected Areas, issued on 8 September 2008.

On 24 December 2008, the DENR issued a wholesale revision of the NIPAS Act implementing rules and regulations, consolidating and amending all previous issuances. The Revised Implementing Rules and Regulations of the NIPAS Act (Revised IRR)⁷ lays down the current operational rules for establishing and managing protected areas in the Philippines. The NIPAS Act itself has not been amended directly.

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5 DENR Administrative Order No. 1992-25, National Integrated Protected Areas System (NIPAS) Implementing Rules and Regulations, 29 June 1992; referred to here as the NIPAS IRR.

6 The titles of legal instruments cited in this study have been reproduced exactly as they appear in the original English language version.

7 DENR Administrative Order No. 2008-26, Revised Implementation Rules and Regulations of Republic Act No. 7586 or the National Integrated Protected Areas System (NIPAS) Act of 1992, 24 December 2008, which took effect on 1 February 2009; referred to here as the Revised IRR.

Table 1: Timeline of Philippines legislation

1932	Feb 1	Act No. 3915: An Act Providing for the Establishment of National Parks, Declaring Such Parks as Game Refuges, and for Other Purposes
1975	May 19	Presidential Decree No. 705: Revising Presidential Decree No. 389, Otherwise Known as the Forestry Reform Code of the Philippines
1987	Jun 10	Executive Order No. 192: Providing for the Reorganization of the Department of Environment, Energy and Natural Resources; Renaming it as the Department of Environment and Natural Resources and for Other Purposes
1989	Nov 29	Resolution No. 37: The Cabinet approves the Philippine Strategy for Sustainable Development, as initiated by the DENR
1991	Oct 10	Republic Act No. 7160: Local Government Code
1992	Jun 1	Republic Act No. 7586: National Integrated Protected Areas System Act
	Jun 19	Republic Act No. 7611: Strategic Environmental Plan for Palawan Act
	Jun 29	DENR Administrative Order No. 1992-25: National Integrated Protected Areas System Implementing Rules and Regulations
1995	Jul 19	Executive Order No. 263: Adopting Community-Based Forest Management as a National Strategy to Ensure the Sustainable Development of the Country's Forestlands Resources and Providing Mechanisms for its Implementation
1996	May 31	Memorandum of Agreement between the Government of the Republic of the Philippines and the Government of Malaysia on the Establishment of the Turtle Island Heritage Protected Area
1997	Jun 4	National Biodiversity Strategy and Action Plan
	Oct 29	Republic Act No. 8371: Indigenous Peoples Rights Act
1998	Feb 25	Republic Act No. 8550: Philippine Fisheries Code
1999	Aug 26	Proclamation No. 171: Declaring Turtle Islands as a Wildlife Sanctuary
2001		Philippine Biodiversity Conservation Priority-Setting Program
	Apr 8	Republic Act No. 9072: National Caves and Cave Resources Management and Protection Act
	Apr 22	Republic Act No. 9125: Northern Sierra Madre Natural Park Act
	Jul 30	Republic Act No. 9147: Wildlife Resources Conservation and Protection Act
	Aug 11	Republic Act No. 9154: Mt Kanlaon Natural Park Act
2004	Aug 31	DENR Administrative Order 2004-55: DENR Streamlining/Procedural Guidelines Pursuant to the Joint DENR-DA-PCSD Implementing Rules and Regulations of Republic Act No. 9147 Otherwise Known as "Wildlife Resources Conservation and Protection Act"
	Feb 3	Republic Act No. 9237: Mt Apo Protected Area Act
	May 22	DENR Administrative Order 2004-15: Establishing the List of Terrestrial Threatened Species and Their Categories, and the List of Other Wildlife Species Pursuant to Republic Act No. 9147, Otherwise Known as the Wildlife Resources Conservation and Protection Act of 2001
	Jul 30	Republic Act No. 9303: Mt Hamiguitan Range Wildlife Sanctuary Act
	Aug 31	DENR Administrative Order No. 2004-32: Revised Guidelines on the Establishment and Management of Community-Based Program in Protected Areas
2005	Jan 14	Joint DENR-DA-PCSD-NCIP Administrative Order No. 2005-01: Guidelines for Bioprospecting Activities in the Philippines
	Oct 14	DENR Administrative Order No. 2005-21: Revised Guidelines on the Establishment and Management of Integrated Protected Areas Fund

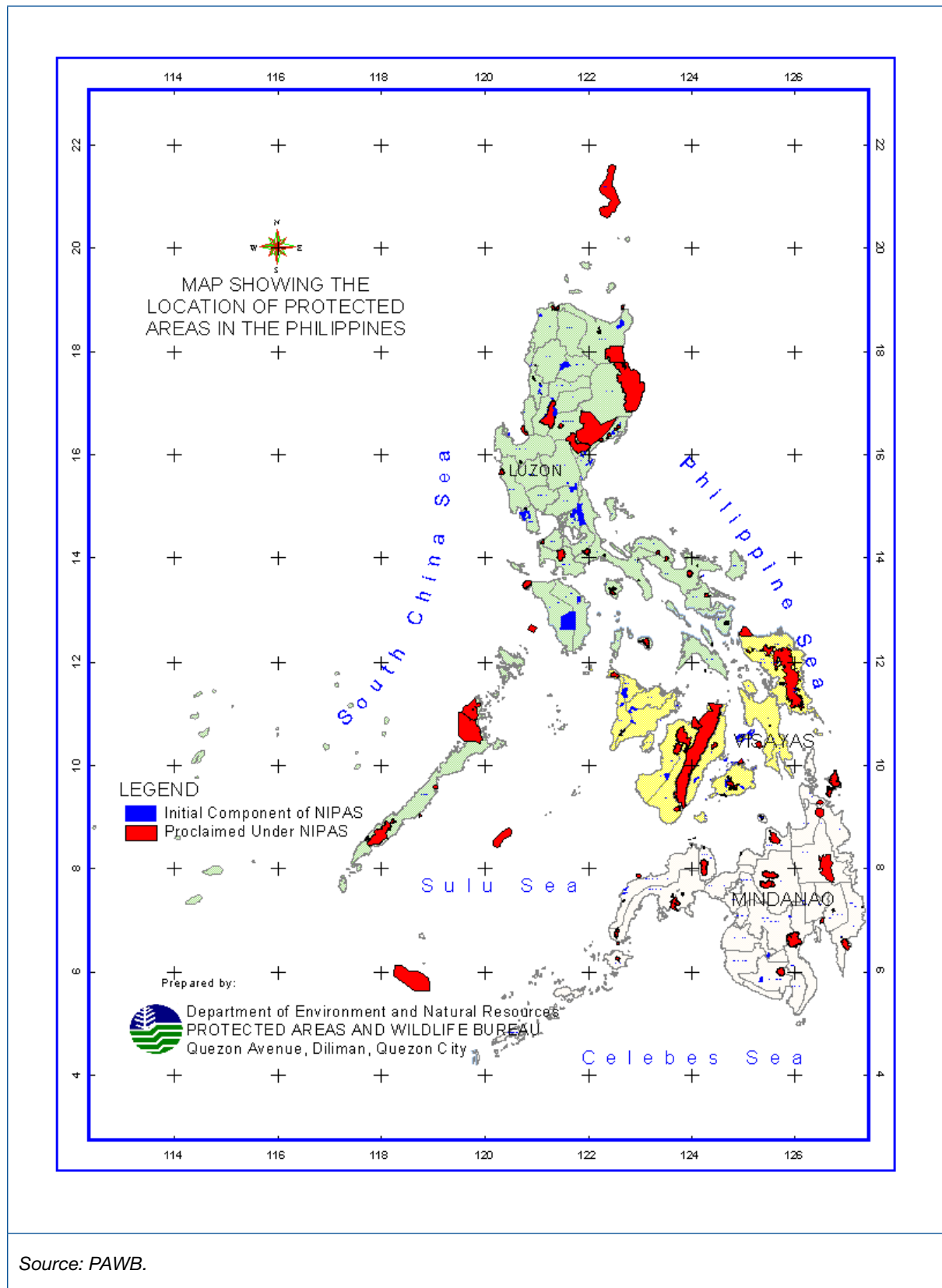
2007	May 9	Joint DENR-NCIP Memorandum Circular No. 2007-01: Management of Overlapping Protected Areas and/or their Buffer Zones and Ancestral Domains/Lands
	Jul 25	DENR Administrative Order No. 2007-17: Rules and Regulations Governing Special Uses within Protected Areas
2008	May 21	DENR Administrative Order No. 2008-08: Guidelines on Self-regulation of the Floriculture Industry for the Sustainable Management of Philippine Wild Flora
	Sept 8	DENR Administrative Order No. 2008-17: Amending Section 10 of DAO No. 25 Series of 1992 and Providing Criteria in the Identification and Procedures in the Delineation and/or Demarcation of Management Zones within Protected Areas
	Dec 24	DENR Administrative Order No. 2008-26: Revised Implementing Rules and Regulations of Republic Act No. 7586 or the National Integrated Protected Areas System (NIPAS) Act of 1992

It has, however, been indirectly modified in the special laws that subsequently created individual protected areas, as discussed below. A timeline of Philippines legislation is shown in Table 1.

Since 1992, 234 protected areas to be governed under the NIPAS Act have been identified, covering a total area of about 5.23 million hectares and a buffer zone of 0.22 million hectares. According to the DENR PAWB 2008 list of protected areas, terrestrial protected areas occupy a total of 4.09 million hectares and a buffer zone of 0.20 million hectares while marine protected areas cover about 1.14 million hectares and a buffer zone of about 0.019 million hectares (Figure 1). Six protected areas covering a total area of 121,668 hectares are under the jurisdiction of other government agencies such as the National Irrigation Administration, National Power Corporation and Philippine National Oil Corporation (DENR, 2009).

An interesting analysis by the DENR shows that the NIPAS Act regime covers only 51 per cent of the priority sites identified under the Philippine Biodiversity Conservation Priority-Setting Program, 44 per cent of important bird areas and 35 per cent of key biodiversity areas. In general, NIPAS Act protected areas cover less than half of the priority biodiversity sites identified through scientific studies, while initial components incorporated into the protected areas system under the NIPAS Act cover a lot more areas that are not considered strategic for biodiversity conservation. The current implementation thrust of the DENR is to reconcile key biodiversity areas with legally protected sites. This is the context in which we examine the NIPAS Act and its implementation.

Figure 1: Protected areas in the Philippines



Part I – Key elements of the protected areas legal framework

This case study covers the national framework law establishing an integrated protected areas system. The NIPAS Act provides the general principles and procedures for creating and managing protected areas nationwide. For the purposes of this review, the recently issued Revised IRR is included, which specifies details for the establishment and management of the system and of specific protected areas. Some specific protected area laws are also discussed, to address local concerns related to their deviation from the framework of the NIPAS Act. 12

The DENR is the primary implementing agency and administrator of the protected areas system. The Secretary of the DENR is the officer responsible for the implementation of the Act, assisted by the PAWB. Each individual protected area is managed by its own protected area management board (PAMB), while day-to-day implementation responsibilities lie with the protected area superintendent, a DENR official who is accountable immediately to the PAMB for site-specific management issues and to the DENR bureaucracy for system-wide coordination. 13

2 Scope of the legal framework

2.1 Geographic

The NIPAS Act covers all types of protected areas, whether terrestrial, coastal or marine. The conservation of coastal and marine habitats is complicated by the overlap between the NIPAS Act and the Philippine Fisheries Code of 1998.⁸ Under the Fisheries Code, primary responsibility for protecting and managing fisheries and coastal resources has been devolved to local governments. The Fisheries Code, and not the NIPAS Act, provides the framework for local legislation to establish marine protected areas and sanctuaries. It also suggests mechanisms and standards for the conservation of fishery resources such as open and closed seasons, the prohibition of destructive fishing methods (for example, blast fishing, the use of fine mesh nets), and monitoring maximum sustainable yields. The Fisheries Code requires that as much as 15 per cent of the total coastal area of a municipality should be set aside as fish sanctuaries. To avoid confusion, the DENR does not refer to marine protected areas as protected areas. True marine protected areas are established under the ‘protected landscape/seascape’ category created by the NIPAS Act. 14

The overlap of the NIPAS Act and the Fisheries Code is a contentious issue, especially for local governments that have primary jurisdiction over coastal areas (municipal waters). The Fisheries Code and the Local Government Code of 1991⁹ state that coastal and marine areas declared as protected areas under the NIPAS Act are excluded as municipal waters, effectively removed from the jurisdiction of local governments. Local governments that have invested heavily in coastal and marine conservation through the establishment of marine protected areas are resentful when the DENR pushes for declaring these areas as ‘protected landscape/seascape’ under the NIPAS Act. 15

A typical example is the Apo Island Protected Landscape/Seascape. For two decades, Apo Island in Dauin, Negros Oriental, was among the original showcases of community-based coastal resource 16

8 Republic Act No. 8550, An Act Providing for the Development, Management and Conservation of the Fisheries and Aquatic Resources, Integrating All Laws Pertinent Thereto, and for Other Purposes, 25 February 1998.

9 Republic Act No. 7160, An Act Providing for a Local Government Code of 1991, 10 October 1991.

management. With local universities, local governments, NGOs and local communities cooperating to protect the area, the island became a premier tourist destination because of its abundant marine life. The municipal government collects fees from tourists and the money goes to conservation programmes and law enforcement. The DENR pushed for the declaration of Apo Island as a NIPAS Act protected area. Local officials were originally supportive because of the added value in biodiversity conservation of a NIPAS Act designation. However, they later complained that NIPAS Act processes were cumbersome and often delayed, especially with respect to fund allocation. Projects are delayed and enforcement is hampered by the lack of funds, whereas previously funds were immediately available from the local government. The Mayor was disappointed and initiated the enactment of a local ordinance taking back management control of Apo Island. Strictly speaking, the ordinance cannot overrule the Presidential Proclamation that makes the island part of the system of protected areas established by the NIPAS Act. The DENR has so far not insisted on taking the local government head-on, perhaps recognizing that local management in the past had been more efficient.¹⁰ To date, there are no explicit regulations to guide the coordinated implementation of the NIPAS Act and the Fisheries Code. More and more local governments are wary of DENR proposals to include their marine protected areas in the national integrated protected areas system.

- 17 As domestic legislation, the NIPAS Act currently does not include transboundary protected areas that may be concluded through international agreements. Although there is no prohibition on including transboundary protected areas under the overall biodiversity conservation framework, it may be difficult to reconcile implementation arrangements under a transboundary agreement with the specific regulatory framework of the Act. The Turtle Islands Heritage Protected Area, the world's first transfrontier protected area for marine turtles, was established in 1996 through a memorandum of agreement between the governments of the Philippines and Malaysia. It is composed of six islands administered by the Philippines (Baguan, Boaan, Great Bakkungaan, Langaan, Lihiman and Taganak) and three islands administered by Sabah, Malaysia (Palau Bakkungaan Kechil, Palau Gulisaan and Palau Selingaan). Management is shared by both countries through a joint management committee which functions as the policy-making body of the Turtle Islands Heritage Protected Area. Each government designates an appropriate implementing agency to enforce, implement and monitor policies, laws, rules and regulations formulated for the management and protection of the area. Both governments also continue to implement their national laws and regulations in the islands under their jurisdiction. In 1999, the Philippines Turtle Islands (composed of six islands), considered an extremely important area for conservation, were declared as the Turtle Islands Wildlife Sanctuary under a Proclamation.¹¹

2.2 Conservation

- 18 The NIPAS Act is aimed at overall biodiversity conservation, although 'biodiversity' is not defined in the Act or in its Implementing Rules and Regulations of 1992 (NIPAS IRR). In section 2, the general objective of the law is stated: "To secure for the Filipino people of present and future generations the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas." The Act focuses on habitat- and ecosystem-related conservation, identifying forests, watersheds, coastal zones, coral reefs and other such areas that represent a wide variety of ecosystems. One category of protected area, the wildlife sanctuary, is aimed specifically at species-related conservation but areas within other categories may be identified to protect threatened

10 Interviews and conversations with Municipal Mayor Rodrigo Alalano and village officials of Apo Island, Dauin, Negros Oriental from 2004 to 2008.

11 Proclamation No. 171: Declaring Turtle Islands as a Wildlife Sanctuary, 26 August 1999.

species as well, especially those that are endemic to the area. In addition, the NIPAS Act takes into account irreplaceable areas with unique natural characteristics and culturally important areas.

The NIPAS Act also includes other categories established by conventions or international agreements to which the Philippine government is a signatory, such as designated world heritage sites (Tubbataha Reef National Marine Park and Puerto Princesa Subterranean River National Park) and Association of Southeast Asian Nations (ASEAN) heritage sites (Mt Apo Natural Park). But the Act does not formally attach any special significance to these designations. International recognition does, however, draw greater attention to specific sites, especially with respect to donor funding. Tubbataha was among the 10 priority sites of the Conservation of Priority Protected Areas Project. The reef is at the centre of the Coral Triangle, widely recognized as the locus of the world's greatest marine biodiversity. Donor money has been pouring in for conservation efforts in Tubbataha since 1996 (UNEP-WCMC, 2008). Perhaps as a result, government funding for Tubbataha is not significantly greater than for other sites.

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2.3 Cultural

One category of protected area, the natural biotic area, emphasizes the protection of “the way of life of societies living in harmony with the environment to adapt to modern technology at their pace,” recognizing the cultural value of protected areas. All other protected area categories also allow spiritual and cultural activities in designated zones.

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To a large extent, NIPAS Act-designated protected areas overlap with the ancestral domain claims of indigenous peoples recognized under the Indigenous Peoples Rights Act (IPRA) of 1997.¹² The procedure for protected area establishment is independent of the process of ancestral domain recognition and titling. While both the NIPAS Act and the IPRA have the same overall goal of protecting natural ecosystems, they have very different approaches in terms of governance structures. The DENR and the National Commission on Indigenous Peoples (NCIP) have made several attempts at harmonization and coordination but fundamental incompatibilities remain. Various protected areas where overlapping ancestral domain claims exist have adopted different approaches to harmonization.

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Under the terms of a Joint Memorandum Circular issued by the DENR and the NCIP in 2007,¹³ the DENR should closely coordinate with local indigenous peoples in the delineation of protected area boundaries that overlap with ancestral domain claims. The circular also facilitates the harmonization of protected area management plans and ancestral domain management plans. Indigenous peoples “shall have primary responsibility to maintain, develop, protect and conserve such overlapped areas” with assistance from the DENR. They may decide to transfer management responsibility to “concerned government agencies” (there is no specific reference to the PAMB) but this is only for a temporary period and primary management responsibility will eventually revert to indigenous peoples claimants.

22

The joint circular is the latest product of a decade of negotiations between the DENR and the NCIP on how to deal with the protected area–ancestral domain overlap. Harmonization is taking place in several key sites including Mt Apo Natural Park where almost three quarters of the protected area is covered by ancestral domain titles already recognized by the NCIP. It is too early to tell how the new harmonization arrangement will turn out.

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12 Republic Act No. 8371, An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes, 29 October 1997.

13 Joint DENR-NCIP Memorandum Circular No. 2007-01, Management of Overlapping Protected Areas and/or Their Buffer Zones and Ancestral Domains/Lands, 9 May 2007.

2.4 Types of governance for the protected areas system

- 24 Protected areas were originally intended to cover public lands, to coincide with the ‘national park’ category of land under the Constitution. In practice, protected areas include private lands within their boundaries and the implementation focus has been on regulating activities in the area consistent with conservation, rather than the classification of public lands.
- 25 The governance structure is a mixture of central oversight of the national integrated protected areas system and decentralized site management. Protected area management at the site is carried out through the PAMB, a multisectoral body composed of local stakeholders. All protected areas are directly managed and controlled by the DENR, except for areas that are under the jurisdiction of government owned or controlled corporations (such as the National Power Corporation). These corporations are required to follow the management framework of the NIPAS Act. There is still a debate whether they are also required to establish a PAMB for the sites under their jurisdiction. In essence, areas controlled by government corporations remain under their management, which is considered private management.
- 26 There are many examples of community-based conservation areas, especially in the coastal sector. Local villagers delineate small areas as community conservation areas with the help of academic or non-government institutions. In recent years, these marine protected areas have been recognized by local governments. Local governments have also seized on the initiative to partner with local communities to set up more marine protected areas, formalized through local ordinances. These marine protected areas are not the protected areas contemplated under the NIPAS Act and do not form part of the national integrated system. Rather, the legal mandate of the local governments stems from the Fisheries Code, giving them the power to delineate fish sanctuaries.
- 27 Ancestral domains are essentially community conservation areas. Under the 2007 DENR-NCIP joint circular, it appears that the DENR now recognizes that primary responsibility for protected areas that are also recognized as ancestral domain lies with the indigenous people claimants.

3 Protected areas policy

- 28 The NIPAS Act lays the basis for the establishment of a protected area system (section 2), emphasizing the goal of biodiversity conservation. It recognizes the impact of human activities on the natural environment as well as the value that biodiversity provides in sustaining human life and development. In declaring it to be “the policy of the State to secure for the Filipino people of present and future generations the perpetual existence of all native plants and animals” (section 2), the law internalizes the principle of inter-generational responsibility and the importance of protecting endemic species.
- 29 Areas that may be designated under the NIPAS Act “encompass outstanding remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine” (section 2). For the purposes of the NIPAS Act, ‘national park’ is a broad category of public land under which all protected areas are included, rather than a separate protected area management category. This is in keeping with the Constitutional mandate to designate ‘national parks’ in public land. From the standpoint of the classification of public lands, it is understood that the terms ‘protected area’ and ‘national park’ are synonymous.
- 30 The Revised NIPAS IRR introduces specific policies that address gaps identified in implementation experience. It emphasizes the “contiguity” of protected areas, and the use of eminent domain

and police powers to make each protected area “whole” (rule 2.1.1). Another policy thrust in the Revised IRR concerns the integration of protected area plans with local development plans, to ensure consistency and complementation (rule 2.1.3).

Neither the NIPAS Act nor the Revised IRR refers to a policy instrument that could serve as a technical guide, such as a national biodiversity strategy. The DENR initiated a Philippine Biodiversity Conservation Priority-Setting Program in 2001 as part of the 1997 National Biodiversity Strategy and Action Plan. Studies to identify key biodiversity areas and marine priority conservation areas were conducted with the support of civil society and academic groups. In theory, from 2003 to the present, key biodiversity areas and, to a certain extent, marine priority conservation areas have been the basis of short-, medium- and long-term planning and implementation for the conservation of the remaining tropical forests and biological diversity. As noted above, less than 50 per cent of the country’s current designated protected areas cover priority biodiversity conservation areas.

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3.1 Incorporation of international environmental principles

The NIPAS Act does not make specific reference to any international law commitments. Nevertheless, the legislative history of the Act reflects the influence of the United Nations Conference on Environment and Development: the law was passed on 1 June 1992, while the government was preparing for the Earth Summit.

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The NIPAS Act incorporates basic international environmental law principles such as sustainable development, public participation, the recognition of indigenous people’s rights, environmental impact assessment (EIA) and payment for environmental services, among others. There is no explicit provision relating to the precautionary principle.

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The Act provides specific guidelines for public participation, including:

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- Community representation in the PAMB;
- The right to notification and public hearings in the establishment, boundary modification and disestablishment of protected areas;
- Cultural communities, tenured migrants, other existing protected area users and local governments are to be part of the decision-making process in zone establishment and management planning; and
- Public consultations and hearings on the protected area management plan.

On access to information, the Act provides that all data and other information regarding a protected area is to be made available to the public, including:

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- All DENR records pertaining to protected areas including maps and legal descriptions or natural boundaries; copies of rules and regulations governing them; and copies of public notices of Congress and reports submitted to Congress regarding pending additions, eliminations or modifications (section 5); and
- The results of surveys of energy resources inside protected areas (section 14).

On the recognition of local communities and indigenous peoples, section 13 of the Act provides:

36

Ancestral lands and customary rights and interest[s] arising shall be accorded due recognition. The DENR shall prescribe rules and regulations to govern ancestral lands within protected areas: *Provided*, That the DENR shall have no power to evict indigenous communities from their present occupancy nor resettle them to another area without their consent: *Provided, however*, That all rules and regulations, whether adversely affecting said communities or not, shall be subjected to notice and hearing to be participated in by members of concerned indigenous community.

- 37 Section 9 states that the “management planning strategy shall also provide guidelines for the protection of indigenous cultural communities, other tenured migrant communities and sites and for close coordination between and among local agencies of the Government as well as the private sector.” The law is unclear about the rights of tenured migrants. Implementing rules and regulations elaborate on the recognition and protection of tenure (occupation) but restrict activities according to the protected area management plan.
- 38 Other international principles incorporated in the NIPAS Act include:
- Sustainable development
 - Enjoyment and use of protected areas must be consistent with sustainable development
 - Restrictions on the activities of tenured migrants must be consistent with sustainable development
 - Environmental impact assessment
 - Activities inside protected areas not included in the management plan are subject to EIA
 - Payment for environmental services
 - Collection of reasonable fees from persons deriving benefits from protected areas
 - Fees for access to protected areas or the use of resources within them.

4 Protected areas objectives

- 39 Under the NIPAS Act, the objective for protected areas is to conserve biodiversity, especially endemic species. The Revised IRR has added “strategies” to achieve this objective, including the following (rule 2.2):
- In selecting areas for inclusion in the national integrated protected areas system, conservation priority areas in each of the identified biogeographic zones in both aquatic and terrestrial environments shall be primarily considered.
 - Areas designated under the NIPAS Act should complement and be consistent with the establishment, creation or designation of similar conservation areas under other relevant laws.
 - The sustainability of the national system depends on the collaboration of all stakeholders through a functional, transparent, accountable and participatory governance mechanism; the judicious use of the Integrated Protected Areas Fund; and the development of other mechanisms to maintain the viability of protected area management.
- 40 It is clear from both instruments that the primary goal of protected area establishment is biodiversity conservation in the context of sustainable development, with the Revised IRR adding implementation guidelines to ensure harmony, complementation and administrative efficiency.

5 Definitions

5.1 Protected areas

- 41 In the NIPAS Act, protected areas are defined as “identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation.” This is fairly consistent with the current IUCN definition of a protected area, which is “a clearly defined geographical space, recognized, dedicated

and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values” (Dudley, 2008).

5.2 Management categories

There are several protected area categories under the NIPAS Act, listed in section 3 of the law and defined in section 4. These are:

42

- Strict nature reserve—“an area possessing some outstanding ecosystem, features and/or species of flora and fauna of national scientific importance maintained to protect nature and maintain processes in an undisturbed state in order to have ecologically representative examples of the natural environment available for scientific study, environmental monitoring, education, and for the maintenance of genetic resources in a dynamic and evolutionary state”.
- Natural park—“a relatively large area not materially altered by human activity where extractive resource uses are not allowed and maintained to protect outstanding natural and scenic areas of national or international significance for scientific, educational and recreational use”.
- Natural monument—“a relatively small area focused on protection of small features to protect or preserve nationally significant natural features on account of their special interest or unique characteristics”.
- Wildlife sanctuary—“an area which assures the natural conditions necessary to protect nationally significant species, groups of species, biotic communities or physical features of the environment where these may require specific human manipulation for their perpetuation”.
- Protected landscapes/seascapes—“areas of national significance which are characterized by the harmonious interaction of man and land while providing opportunities for public enjoyment through recreation and tourism within the normal lifestyle and economic activity of these areas”.
- Resource reserve—“an extensive and relatively isolated and uninhabited area normally with difficult access designated as such to protect natural resources of the area for future use and prevent or contain development activities that could affect the resource pending the establishment of objectives which are based upon appropriate knowledge and planning”.
- Natural biotic area—“an area set aside to allow the way of life of societies living in harmony with the environment to adapt to modern technology at their pace”.

In addition to these categories, the law contemplates “other categories established by law, conventions or international agreements” (section 3(h)) that can be included in the national integrated protected areas system. This gives room, for example, to transboundary protected areas established through international treaty to be included as part of the system.

43

5.3 Consistency with IUCN categories

The NIPAS Act uses the same or similar terminology as IUCN categories but the definitions under the Act do not exactly follow IUCN definitions, although they are substantially comparable (Table 2). The PAWB has summarized by category 107 protected areas designated in accordance with the NIPAS Act (Table 3).

44

Table 2: Comparative features of protected area categories under IUCN and the NIPAS Act

IUCN category	NIPAS Act (sections 3 and 4)	Remarks
Ia. Strict nature reserve	Strict nature reserve	Most restrictive category under the NIPAS Act that allows only scientific use for the area
Ib. Wilderness area		Included in strict nature reserve
II. National park	Natural park	Essentially similar; “national park” is a term used in the Philippine Constitution to designate a particular category of public lands that includes all protected areas, which is why it is not used as a category in the NIPAS Act
III. Natural monument	Natural monument	Essentially the same
IV. Habitat/species management area	Wildlife sanctuary	Essentially the same
V. Protected landscape/seascape	Protected landscape/seascape	The NIPAS Act emphasizes opportunities for recreation and tourism
VI. Managed resource protected area	Natural biotic area	The NIPAS Act emphasizes the preservation of indigenous culture associated with the area

45 Other key definitions under the NIPAS Act include:

- Indigenous cultural community, which refers to a group of people sharing common bonds of language, customs, traditions and other distinctive cultural traits, and who have, since time immemorial, occupied, possessed and utilized a territory.
- Tenured migrant communities, defined as communities within protected areas who have actually and continuously occupied an area for five years prior to its designation as a protected area in accordance with the NIPAS Act, and who are solely dependent on the area for their subsistence.
- Buffer zones are identified areas outside the boundaries of and immediately adjacent to designated protected areas, pursuant to section 8, that need special development control in order to avoid or minimize harm to the protected area.

46 The definition of ‘indigenous cultural community’ has been modified by the IPRA,¹⁴ and now applies to indigenous peoples in protected areas:

Indigenous Cultural Communities/Indigenous Peoples [ICCs/IPs] — refer to 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, [become] historically differentiated from the majority of Filipinos. ICCs/IPs 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 been displaced from their traditional domains or who may have resettled outside their ancestral domains (IPRA, section 3(h)).

14 This definition of indigenous peoples is unique to the Philippines in the sense that anthropologically most Filipinos come from Malay stock and there has been little intermarriage with the Spanish or American colonizers. Politically, the definition of indigenous peoples which is based on a distinction between those who were colonized or conquered and those who were unconquered or refused colonization is generally accepted.

Table 3: Summary of protected areas proclaimed under the NIPAS Act by category (as of December 2008)

Category	Number	Area (hectares)	
		Protected area	Buffer zone
Resource reserve	2	78,354.74	186.66
Managed resource reserve	1	89,134.76	
Protected landscape/seascape	22	1,027,749.67	8,836.31
Protected landscape	32	420,552.15	2,212.24
Protected seascape	3	216,785.67	
Natural monument/landmark	4	23,741.50	610.69
Natural park	27	1,164,717.70	203,939.47
Marine reserve*	2	14,983.48	
Natural biotic area	4	11,456.72	2,489.00
Wildlife sanctuary	9	289,852.91	4,360.57
Park and wildlife centre*	1	22.70	
Total	107	3,337,352.00	222,634.94
*Other categories established by law			
<i>Source: PAWB.</i>			

The term ‘biodiversity’ is not defined under the NIPAS Act. In three site-specific protected area laws, however, biodiversity is defined roughly consistent with the Convention on Biological Diversity but abbreviated: “the variety and variability among all living organisms and the ecological complex in which they occur” (the Mt Apo Protected Area Act of 2003, section 3(b),¹⁵ and the Northern Sierra Madre Natural Park Act of 2001, section 3(a)¹⁶); and “the variety of life in all its forms found on earth” (the Mt Hamiguitan Range Wildlife Sanctuary Act of 2004, section 5(h)¹⁷).

47

This lack of consistency is one indication of the DENR’s inability to monitor developments or lobby in Congress for the conformity of site-specific protected area laws with the general framework of the NIPAS Act. This also shows the challenges created by Congress enacting site-specific protected area laws that can deviate from the NIPAS Act framework. The NIPAS Act and site-specific laws are of the same level in the hierarchy of laws (Congressional Acts); in fact, strictly speaking, site-specific law prevails over the NIPAS Act because it comes later and applies more specifically to the area.

48

15 Republic Act No. 9237, An Act Establishing Mount Apo Located in the Municipalities of Magpet and Makilala and City of Kidapawan, Province of Cotabato, in the Municipalities of Bansalan and Sta. Cruz and City of Digos, Province of Davao del Sur, and in the City of Davao, as a Protected Area Under the Category of Natural Park and its Peripheral Areas as Buffer Zones, Providing for its Management, and for Other Purposes, 3 February 2004.

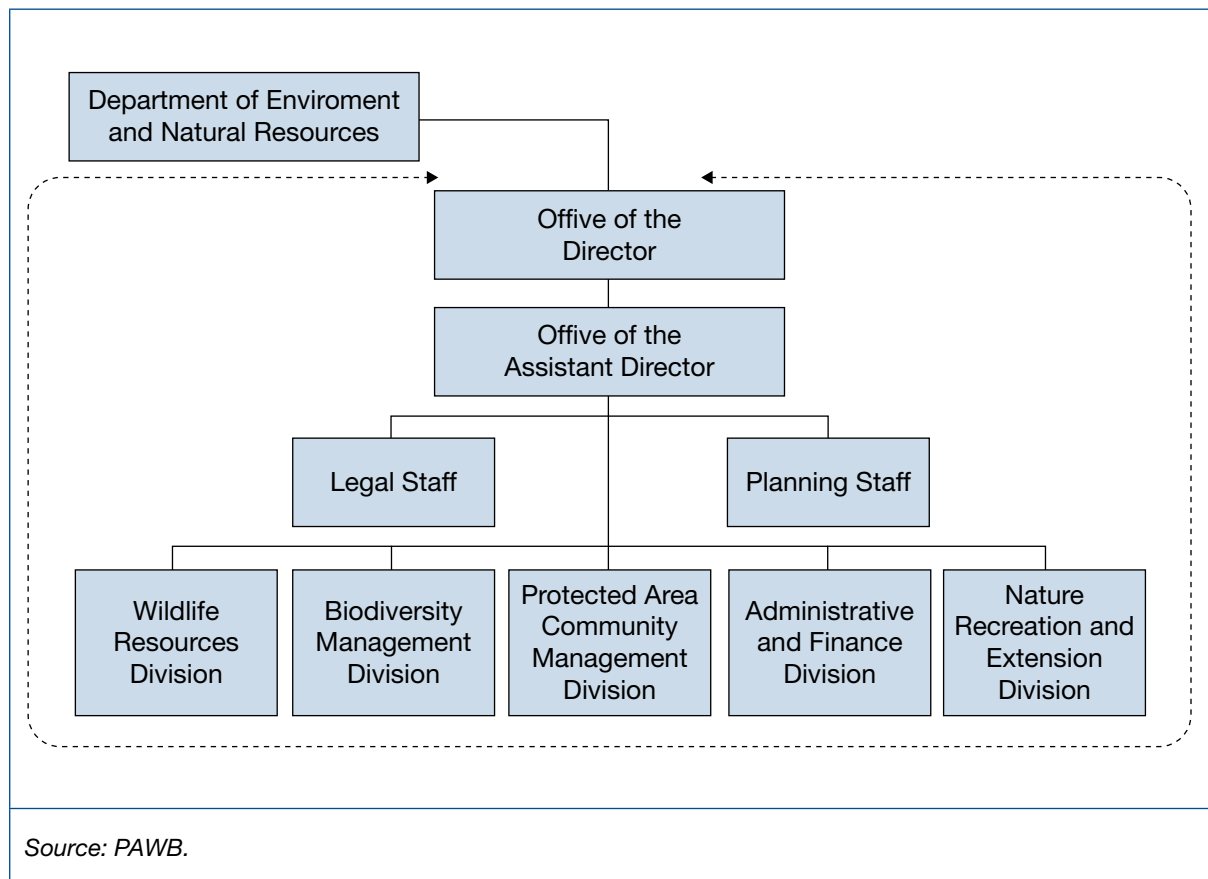
16 Republic Act No. 9125, An Act Establishing the Northern Sierra Madre Mountain Range within the Province of Isabela as a Protected Area and its Peripheral Areas as Buffer Zones, Providing for its Management and for Other Purposes, 22 April 2001.

17 Republic Act No. 9303, An Act Declaring Mt Hamiguitan Range and its Vicinities as Protected Area under the Category of Wildlife Sanctuary and its Peripheral Areas as Buffer Zone and Appropriating Funds Therefor, 30 July 2004.

6 Institutional arrangements

- 49 The Secretary of the DENR has overall authority and responsibility for the management of the national protected areas system, assisted by the PAWB, the specific unit of the DENR that manages the system (Figure 2). At the same time, the DENR Secretary may call on any agency or governmental entity as well as academic institutions, non-government organizations and the private sector as may be necessary to accomplish the objectives and activities of the system (section 10).
- 50 At the site level, a protected area is managed by a multisectoral PAMB, composed of the DENR regional executive director under whose jurisdiction the protected area is located; one representative of the autonomous regional government, if applicable; the provincial development officer; one representative of the municipal government; one representative from each barangay¹⁸ covering the protected area; one representative from each tribal community, if applicable; at least three representatives from NGOs or local community organizations; and, if necessary, one representative from other departments or national government agencies involved in protected areas.

Figure 2: Organizational structure of the DENR-PAWB



- 51 Leadership of the PAMB has repeatedly been raised as an issue in many sites. The usual complaint is that elected local government officials (governors, mayors) resent being under the direction of a mid-level DENR official, who may or may not have sufficient decision-making powers to manage the site appropriately. In sites where there are strong political personalities, either the DENR allows local officials to take the lead or local officials refuse to participate. In the Sagay Marine Reserve, the law

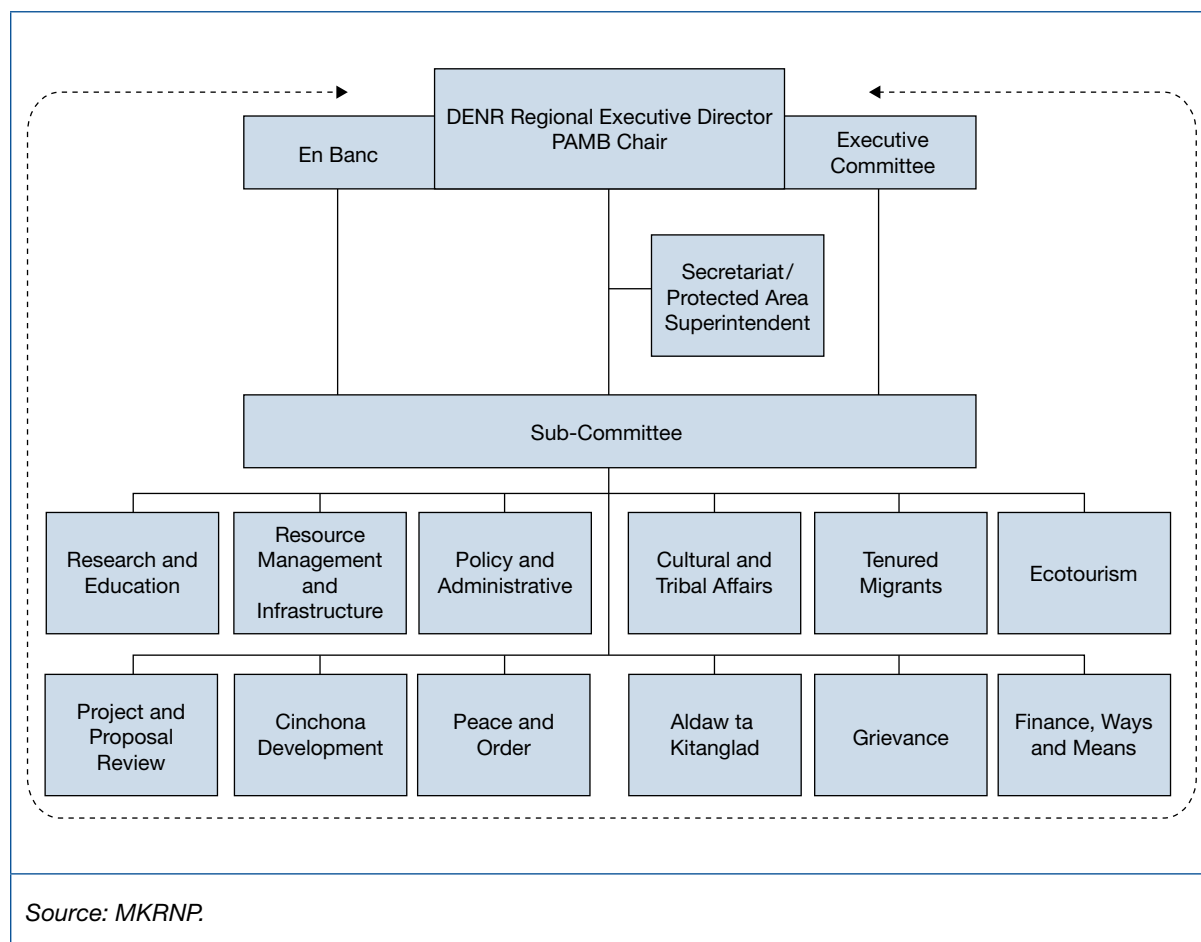
18 A barangay (village or community) is the most basic administrative and political subdivision of the country.

specifically designates the mayor as co-chair of the PAMB, slightly deviating from the NIPAS Act, which designates the DENR regional executive director alone as chair.

In a study conducted by the National Integrated Protected Areas Programme in their sites, it was found that where elected local officials are active in the PAMB, their local governments contribute a significant amount in general appropriations to support protected area management (Rambaldi, 2000a). Anecdotal reports from other sites also confirm that where the DENR allows local officials to take the lead, local governments contribute more towards protected area activities, such as hosting PAMB en banc meetings.

52

Figure 3: Mt Kitanglad Range Nature Park Protected Area Management Board



In the Mt Kitanglad Range Natural Park, the protected area superintendent has successfully enlisted the full support of local government officials by ensuring that local governments understand their stake in the protection of the site. The superintendent plays a facilitative role in creating a link between local development planning and protected area management planning. The superintendent has been able to convince mayors and governor to incorporate protected area management interventions into local plans and budgets. In this way, local governments share the cost and responsibilities of managing the protected area. It took years of consensus building and advocacy on the part of protected area staff to encourage local government officials to actively share responsibilities.

53

The other issue concerning institutional arrangements is the effectiveness of the PAMB as a management institution. Large protected areas can have PAMBs made up of as many as 200 members. It is almost impossible to make management decisions through a body of this size. Holding meetings alone is a

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costly activity. This is partly remedied in the NIPAS IRR through the creation of an executive committee composed of the DENR regional executive director, a representative from among the local government units (LGUs), and a representative each from NGOs, people’s organizations and indigenous peoples. The executive committee runs the protected area, since the PAMB en banc is expected to meet only twice a year under the rules.

55 Figure 3 shows the structural and functional relationship between the PAMB (either en banc or executive committee), the protected area superintendent and sub-committees, using the Mt Kitanglad Range Nature Park PAMB as an example. In the case of Samar Island Natural Park, whose PAMB membership numbers 298, the PAMB has been streamlined to make it more manageable and efficient (see Box 1).

56 Apart from the administrative issues involved in maintaining a PAMB, there are questions concerning the extent of the PAMB’s powers with respect to the DENR. In general, the PAMB is policy oriented and its most important role is to facilitate the preparation of the protected area management plan. In almost

Box 1: Samar Island Natural Park Protected Area Management Board

In 2003, the Samar Island Natural Park and its buffer zone were declared a protected area and placed under the national system by Presidential Proclamation.¹ The PAMB for the park was organized in 2004 as the highest planning and policy-making body. In all, the Samar Island PAMB created under the NIPAS Act has 298 members, composed of the following:

- DENR-Region VIII Regional Executive Director (chair)
- Provincial governors of Northern Samar, Samar and Eastern Samar (co-chairs)
- One representative from each municipal or city government
- One representative from each barangay
- Seven representatives from NGOs
- Five representatives from people’s organizations
- Representatives from national government agencies
- Provincial planning and development officer of each province

Under the proposed Samar Island Natural Park Bill, an island-wide PAMB and a province-wide PAMB were proposed for creation in order to address the management and efficiency challenges posed by a large PAMB. Figures A and B show the composition of the executive committees for island-wide and provincial PAMBs.

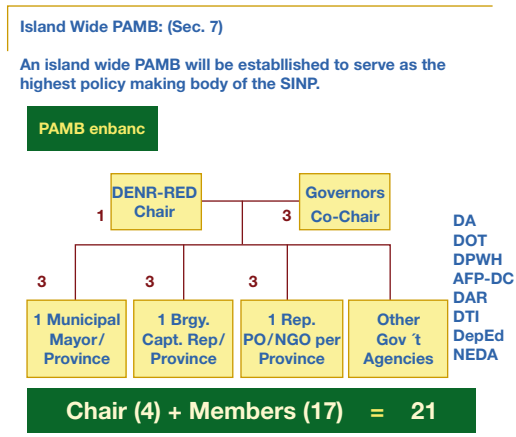


Figure A

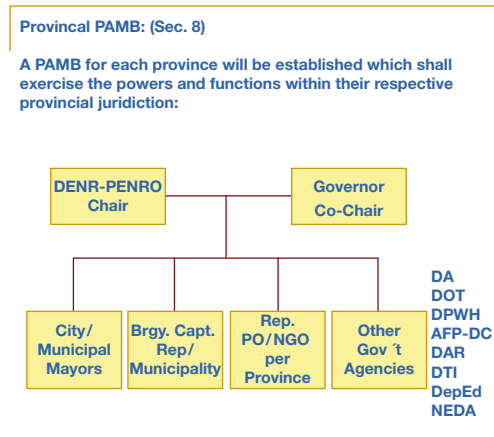


Figure B

1 Proclamation No. 442, Declaring Samar Island as a Natural Park, 13 August 2003.

Source: DENR-PAWB 2004, Samar Island Natural Park briefing kit.

all important issues—final approval of the plan, the issuance of permits, determining fees—the PAMB merely recommends to the DENR and must await DENR approval. This raises the question of whether it is worth the cost of maintaining the PAMB if its sole purpose is to make recommendations, and not to make decisions.

The Revised IRR tries to correct the situation by providing that the decisions of the PAMB are deemed approved unless specifically revoked by the DENR Secretary. However, this does not apply to the grant of permits or to setting fees, matters over which only the DENR has authority.

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7 Advisory bodies

The DENR Secretary may call on private or public agencies, institutions or individuals for advice on the management of the integrated protected areas system or of particular sites. According to the Revised IRR:

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Each protected area shall have a Management Plan prepared by inter-disciplinary team of experts led by the DENR Regional Office following the procedures as specified under these Rules. The Regional Executive Director shall create and convene a Regional team composed of persons knowledgeable in socio-economic planning, land-sea use planning, ecology and protected area management and/or related fields of discipline that will provide technical assistance in the preparation of the protected area management plan and information management system (rule 10.2.3).

In addition, “management decisions are made with inter-disciplinary inputs and participation of all stakeholders” (rule 10.1).

59

There is currently no advisory body formally created to provide guidance on the management of the national protected areas system. The original NIPAS IRR mentioned a ‘NIPAS Policy and Program Steering Committee’. However, this Committee no longer exists. It was created at a time when there were two major projects, funded by the World Bank and the EU, that needed to coordinate strategies and activities. After these projects were concluded, the Committee was disbanded. Even during project implementation, there was minimal coordination and sharing of experiences between the EU and World Bank teams. Each had its own system of handling protected area establishment and planning. The studies done on protected areas were generally either site-specific or covered only the project sites of each project (see, for example, Rambaldi, 2000a; Rambaldi, 2000b; Rambaldi and Bacudo, 2000; Rambaldi and Camat, 2001).

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8 Protected areas system planning

The DENR is tasked with leading preparation of a strategy for the protected areas system and providing guidelines for the preparation of site-specific management plans. The NIPAS Act (section 9, read with section 10) provides that the DENR shall prepare:

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a general management planning strategy to serve as guide in formulating individual plans for each protected area. The management planning strategy shall, at the minimum, promote the adoption and implementation of innovative management techniques including, if necessary, the concept of zoning, buffer zone management for multiple use and protection, habitat conservation and rehabilitation, diversity management, community organizing, socioeconomic and scientific researches, site-specific policy development, pest management, and fire control. The management planning strategy shall also provide guidelines for the protection of indigenous cultural communities, other tenured migrant communities and sites and for close coordination between and among local agencies of the Government as well as private sector.

Field personnel have pointed out that guidelines are currently available for the development of site-specific protected area management plans but that there is no strategy document for managing the system. The DENR has led the preparation of the Philippine Biodiversity Conservation Priorities. However, the link between these priorities and actual decisions on protected area establishment is weak.

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63 The Revised IRR states:

A General Management Planning Strategy (GMPS) shall be prepared by [the] PAWB to serve as guide for the system-wide management of the [national integrated protected areas system]. The GMPS shall standardize the management planning process for protected areas to ensure: i) that management techniques provided in these Rules are adopted; ii) that national as well as international protected area management standards are met; iii) that there is continuity of planning efforts; and iv) that management decisions are made with inter-disciplinary inputs and participation of all stakeholders (rule 10.1).

This provision has yet to be fleshed out.

9 Establishment, amendment and abolishment of protected areas

64 The Philippine Congress has the sole authority to establish protected areas through a national legislative act. The DENR screens the areas proposed for establishment, following a procedure detailed in the NIPAS Act and the Revised IRR. Under the Act (section 5) and the Revised IRR (rule 6):

- All areas or islands previously proclaimed, pursuant to a law, presidential decree, presidential proclamation or executive order as a national park, game refuge, bird and wildlife sanctuary, wilderness area, strict nature reserve, watershed, mangrove reserve, fish sanctuary, natural and historical landmark, protected and managed landscape/seascape, or identified virgin forests are designated as initial components of the national protected areas system, governed by existing laws, rules and regulations, not inconsistent with the NIPAS Act.
- The DENR conducts studies to review and validate whether the initial components are suitable for final inclusion in the national protected areas system.
- The DENR conducts public hearings and consultations on the proposed inclusion or exclusion of an area.
- The DENR recommends to the President the issuance of a Proclamation to confirm the inclusion of an area.
- A Presidential Proclamation is issued, declaring an area to be a protected area under the NIPAS Act and providing initial measures for its protection.
- The President recommends to Congress the establishment of the area as a protected area under the NIPAS Act.
- Congress enacts a law that establishes the protected area, defining its boundaries, establishing the management institution (PAMB) and appropriating funds.

65 Additional protected areas may be established by following the same procedure as for the establishment of initial components (NIPAS Act, section 6, and Revised IRR, rule 7).

66 The establishment of a protected area under the NIPAS Act is a cumbersome process. In the original NIPAS IRR, there were 13 distinct steps, now reduced to 10:

- preparation and compilation of maps with technical descriptions of boundaries;
- public notification to appraise local residents and indigenous peoples of the proposal to establish the protected area;
- protected area suitability assessment to determine if the site meets the priorities set out in the NIPAS Act;
- public consultation to present the results of the suitability assessment;
- preparation of an initial protected area plan;

- public hearing to gather the views of stakeholders regarding the overall proposal to establish the protected area and to address stakeholder concerns;
- regional review and recommendation in the administrative region where the protected area is located;
- national review and recommendation at the DENR central level;
- presidential proclamation;
- congressional action.

Each step is a costly process. Considering the number of protected areas initially covered and newly proposed, the DENR faces difficulties in completing the required procedures for all sites. In the case of critical sites, donor funding has allowed the completion of the required steps. In sites without donor funding, progress through the steps has generally been slow. There are no studies on the costs of establishing protected areas but it is clear that the current DENR budget mostly goes towards the initial steps to establish protected areas and not for actual management interventions in established protected areas.

67

There is still some debate about when exactly a protected area is established: when the NIPAS Act took effect (automatically for initial components); upon Presidential Proclamation to confirm coverage of an initial component or to designate an additional site; or upon enactment of a site-specific law. This is not merely a rhetorical or academic question. For example, the law provides penalties for violations inside protected areas. If these areas are established only after congressional action, the penalties will not apply to an area still under process.

68

Congress has at least once created a protected area under the NIPAS Act without the DENR knowing about it until late in the process. The Sagay Marine Reserve was established by law¹⁹ at the urging of the local congressman, without going through the usual pre-screening process outlined in the NIPAS Act. The site-specific law is, however, substantially consistent with the NIPAS Act.

69

10 Requirement for management plans

Even before a site is formally established as a protected area by Congressional Act, the DENR can set up a management system for the area, especially if the area is considered an “initial component.” It is required to develop a management framework for the entire national integrated protected areas system, as well as guidelines for the management of individual sites:

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Each component area of the System shall be planned and administered to further protect and enhance the permanent preservation of its natural conditions. A management manual shall be formulated and developed which must contain the following: an individual management plan prepared by three (3) experts, basic background information, field inventory of the resources within the area, an assessment of assets and limitations, regional interrelationships, particular objectives for managing the area, appropriate division of the area into management zones, a review of the boundaries of the area, and a design of the management programs (NIPAS Act, section 9).

The Revised IRR provides further details (rule 10):

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- The planning process is highly participatory, using methodologies such as stakeholder analysis, perception surveys, participatory resources assessments and community mapping, among others, to generate the optimum community input for the development of the management plan and to promote ownership of the plan by local communities.

¹⁹ Sagay Marine Reserve Law 2001, Republic Act No. 9106, An Act for the Establishment and Management of Sagay Marine Reserve, Defining its Scope Coverage, and for Other Purposes, 14 April 2001.

- The management plan should have expert input: “The Regional Executive Director shall create and convene a Regional team composed of persons knowledgeable in socio-economic planning, land-sea use planning, ecology and protected area management and/or related fields of discipline that will provide technical assistance in the preparation of the protected area management plan and information management system” (rule 10.2.3).
- Management zones have been reduced to two: strict protection zones and multiple use zones, consistent with the designated category.
 - A strict protection zone consists of “natural areas with high biodiversity value, closed to all human activities except for scientific studies and/or ceremonial or religious use by the ICCs/IPs. It may include habitats of threatened species, or degraded areas that have been designated for restoration and subsequent protection, even if these areas are still in various stages of regeneration” (rule 10.3.1).
 - A multiple use zone consists of “areas where the following may be allowed consistent with the protected area management plan: settlement, traditional and/or sustainable land-use, including agriculture, agro-forestry, and other income generating or livelihood activities. It shall also include, among others, areas of high recreational tourism, educational or environmental awareness values and areas consisting of existing installations of national significance/interest such as development of renewable energy sources, telecommunication facilities and electric power lines” (rule 10.3.2).
- Management zones are demarcated using, as far as possible, “natural markers such as rivers, creeks, ridges and the like. The geographical points of the natural markers shall be verified and plotted using the Global Positioning System technology” (rule 10.4). Stakeholders including “tenured migrants, local government units, NGOs, POs [people’s organizations], local communities, ICCs/IPs and other government agencies” are part of the participatory decision-making process for the establishment and planning of management zones (rule 10.5). Management objectives and strategies are developed for each zone, and “specific approaches and technologies shall be identified and implemented. Provided, that the zoning of a protected area and management prescriptions within those zones shall not restrict the rights of ICCs/IPs to pursue traditional and sustainable means of livelihood within their ancestral domain/land” (rule 10.5).
- A management plan must have the following minimum contents (rule 10.6):
 - description of the protected area,
 - situational analysis including key management issues and concerns,
 - goals and objectives,
 - management strategies and interventions,
 - description of management zones and major activities allowed or prohibited within the area,
 - five-year work and financial plan for the implementation of the management plan, and
 - monitoring and evaluation.
- “The annual work and financial plan of the protected area shall be prepared upon the direction of the PAMB based on the Management Plan following the annual national government budgetary cycle. Provided, that the RED [Regional Executive Director] shall facilitate the preparation of plans and programs in the management of the particular protected area” (rule 10.7).
- “The PAMB shall ensure that the Management Plan is integrated into the comprehensive land-sea use plans of the LGUs including the complementation of activities. The PAMB shall likewise ensure the harmonization of the Management Plan and the ancestral domain plans of ICCs/IPs” (rule 10.8).

- The management plan is to be prepared and approved by the PAMB “within three (3) years after the issuance of Presidential Proclamation establishing the protected area” (rule 10.6).
- After approval, the PAMB endorses the plan to the Secretary through the PAWB. The management plan is “deemed accepted unless formal written disapproval from the Secretary is received by the PAMB on the ground of inconsistency with existing laws and related rules and regulations” (rule 10.9).
- The PAMB is required to review and update the management plan at least every five years. Any modification or revision of the management plan must follow the requirements set out in the Revised IRR (rule 10.10).

The PAWB prescribes the form and content of the management plan but there has been some debate concerning this issue among management boards in various sites. The general observation is that the management plan is incomprehensible to the general public. Another observation is that many management plans contain ideal interventions that may not be implemented because of the lack of funding and technical capacity.

72

In one site, Taal Lake, the management board prepared a simple, modular plan that was easily understood by lay persons, especially the various stakeholder groups that initiate conservation programmes at the Lake. According to local stakeholders, the reaction from the PAWB was that the management plan for Taal did not meet the standards set. Local leaders in Taal countered that the plan may have been simple but that they were committed to implement what they could, rather than developing a complex plan that nobody but expert advisers could understand (and therefore a plan that local stakeholders could not implement).

73

The Secretary of the DENR has the authority to review all plans and proposals for the management of protected areas. In practice, however, the Secretary has no time to review every plan, even with the help of the PAWB. This poses a problem for local managers because the approval process takes years, by which time the management plan is already obsolete. The Revised IRR corrects this problem by providing that the plan is deemed approved unless expressly disapproved in writing by the DENR Secretary, and only on the grounds of inconsistency with the law.

74

The Revised IRR provides for regular monitoring and evaluation of management plan implementation:

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- The management manual includes monitoring and evaluation;
- The management plan is reviewed and updated on a regular basis, at least every five years (previously every three years in the original IRR);
- The PAMB monitors and evaluates the performance of protected area personnel, NGOs and communities in providing for biodiversity conservation and socio-cultural and economic development.

In at least one site, the Sagay Marine Reserve, the simplified approval procedure in the Revised IRR does not apply. The Sagay Marine Reserve Law of 2001 that created the protected area requires approval by the Secretary and revision of the plan every three years. The Revised IRR cannot supersede the site-specific Congressional Act.

76

The DENR is required to submit to the President and Congress an annual report on the status of protected areas. In all the years of NIPAS Act implementation, Congress has not acted to revise the Act to correct the many fundamental and implementation challenges.

77

11 Buffer zones

78 Under the NIPAS Act (section 8):

For each protected area, there shall be established peripheral buffer zones when necessary, in the same manner as Congress establishes the protected area, to protect the same from activities that will directly and indirectly harm it. Such buffer zones shall be included in the individual protected area management plan that shall be prepared for each protected area. The DENR shall exercise its authority over protected areas as provided in this Act on such area designated as buffer zones.

79 Buffer zones are a tricky issue under the NIPAS Act. In at least two instances where a conflict arose between those proposing the establishment of a protected area and a government corporation involved in geothermal power development, the government pushed for the exclusion of the geothermal area from the protected area boundaries, even if such an area was in the core zone of the protected area and not in the periphery. In the Mt Apo Protected Area Act of 2003 and the Mt Kanlaon Natural Park Act of 2001,²⁰ the geothermal blocks were excised from the original proposal for the boundaries of the protected area. These geothermal development areas were designated as buffer zones in the law, contrary to conventional wisdom concerning the purpose of a buffer zone.

80 The other uncertain issue in the past has been whether the PAMB has jurisdiction over the buffer zone, which is technically not part of the delineated portion of a protected area. Even if the PAMB could prepare a management plan that included the buffer zone, it was unclear whether the plan could be enforced in the buffer zone. This matter has been clarified in the Revised IRR, which states that the “PAMB shall exercise management authority over the buffer zones on behalf of the DENR. It shall initiate and ensure participatory management in the buffer zone together with the LGUs, other government agencies, NGOs, POs and other concerned stakeholders” (rule 9.3) The management strategy for the buffer zone is to be an integral part of the overall management of a protected area.

81 Under the Revised IRR, buffer zones are to be established whenever the ecological integrity of a protected area, based on a suitability assessment and socio-economic study, is:

threatened by circumstances such as, but not limited to, the presence of actual and potential sources of pollution; invasive species; or encroachment of adjacent communities. Other considerations may include, among others, the presence of natural and semi-natural corridors for faunal movements and/or interchange of species (rule 9.1).

82 The identification of a buffer zone may follow any of three criteria:

- Ecological criteria: the capability of the site to serve as an additional layer of protection by providing the extension of habitats or corridors for wildlife and other ecological services.
- Economic criteria: the capacity of the site to provide gainful employment and sustainable alternative sources of livelihood for local communities, to deflect pressure away from the protected area.
- Social criteria: the capacity of the site to provide a social fence against the threat of encroachment by communities residing near or adjacent to the protected area. The establishment of a buffer zone as a social fence entails interventions such as social preparation, community organizing and empowerment to ensure effectiveness, without prejudice to the exercise of police powers if necessary.

83 While no specific legal or administrative means exist to make conservation agreements with private landowners or communities with property adjacent to a protected area in order to support the

²⁰ Republic Act No. 9154, An Act Establishing Mt. Kanlaon Located in the Cities of Bago, La Carlota, and San Carlos and in the Municipalities of La Castellana and Murcia, all in the Province of Negros Occidental, and in the City of Canlaon and Municipality of Vallehermoso, both in the Province of Negros Oriental, as a Protected Area and a Peripheral Area as Buffer Zone Providing for its Management, and for Other Purposes, 11 August 2001.

conservation purposes of the protected area, general property laws allow the government to regulate the use of land, subject to the general principles on eminent domain.²¹ The original implementing rules were silent on this point. The Revised IRR makes it clear that police powers and eminent domain may be used to “make each protected area whole” or to ensure the “contiguity” of adjacent protected areas.

12 Connectivity corridors

Although there is no specific recognition for connectivity corridors to link protected areas, under the NIPAS Act the Secretary of the DENR is empowered “to adopt and enforce a land-use scheme and zoning plan in adjoining areas for the preservation and control of activities that may threaten the ecological balance in the protected areas” (section 10). This can be read to include all areas connecting adjacent protected areas. In the Revised IRR, there is now an explicit policy that encourages “contiguity,” referring to biodiversity corridors.

84

The corridor approach focuses on linking major sites across wide geographic areas in order to sustain large-scale biological processes and ensure the maintenance of a high level of biodiversity in areas of intact forest habitat and in marine transition zones. At least 19 terrestrial and 9 marine biodiversity corridors have been identified (Conservation International et al., 2006). One such terrestrial biodiversity corridor is the Eastern Mindanao Biodiversity Corridor, composed of nine key biodiversity areas, some of which are NIPAS Act protected areas (see Box 2).

85

13 Activities within protected areas

According to the NIPAS Act, the Secretary of the DENR is empowered to “prescribe permissible or prohibited human activities in each category in the System” (section 10). General prohibited activities are enumerated in the law but each protected area category has additional specific restrictions (section 20). From the definitions of the various protected area categories provided in section 4, the following general guide on permissible activities can be deduced:

86

- Strict nature reserve: for scientific study, environmental monitoring and education, and the maintenance of genetic resources in a dynamic and evolutionary state; all other activities not allowed.
- Natural park: extractive resource uses are not allowed; scientific, educational and recreational use is allowed, consistent with maintaining outstanding natural and scenic areas of national or international significance.
- Natural monument: recreational and commercial activities may be allowed, except for criminal acts prohibited in all protected areas.
- Wildlife sanctuary: emphasizes habitat and species protection, which “may require specific human manipulation for the perpetuation” of protected wildlife; other compatible activities allowed.
- Protected landscape/seascape: emphasizes providing opportunities for public enjoyment through recreation and tourism, in keeping with the normal lifestyle and economic activity of these areas.
- Natural biotic area: the way of life of communities living in harmony with the environment is allowed, and allowed to evolve towards modernization at their own pace.

²¹ The exercise of eminent domain allows the government to expropriate private property for public or civic use or, in some cases, for economic development, within the existing system of the law. The most common uses are for public utilities, highways and railroads.

Box 2: Eastern Mindanao Biodiversity Corridor

The Eastern Mindanao Biodiversity Corridor (EMBC) is composed of nine key biodiversity areas (KBAs) and a mosaic of landscapes amid them, called 'biodiversity corridors', that span two regional administrative regions (Region XI and the Caraga region). There are protected areas within the EMBC that provide habitat and dispersal routes for wildlife, maintain ecological processes, and provide sources of livelihood to local residents. These KBAs cover about 909,000 hectares of wildlife habitat for 69 globally endangered species, and provide ecological services to 4 cities, 88 municipalities and 8 provinces (see Figure C).

A 10-year EMBC Conservation Framework was developed through multi-stakeholder participatory workshops conducted from 2002 to 2007. Its goal is to minimize and mitigate the impact of human development on biodiversity. One of the strategies and actions for each of the nine KBAs focuses on creating and expanding a network of protected areas. The EMBC is managed by a Corridor Council, two KBA Councils (one each for Region XI and Caraga) and a KBA Cluster that takes the lead in implementing KBA-specific conservation goals.

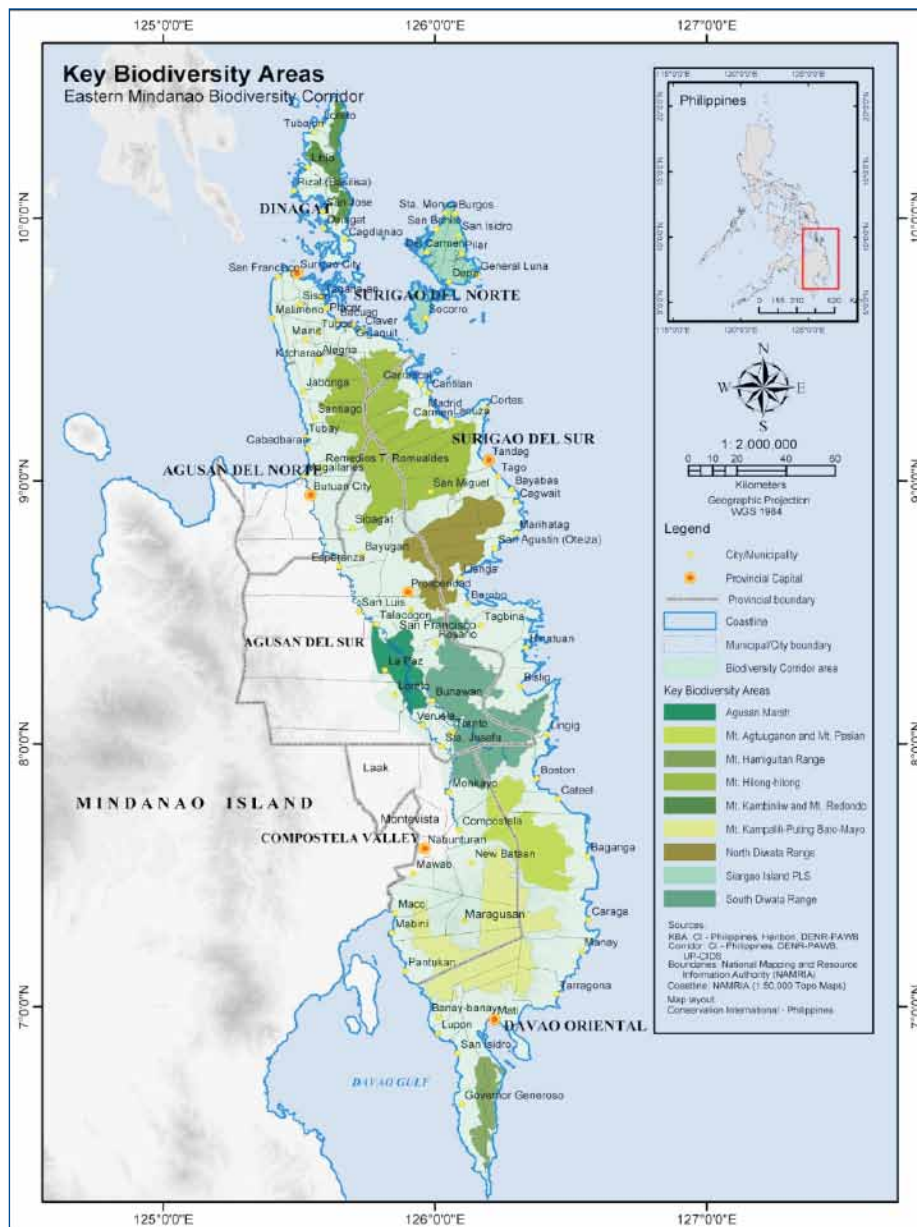


Figure C

Source: Conservation International Foundation (CI) www.conservation.org

Except for land and resource uses by indigenous peoples, which require a different set of permitting rules, all allowable activities in protected areas must be subject to regulation and permission by the DENR. Special uses require a 'special use agreement in protected areas'.²² Special uses include: ecotourism facilities, camp sites, communication facilities, transmission lines, irrigation canals and waterways, rights-of-way, aquaculture, scientific monitoring stations, agroforestry, and forest plantations. The allowable special uses depend on the category of the protected area and the restrictions that apply to zones within the protected area.

87

Certain acts are prohibited and punished in all protected areas (NIPAS Act, section 20):

88

Except as may be allowed by the nature of their categories and pursuant to rules and regulations governing the same, the following acts are prohibited within protected areas:

- (a) Hunting, destroying, disturbing, or mere possession of any plants or animals or products derived therefrom without a permit from the Management Board;
- (b) Dumping of any waste products detrimental to the protected area, or to the plants and animals or inhabitants therein;
- (c) Use of any motorized equipment without a permit from the Management Board;
- (d) Mutilating, defacing or destroying objects of natural beauty, or objects of interest to cultural communities (of scenic value);
- (e) Damaging and leaving roads and trails in a damaged condition;
- (f) Squatting, mineral locating, or otherwise occupying any land;
- (g) Constructing or maintaining any kind of structure fence or enclosures, conducting any business enterprise without a permit;
- (h) Leaving in exposed or unsanitary conditions refuse or debris, or depositing in ground or in bodies of water; and
- (i) Altering, removing destroying or defacing boundary marks or signs.

In at least one instance, DENR enforcers filed a case under the NIPAS Act against a violator. The violator put up a defence that the protected area did not yet exist and that the NIPAS Act did not therefore apply. There is no definitive court ruling on this matter to date. The DENR had, however, learned its lesson and now files cases under other laws that could apply (for example, the Wildlife Resources Conservation and Protection Act of 2001,²³ the Revised Forestry Code²⁴ and the Philippine Clean Water Act of 2004²⁵). Penalties are generally low under the NIPAS Act. Since most prohibited activities punished under the NIPAS Act are also punished under other related laws, this is another reason why enforcers prefer to use other related laws in prosecuting violations in protected areas.

89

14 Environmental impact assessment

The NIPAS Act states:

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Proposals for activities which are outside the scope of the management plan for protected areas shall be subject to an environmental impact assessment as required by law before they are adopted, and the results thereof shall be taken into consideration in the decision-making process. No actual implementation of such activities shall be allowed without the required Environmental Compliance Certificate [...] In instances where such activities are allowed to be undertaken, the proponent shall plan and carry them out in such manner as to minimize any adverse effects and take preventive and remedial action when appropriate. The proponent shall be liable for any damage due to lack of caution or indiscretion (section 12).

22 DENR Administrative Order No. 2007-17, Rules and Regulations Governing Special Uses Within Protected Areas, 25 July 2007.

23 Republic Act No. 9147, An Act Providing for the Conservation and Protection of Wildlife Resources and Their Habitats, Appropriating Funds Therefor and for Other Purposes, 30 July 2001.

24 Presidential Decree No. 705, Revising Presidential Decree No. 389, Otherwise Known as the Forestry Reform Code of the Philippines, 19 May 1975.

25 Republic Act No. 9275, An Act Providing for a Comprehensive Water Quality Management and for Other Purposes, 22 March 2004.

Rule 13 of the Revised IRR implements this section of the NIPAS Act.

- 91 It is not explicitly stated that the EIA requirement will apply as well to activities outside a protected area in cases where such activities may be taking place not immediately adjacent to the protected area boundary but in an upstream watershed, airshed or other location from where an adverse impact could occur on the protected area. Such activities are encompassed by the general power of the Secretary of the DENR under the NIPAS Act to “adopt and enforce a land-use scheme and zoning plan in adjoining areas for the preservation and control of activities that may threaten the ecological balance in the protected areas” (section 10).

15 Enforcement

- 92 The Secretary of the DENR is responsible for enforcing the NIPAS Act but may deputize field officers and delegate powers to expedite implementation and enforcement (section 10). In specific sites, the NIPAS IRR (section 38) provides that the protected area superintendent is the chief operating DENR officer. The superintendent is supported by a number of personnel including protected area wardens and rangers.
- 93 The superintendent is appointed by the DENR Secretary. There are no qualifications stated in the regulations. One specific protected area law, the Mt Kanlaon Natural Park Act of 2001,²⁶ requires the superintendent to possess the qualifications required for appointment to the position of provincial environment and natural resources officer (PENRO) in the DENR, which is a middle management position. Following this precedent, the Revised IRR provides that the community environment and natural resources officer (CENRO) or the PENRO is to be designated as the superintendent, depending on the size and location of the protected area.
- 94 The PENRO and the CENRO are the DENR officials at the field level (‘province’ and ‘community’ referring to a cluster of municipalities). They hold inherent powers delegated by the DENR Secretary, such as to issue permits and collect fees. Having the PENRO or the CENRO as concurrent superintendent is advantageous because it avoids the problem, experienced in the past, where the superintendent could not make any decisions and was required to obtain CENRO or PENRO approval for matters such as permits. The disadvantage is that PENROs and CENROs are overworked as it is, and the duties of a superintendent are in themselves a full-time job.
- 95 Under the Revised IRR, the duties of the superintendent include enforcing “rules and regulations to protect the area from trespassing, damage, vandalism and illegal occupancy. In cases of seizure, he/she shall assume custody of the apprehended items” (rule 11.7.1).
- 96 In an early study on the capacity of protected area superintendents (Rambaldi and Camat, 2001), it was found that there was a rapid turnover of superintendents in an area—up to six changes in a 63-month period—contributing to the lack of continuity in activities. The position of a superintendent is not part of the approved list of positions in the DENR. Rather, these are mostly designated positions and can easily change with a change in DENR leadership. The choice of superintendent is also difficult since there are few individuals who possess the necessary experience in managing protected areas. Mt Apo, for example, had six turnovers since its establishment. As of 2008, only 159 sites have superintendents and there are only 330 staff for all protected areas.

26 Republic Act No. 9154, An Act Establishing Mt Kanlaon Located in the Cities of Bago, La Carlota, and San Carlos and in the Municipalities of La Castellana and Murcia, all in the Province of Negros Occidental, and in the City of Canlaon and Municipality of Vallehermoso, both in the Province of Negros Oriental, as a Protected Area and a Peripheral Area as Buffer Zone Providing for its Management, and for Other Purposes, 11 August 2001.

Enforcement capacity is weak, mainly because of the lack of manpower and resources for effective protection. Mt Apo, for example, has just 10 staff, including 6 rangers, to manage 64,000 hectares. In general, illegal harvesting and land conversion are rampant because of the tremendous potential to earn from these activities and the low probability of being caught and punished. In the case of the Mt Data National Park, the entire area has practically been converted into high-value vegetable farms. These farms did not sprout overnight but slowly developed over decades. The DENR has not been able to enforce the law because it could not offer an alternative livelihood to the farmers who would have been displaced. The earning potential of vegetable farms is at least an order of magnitude higher than that of any agroforestry or other protected area-appropriate livelihoods. In Mt Data, it is not only the income of farmers that is at stake but the economy of the entire region, which is largely dependent on vegetable farms. Government agricultural policies are partly to blame for the rapid encroachment, as these policies encourage vegetable farming through subsidized farm inputs and infrastructure projects that improve access to areas that are part of a protected area. The DENR was at a loss and recently decided to recommend the disestablishment of the Mt Data National Park and its removal from the list of protected areas.²⁷

Box 3: Save the Northern Sierra Madre Natural Park

A Provincial Task Force on Forest Protection, headed by the Isabela provincial government with members from the DENR, military, police and civil society organizations such as *Tanggol Kalikasan* (an environmental rights NGO), was created in 2004 to address illegal logging in the Northern Sierra Madre Natural Park. Lending support to the Task Force are representatives of church-based groups, former *atcheros* (chainsaw operators) and *bugaderos* (log transporters), and the Philippine Tropical Conservation Foundation Incorporated. Isabela Governor Padaca was deputized by DENR Secretary Atienza as special environment and natural resources officer.

From July to December 2008, the Task Force was able to confiscate about 513,759 board feet of illegally cut logs (of an estimated total of 1 million board feet) with an estimated value of 7.9 million pesos. The effort of the Task Force was described by *Tanggol Kalikasan* Executive Director Asis Perez as a “milestone in environmental law enforcement [...] this level of enforcement has never been done in this area, or maybe in the entire Philippines for the last 25 years.” The relative success of the Task Force is attributed to its multisectoral approach in addressing illegal logging, as well as political will and leadership. What remains a bigger challenge is to address the root problems of illegal logging, institutionalize the multisectoral approach to protection and sustain the gains of the Task Force.

Source: DENR, 2009.

In the Northern Sierra Madre Natural Park in Isabela Province, a protected area declared in 2001 under the Northern Sierra Madre Natural Park Act, the integrity of the park is threatened by illegal logging. Only 22 forest rangers are deployed in the 359,496 hectare park and each forest ranger is responsible for at least 16,000 hectares. Volunteers, mostly *Agtas* (indigenous peoples) and town residents, assist forest rangers but these efforts are inadequate when compared to the resources and machinery used by illegal loggers (see Box 3).

16 Penalties and incentives

The prohibited acts enumerated in section 20 of the NIPAS Act are punishable by a fine or imprisonment. Under section 21:

Whoever violates this Act or any rules and regulations issued by the Department pursuant to this Act or whoever is found guilty by a competent court of justice of any of the offenses in the preceding section shall be fined in the amount of not less than Five thousand pesos (P5,000) nor more than Five hundred thousand

27 Interview with DENR-Cordillera Administrative Region officials, 20 April 2009, Baguio City.

pesos (P500,000), exclusive of the value of the thing damaged or imprisonment for not less than one (1) year but not more than six (6) years, or both, as determined by the court: *Provided*, That, if the area requires rehabilitation or restoration as determined by the court, the offender shall also be required to restore or compensate for the restoration to the damage: *Provided, further*, That the court shall order the eviction of the offender from the land and the forfeiture in favor of the Government of all minerals, timber or any species collected or removed including all equipment, devices and firearms used in connection therewith, and any construction or improvement made thereon by the offender. If the offender is an association or corporation, the president or manager shall be directly responsible for the act of his employees and laborers: *Provided, finally*, That the DENR may impose administrative fines and penalties consistent with this Act.

- 100 The penalty structures are fixed by law and cannot be modified except by an amendment approved by Congress. However, the courts have discretion to apply the penalty within the scale provided, depending on the seriousness of the offence. Forfeiture and restoration costs may also be considered penalties that add to the deterrent effect, over and above fines and imprisonment.
- 101 Under the NIPAS Act (section 21), the DENR may impose administrative fines and penalties consistent with the Act. This is a curious provision that confuses rather than complements the criminal penalties because it is not clear what acts are subject to administrative fines.
- 102 There are no incentives provisions under the NIPAS Act but complementary programmes provide incentives under other laws. For instance, pollution control activities may be entitled to incentives under the Philippine Clean Air Act of 1999²⁸ or the Clean Water Act of 2004. Incentives for communities engaged in conservation activities may be tied to tenure instruments, such as community-based forest management agreements, which entitle holders to use parts of the land for agroforestry and other livelihood activities compatible with the conservation goals of the area.

17 Finance

- 103 The NIPAS Act creates a trust fund known as the Integrated Protected Areas Fund (IPAF) to finance projects of the integrated protected areas system. Protected areas may “solicit and receive donations, endowments, and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the Government or any political subdivision or instrumentality thereof” (section 16).
- 104 All income generated from the operation of the system, and from the management of wild flora and fauna, also accrues to the Fund and may be utilized directly by the DENR. Such income may be derived from:
- (a) Taxes from the permitted sale and export of flora and fauna and other resources from protected areas;
 - (b) Proceeds from lease of multiple-use areas;
 - (c) Contributions from industries and facilities directly benefiting from the protected area; and
 - (d) Such other fees and incomes derived from the operation of the protected area (section 16).
- 105 At least 75 per cent of the revenues generated by a protected area accrues to a sub-fund and is retained for the development and maintenance of that area, while 25 per cent is contributed to the national fund to finance other protected areas that do not generate sufficient revenues for their operations (Revised IRR, rule 5.19). The sub-fund is managed by the PAMB while the central IPAF is administered by the DENR through the PAWB. Activities financed by these funds must conform to the initial protected area

28 Republic Act No. 8749, An Act Providing for a Comprehensive Air Pollution Control Policy and for Other Purposes, 23 June 1999.

plan or management plan, and may include livelihood activities of tenured migrant communities and indigenous peoples, or other community development activities.

Only 145 protected areas have established a sub-fund, and only about 93 protected areas actually generate income. From 1996 to 2008, total IPAF collection (cumulative) amounted to nearly 139.5 million pesos (2.8 million US dollars). Close to 95 per cent of area sub-funds have been disbursed but less than 2 per cent of the national fund has been used (DENR, 2009).

106

The collection record of the IPAF is inconsistent with the size and potential of each site. Only 15 protected areas have generated an income of more than 1 million pesos as of December 2008 (see Table 4). The largest collection is from the Ninoy Aquino Park and Wildlife Nature Center in the heart of Metro Manila, a regular recreational destination for weary city dwellers, followed by the Apo Island Protected Landscape and Seascape in Negros Oriental, and the Hinulugang Taktak National Park, also located in Metro Manila.

107

Table 4: List of protected areas generating more than 1 million pesos as of December 2008

Rank	Protected area	Income generated (pesos)
1	Ninoy Aquino Park and Wildlife Center	66,588,063.35
2	Apo Island Protected Landscape and Seascape	21,693,274.43
3	Hinulugang Taktak National Park	11,153,969.00
4	Apo Reef Marine Reserve	4,585,440.00
5	Manleluag Hot Spring National Park	3,964,077.67
6	Biak-Na-Bato National Park	3,707,805.00
7	Mt Pulag National Park	3,223,389.84
8	Roosevelt National Park	2,110,793.43
9	St Paul Subterranean River National Park	2,085,503.17
10	Mt Kitanglad Range Natural Park	1,740,131.50
11	Northern Sierra Madre Natural Park	1,563,219.50
12	Batanes Protected Landscape and Seascape	1,404,296.60
13	El Nido-Taytay Managed Resource Area	1,371,078.95
14	Bangan Hill National Park	1,253,500.00
15	Bataan National Park	1,235,932.01

Source: DENR, 2009.

In an early study of protected areas by the EU-funded National Integrated Protected Areas Programme, researchers found that protected areas located near population centres could easily be supported by the local population through contributions, taxes or fees. The per capita contribution to protected area management in urban areas is higher than in remote protected areas (Rambaldi and Bacudo, 2000). This would be true for sites such as Mt Apo, which is located close to a major city, Davao. The foot of Mt Apo is highly developed as vegetable and fruit farms (in fact, the farms have encroached on the protected area). These farming operations can easily be tapped to help support management of the protected area. Davao is also a major tourist destination and Mt Apo is a favourite among mountaineers. However, park fees are negligible.

108

- 109 One factor that has contributed to the low collection of fees in protected areas is the difficulty in accessing the IPAF, particularly the lengthy bureaucratic process for fund release which sometimes takes about six months. Current practice requires that fees are remitted to the national treasury before the share of each protected area is sent back. Some protected areas have resorted to creative ways to circumvent the IPAF, such as requesting donors for in-kind contributions instead of monetary donations. In this manner, they are able to use resources when needed.

Part II – Other important considerations

18 Other protected areas legal instruments

18.1 Wildlife

In 2001, Congress passed the Wildlife Resources Conservation and Protection Act, finally replacing the obsolete laws that governed the gathering and use of wild flora and fauna. The Wildlife Act was also intended to be in harmony with the Convention on International Trade in Endangered Species of Wild Fauna and Flora, establishing a process for obtaining and approving permits for domestic and international collection and transport of wildlife, and setting penalties. The law complements the NIPAS Act in establishing critical habitats that may not qualify as protected areas because of their small size or their location in private lands. The Wildlife Act lays down basic principles of ownership, use, protection and benefit for wildlife resources, consistent with the Convention on Biological Diversity. 110

Recent DENR regulations on wildlife management include guidelines for the establishment of critical habitats,²⁹ for regulating floriculture,³⁰ and listing threatened species.³¹ The DENR also conducted a streamlining of procedures for permits and other approvals related to wildlife.³² The guidelines on bioprospecting were revised to simplify procedures for collecting samples of genetic resources and ensure the equitable sharing of benefits.³³ 111

Finally, the Philippines developed and adopted the National Biosafety Framework (2004) which seeks to streamline regulations and the functions of several agencies with respect to the domestic introduction of biological products that may pose a danger to human health and the environment. The DENR has for many years been in the process of developing a policy for alien invasive species. The Wildlife Act prohibits the introduction of exotic species unless proper studies are carried out to ensure that the introduction will have no adverse impact on local habitats and wildlife. To date, there are no implementing rules for this provision. 112

18.2 Fisheries and coastal resources

Under the Fisheries Code, primary responsibility for protecting and managing fisheries and coastal resources has been devolved to local governments. Aquatic resources not traditionally harvested for consumption are considered wildlife, and are governed by national laws and regulations on wildlife management. 113

29 Department Memorandum Circular No. 2007-02, Guidelines on the Establishment and Management of Critical Habitat, 28 February 2007.

30 DENR Administrative Order No. 2008-08, Guidelines on Self-regulation of the Floriculture Industry for the Sustainable Management of Philippine Wild Flora, 21 May 2008.

31 DENR Administrative Order No. 2004-15, Establishing the List of Terrestrial Threatened Species and Their Categories, and the List of Other Wildlife Species Pursuant to Republic Act No. 9147, Otherwise Known as the Wildlife Resources Conservation and Protection Act of 2001, 22 May 2004; DENR Administrative Order No. 2007-01, Establishing the National List of Threatened Philippine Plants and Their Categories, and the List of Other Wildlife Species, 22 January 2007; and DENR Administrative Order No. 2007-24, Amending DAO 2007-01, “Establishing the National List of Threatened Philippine Plants and Their Categories, and the List of Other Wildlife Species”, 31 July 2007.

32 DENR Administrative Order No. 2004-55, DENR Streamlining/Procedural Guidelines Pursuant to the Joint DENR-DA-PCSD Implementing Rules and Regulations of Republic Act No. 9147 Otherwise Known as “Wildlife Resources Conservation and protection Act”, 31 August 2004.

33 Joint DENR-DA-PCSD-NCIP Administrative Order No. 2005-01, Guidelines for Bioprospecting Activities in the Philippines, 14 January 2005.

114 The management of coastal resources is best described as fragmented, involving overlapping jurisdictions of many agencies and inconsistent regulations that reflect the classic struggle between economic development and environmental protection. In 2006, the President issued an Executive Order which sought to rationalize the management of coastal areas through the adoption of an integrated coastal management approach.³⁴ As provided in this Executive Order, various national agencies, led by the DENR, are to prepare a National Integrated Coastal Management Programme that includes principles, strategies and action plans that are to be defined after balancing national development priorities with local concerns, on the one hand, and economic growth with resource conservation, on the other. The Executive Order mandates the setting of national targets and the creation of a national coordinating mechanism to oversee integrated coastal management implementation at the national and local levels. The DENR is currently in the process of preparing the National Programme and establishing mechanisms to implement the Executive Order.

18.3 Forestry

115 The Revised Forestry Code, which provides the legal basis for forestry policy, dates back to 1975, when the Philippines was a major exporter of timber products. Currently, the law is primarily used against illegal loggers. Policies on the utilization of forest resources have been updated through administrative issuances.

116 In 1995, the President promulgated an Executive Order which adopted community-based forest management as the national strategy for the sustainable development of the country's forest lands.³⁵ Community forestry, in many variations, has been the anchor of the DENR's forest management programme since the 1980s, after decades of commercial harvesting had cleared most of the country's forest cover.

117 Current regulations on forest management include a revitalized upland agroforestry programme³⁶ that sought to put 4 million hectares of unproductive public lands to sustainable use as plantations or agroforestry projects. Most current programmes on forestry are under donor-assisted projects, discussed elsewhere in this report. The DENR has recently created the Task Force Kalikasan³⁷ to boost enforcement efforts.

118 The overlap of forest lands and the ancestral domains of indigenous peoples has highlighted the issue of the legality of traditional forest utilization vis-à-vis the general prohibition on the use of forest resources without permits. Traditional use refers to customary utilization by indigenous or local communities that is not commercial in character. Such use is usually for subsistence purposes and intended to support the daily food and shelter requirements of communities. In recognition of this problem, which has resulted in the conviction and punishment of traditional forest users, in 2008 the DENR and the NCIP issued a joint order³⁸ that takes into account the sustainable customary forest use practices

34 Executive Order No. 533, Adopting Integrated Coastal Management as a National Strategy to Ensure the Sustainable Development of the Country's Coastal and Marine Environment and Resources and Establishing Supporting Mechanisms for its Implementation, 6 June 2006.

35 Executive Order No. 263, Adopting Community-Based Forest Management as the National Strategy to Ensure the Sustainable Development of the Country's Forestlands Resources and Providing Mechanisms for its Implementation, 19 July 1995.

36 DENR Administrative Order No. 2005-25, Guidelines in the Implementation of Upland Agroforestry Program, 17 November 2005.

37 DENR Administrative Order No. 2008-01, Creation of Task Force Kalikasan, 6 February 2008.

38 Joint DENR-NCIP Administrative Order No. 2008-01, Guidelines and Procedures for the Recognition, Documentation, Registration and Confirmation of all Sustainable Traditional and Indigenous Forest Resources Management Systems and Practices (STIFRMSP) of Indigenous Cultural Communities or Indigenous Peoples in Ancestral Domain/Land, 8 July 2008.

of indigenous peoples. Traditional use does not justify the killing of endangered species, as was the case recently in Mt Kitanglad, where a tribal farmer hunted and ate a Philippine eagle (Philippine Daily Inquirer, 2008). Granted that the tribal farmer was following hunting custom but would he have known that the eagle was a protected species? This is not known from the news report but this points to a lack of coordination in the implementation of policies affecting protected areas, wildlife and the rights of indigenous peoples.

18.4 Caves and cave resources

The National Caves and Cave Resources Management and Protection Act of 2001³⁹ declared it the policy of the state to conserve, protect and manage caves and cave resources as part of the natural wealth. Section 5 of the Act mandates the DENR as the lead agency to implement the provisions of the Act in coordination with the Department of Tourism, the National Museum, the National Historical Institute and the concerned LGUs for specific caves, except in the province of Palawan where the Palawan Council for Sustainable Development is the lead implementing agency pursuant to the Strategic Environmental Plan for Palawan Act of 1992.⁴⁰ Caves located within a protected area are subject to the provisions of the NIPAS Act.

119

19 Other policy instruments

19.1 Marine protected areas

'Protected area' is a term used exclusively under the NIPAS Act to refer to areas that are specially designated as such following the procedures in that law. A protected area can include coastal or marine areas, usually under the category of protected seascape. Marine conservation groups have used the term 'marine protected area' to refer to coastal or marine areas under conservation or protection regimes, whether by communities or under local ordinances or national laws (mainly the NIPAS Act and the Fisheries Code). To avoid confusion, policy papers and instruments that discuss the NIPAS Act either do not use the term 'marine protected area' or clarify that this strictly refers to marine protected areas under the Act. The Fisheries Code uses the terms 'fish reserve', 'refuge' and 'sanctuary'.

120

The distinction is not merely one of definitions or the use of terms. Both the Fisheries Code and the Local Government Code define the powers and jurisdiction of local governments in 'municipal waters', which include all waters within a municipality that are not included in national parks or protected areas under the NIPAS Act. Thus, when a river, lake, coastal or marine area is declared part of a protected area, the local government loses exclusive jurisdiction and management responsibility is transferred to the PAMB under the leadership of the DENR. In practice, this poses a serious problem because of the inherent differences in the management powers of local and national agencies, a single agency and a multi-stakeholder body.

121

In general, LGUs have a better record of managing and protecting marine resources. Since LGUs are autonomous, management actions and funding are decided locally and quickly. Under the NIPAS Act, management decisions are subject to the bureaucratic hierarchy of the DENR and the cumbersome procedures of national budgets and funding.

122

39 Republic Act No. 9072, An Act to Manage and Protect Caves and Cave Resources and for Other Purposes, 8 April 2001.

40 Republic Act No. 7611, An Act Adopting the Strategic Environmental Plan for Palawan, Creating the Administrative Machinery for its Implementation, Converting the Palawan Integrated Area Development Project Office to its Support Staff, Providing Funds Therefore, and for Other Purposes, 19 June 1992.

- 123 A case in point is the Apo Island Marine Reserve. It is among the earliest marine conservation areas, started by a university, eventually run by local communities and strengthened through local government support. The municipality of Dauin led an effective programme of conservation, enforcement and user fees. Since Apo Island is located in an important biodiversity corridor, the DENR proposed and convinced the local community to have the area declared a protected area. When the proclamation took effect, all revenues from user fees were required to go through national IPAF processing, which takes a year or more before funds can be channelled back for operations. Decisions could be taken only when the PAMB was able to convene. This greatly hampered conservation efforts on the Island, with decisions taking time and fund releases delayed. The mayor of Dauin became so frustrated that he initiated the enactment of a local ordinance taking back primary management of Apo Island, including control over fees. The ordinance is being enforced by locals even though it is patently illegal. The local community could clearly see that management of the area was much better when the LGU had direct control.
- 124 Because of the lesson of Apo Island, many coastal LGUs are now wary of having any of their areas declared as protected areas under the NIPAS Act. Other LGUs are even moving for the disestablishment of coastal areas already proclaimed under the Act. Instead of protected areas, many contiguous coastal LGUs are creating networks of marine sanctuaries to enlarge the scope and impact of their conservation areas.
- 125 In interviews with PAWB officials, the DENR is generally agreeable to the disestablishment of small coastal or marine designated protected areas, leaving the NIPAS Act to concentrate on globally significant marine ecosystems such as the Tubbataha Reef.

19.2 Ancestral domains in protected areas

- 126 A certificate of ancestral domain title is official recognition that the land belonged to indigenous peoples long before the Philippines came to be a state and is therefore not part of public domain but is in fact private land. This is the context of the IPRA, which 'recognizes' the rights of indigenous peoples but does not 'grant' these rights in the way that the state grants land titles to private persons. A 'grant' of property rights still carries with it the assumption that the property was part of state dominion but given to private persons under certain conditions. However, the DENR will not admit this interpretation officially. Today, if asked, DENR officials state that ancestral domains are forest lands (which are part of the public domain) and that the IPRA only recognizes the prior rights of indigenous peoples to stay and use the natural resources consistent with their customs and traditions.
- 127 The NIPAS Act was originally intended to delineate 'national parks', a category of land in the public domain, and as such it should not cover private lands. Operationally, however, private lands, especially ancestral domains, are located in critical habitats. Therefore the Act, as implemented following an ecosystems approach, included private lands within the boundaries of protected areas.
- 128 Setting legal questions of ownership aside, the NIPAS Act and the IPRA are consistent in that all occupants of protected areas (including indigenous peoples in ancestral domains) must abide by a management plan to conserve biodiversity, even as these laws recognize the rights of local dependent communities to make a living. This is the general strategy that the DENR has adopted. There is no discussion of the extent or definition of the fundamental rights of indigenous peoples, and the focus is more on joint efforts to manage an area for the same goal. But NIPAS Act and IPRA administrative structures are very different. The DENR has tried to merge the two frameworks in various ways in different protected areas.

In the Mt Kitanglad Range Natural Park, indigenous peoples are represented in the PAMB, although not dominant. There are different overlapping claims of ancestral domains that cover the entire protected area: one unified claim by some community leaders who insist all the indigenous peoples are related, and 13 separate contiguous claims of the different local communities. The NCIP has so far approved one of the 13 smaller claims, indirectly rejecting the unified claim over the entire protected area. It is still not clear what the impact will be on the PAMB as a management institution once all 13 claims are processed, and if the entire protected area is declared as ancestral domain. Kitanglad is the textbook example of participatory management, where all stakeholders are routinely engaged in all aspects of protected area management. Presumably, all stakeholder interests, including those of local governments, will be factored in if and when there is a change in the management framework consequent to recognition of the protected area as ancestral domain. 129

In Coron Island, progress in designation under the NIPAS Act has stalled since the Tagbanuas (indigenous peoples in Coron) have decided they prefer the rights-based management approach under the IPRA rather than potentially losing control over their land even if the DENR promises them majority representation in the PAMB. The Tagbanuas received their certificate of ancestral domain title in 2001 and have since managed the area as if it were private property. Tourists to Coron Island have to seek permission from the Tagbanuas and pay a fee. The Island is managed through indigenous peoples institutions, formally registered as a legal entity. The Tagbanuas also have an advanced resource management plan, which they developed with technical assistance from NGOs and international donors. 130

19.3 Local ordinances

The Local Government Code provides the framework for local government responsibility for the environment and natural resources management. Until recently, forest management had been the exclusive domain of the DENR. When the DENR devolved some forest management functions shortly after the enactment of the Code, local governments were unaware of their responsibilities, or unwilling or unable to assume them. In contrast, fisheries and coastal management have traditionally been under the control of municipal governments. A cursory examination of local legislation shows that local governments are more involved in fisheries than forest management efforts. Pollution, waste management and urban planning are other issues of concern, especially for local governments in or near critical habitats or protected areas. Local governments are placed in a dilemma: pursuing economic growth, with the consequent negative environmental impact, or conserving natural resources and protecting ecosystems. In the last five years, many good local government practices and regulatory mechanisms have surfaced, which can serve as a model for others. 131

A common local law concerns coastal management and the establishment of marine protected areas. This can cover a single municipality or involve several contiguous municipalities enacting similar complementary ordinances to govern a shared coastal area such as a bay (USAID, 2008). Following the early successful examples of Apo Island and Sumilon, as many as 1,169 marine protected areas have been established through local ordinances as of 2008, an increase of nearly 100 per cent from 565 in 2000 (PhilReefs, 2008). 132

Under the Local Government Code, local governments are also mandated to develop a comprehensive land use plan and development plan, which are expected to be harmonized with protected area plans. 133

Special local laws to protect particular resources are also common, for example, the protection of trees in Vigan City, thresher sharks in Batangas City, or whale sharks in Donsol (USAID, 2008). 134

- 135 Many local governments insist on their right to regulate activities that may pose a danger to biological resources or habitats in their area, even if these activities are subject to national regulation. Samar led many local governments in imposing a 50-year moratorium on mining activities.⁴¹ The DENR is challenging the authority of local governments to decide on mining issues, considering that mining is under the management discretion of the DENR. A few local governments, including Bohol⁴² and Negros Occidental,⁴³ have also banned the entry of genetically modified organisms to protect local biological resources (USAID, 2008).
- 136 In sum, local governments have an important role to play in the success of implementing protected areas legislation. Because of their vast powers, local governments can serve as obstacles to the achievement of the objectives of protected areas. Municipal ordinances and local executive actions have the potential of overlapping and being in conflict with protected areas legislation, including possibly undermining environmental and conservation goals. But, in the same vein, local governments can also play a positive and constructive role in assisting and furthering the implementation of protected areas legislation. What is needed is targeted capacity building to ensure positive outcomes.

20 Managing activities outside protected areas

- 137 Under the NIPAS Act:

Proposals for activities which are outside the scope of the management plan for protected areas shall be subject to an environmental impact assessment as required by law before they are adopted, and the results thereof shall be taken into consideration in the decision-making process. No actual implementation of such activities shall be allowed without the required Environmental Compliance Certificate [...] In instances where such activities are allowed to be undertaken, the proponent shall plan and carry them out in such manner as will minimize any adverse effects and take preventive and remedial action when appropriate. The proponent shall be liable for any damage due to lack of caution or indiscretion (section 12).

The NIPAS IRR of 1992 contains a similar provision (section 56). Protected areas are considered “environmentally critical areas” under the EIA regulations.

21 Tenure rights and land use planning

- 138 In August 2004, the DENR issued revised guidelines on the establishment and management of community-based programmes in protected areas.⁴⁴ Under these guidelines, tenured migrants may be given rights to live in protected areas and make a living from compatible economic activities through a protected area community-based resource management agreement. The agreement is between the DENR and organized tenured migrant communities or indigenous peoples in protected areas and buffer zones for a period of 25 years, renewable for another 25 years. Since 2004, only 55 peoples organizations have entered into resource management agreements in 16 protected areas covering a total area of 22,251 hectares and benefiting 4,082 families. Only two have approved or affirmed management plans. The rest are in various stages of complying with DENR requirements.

41 This was done by means of the Samar Provincial Ordinance No. 2003-541. Further information about this instrument is not available.

42 Bohol Provincial Ordinance No. 2003-235, Declaring the Province of Bohol to be GMO-free or Free from Genetically Modified Organisms, 16 June 2003.

43 Negros Occidental Provincial Ordinance No. 2007-07, Instituting Stringent Measures Towards the Protection of Biodiversity and the Attainment of the Status of Negros as an Organic Food Island by Banning the Entry, Importation, Introduction, Planting, Growing, Selling and Trading of Genetically Modified Plants and Animals Within the Territorial Jurisdiction of the Province of Negros Occidental, Providing Penalties For Violations Thereof, and For Other Purposes, 25 April 2007.

44 DENR Administrative Order No. 2004-32.

22 Conclusion

The NIPAS Act of 1992 is the main legal instrument which systematizes all protected areas in the Philippines. It was conceived as an ambitious programme to rationalize fragmented protected areas management in the country and to ensure that biodiversity conservation was fully considered in the pursuit of sustainable development. The goals and the general framework of the Act are sound. However, implementation details have proved to be problematic. As noted above, studies show that currently designated protected areas only cover about half of the country's scientifically identified priority biodiversity sites. The DENR is slowly moving towards redirecting its meagre resources from legally designated but low-priority sites to critical representative sites that continue to be under-managed. 139

Since its enactment more than 17 years ago, major management challenges in NIPAS Act implementation have surfaced. These include the tedious and lengthy process of formal establishment, the unwieldiness of the institutional structure with some management boards comprised of close to 300 members, the difficulty in accessing the IPAF, and the need to harmonize and coordinate overlaps between protected areas and ancestral domains. 140

Many of these challenges are being addressed through the amended implementing rules and regulations of the NIPAS Act, and by incorporating these provisions into site-specific laws. In cases where overlaps exist between protected areas and ancestral domains, challenges have been addressed through joint administrative orders issued by the DENR and the NCIP. 141

Despite the challenges, there are several cases of limited success that show the collective commitment of local people and the national leadership to preserve the country's natural heritage. Local governments, local communities, indigenous peoples and the private sector have volunteered in various capacities to assist the government. However, the rigid legal management structure hinders creative ways of collaboration. Revised implementing rules have tried to address the many administrative challenges of implementing the Act, clarifying matters such as the appointment of the protected area superintendent and the powers of the PAMB over buffer zones, and simplifying procedures for establishment and management zoning. 142

In Mt Kitanglad, the first and perhaps most successfully managed protected area in the country, the key to success, according to the protected area superintendent, is to change the locus of decision making from national agency institutional structures to the local level. His view is that 'local' does not simply mean the transfer of responsibilities to local governments, but to local stakeholders—NGOs, tribal groups, research and project implementers, and so on.⁴⁵ 143

Perhaps the greatest challenge from the standpoint of a legislative study is the NIPAS Act's unresolved overlaps with other laws, specifically the Fisheries Code with respect to coastal and marine conservation areas, and the IPRA concerning ancestral domains. The requirement of a Congressional Act to fully establish a protected area under the NIPAS Act opens the door for site-specific laws⁴⁶ to deviate from the framework of the Act, since a new congressional enactment will supersede the NIPAS Act for that particular area. This matter is left to the vigilance of the DENR, which must ensure that legislative proposals (which the DENR is supposed to review) are consistent with the NIPAS Act framework, and to the wisdom of Congress to consider the overall strategy and framework of protected areas system 144

45 Interview with CENRO Felix Mirasol, concurrent Protected Area Superintendent of Mt Kitanglad Range Natural Park, 14 April 2009, Malaybalay, Bukidnon.

46 Only 11 site-specific laws have been passed since the passage of the NIPAS Act in 1992. These are the (1) Sagay Marine Reserve Law 2001, (2) Northern Sierra Madre Natural Park Act 2001, (3) Mt Kanlaon Natural Park Act 2001, (4) Mt Apo Protected Area Act 2003, and (5) Mt Hamiguitan Range Wildlife Sanctuary Act 2004, discussed above (see n. 15, 16, 17, 20 and 21), as well as the following: (6) Mt Kitanglad Range

management and to not treat each site-specific law or legislation on a related issue (pollution, fisheries, local autonomy) in isolation.

- 145 From a policy perspective, the critical balancing act that is needed is between environmental and conservation values, and the imperatives of human rights and social justice. The NIPAS Act and other Philippine laws enshrine the protection of the latter and rightly so. But there are occasions when the priority awarded to community rights clashes with the demands of environmental integrity and conservation. More work is needed to build the capacity to bridge these differences.
- 146 In a National Summit of Protected Area Management Boards, convened by the DENR in February 2009, the DENR reaffirmed its commitment to support site-based managers and to implement the changes introduced in the Revised IRR. The product of the summit was a joint declaration of commitment signed by the Secretary DENR and representatives of PAMBs from all over the country. In the declaration, they vowed to ensure the integration of protected area plans, policies and programmes with local government plans and programmes, as well as with indigenous peoples' ancestral domain plans. Local government officials committed to enact complementary local legislation that will provide enforcement and logistical support to the protected areas within their jurisdiction. The declaration also called for more research and proper information management to support management decision making. Although the declaration was couched in general terms, its provisions reflect the maturing of protected areas management at the sites, learning from the implementation experiences of the last 17 years.

Protected Area Act 2000 (Republic Act No. 8978, An Act Declaring the Mt Kitanglad Range in the Province of Bukidnon as a Protected Area and its Peripheral Areas as Buffer Zones, Providing for its Management and for Other Purposes, 9 November 2000); (7) Batanes Protected Area Act 2000 (Republic Act No. 8991, An Act to Establish the Batanes Group of Islands and Islets as a Protected Area, and its Peripheral Waters as Buffer Zones, Providing for its Management and for Other Purposes, 5 January 2001); (8) Mt. Malindang Range Natural Park Act 2004 (Republic Act No. 9304, An Act to Establish Mt Malindang Natural Park, Located in the Province of Misamis Occidental as a Protected Area and its Peripheral Areas as Buffer Zone, Providing for its Management Pursuant to Republic Act No. 7586 (NIPAS Act of 1992) and for Other Purposes, 30 July 2004); (9) Central Cebu Protected Landscape Act 2007 (Republic Act No. 9486, An Act Establishing the Buhisan Watershed Forest Reserve, the Mananga Watershed Forest Reserve, the Sudlon National Park, the Central Cebu National Park and the Kotkot-Lusaran Watershed Forest Reserve Situated in the Cities of Cebu, Talisay, Toledo and Danao and in the Municipalities of Minglanilla, Consolacion, Liloan, Compostela and Balamban, Province of Cebu into One Protected Area to be Known as the Central Cebu Protected Landscape and for Other Purposes, 7 June 2007); (10) Mimbilisan Protected Landscape Act 2007 (Republic Act No. 9494, An Act Declaring the Mimbilisan Watershed Located in the Municipalities of Balingoan and Talisayan, Province of Misamis Oriental as a Protected Area under the Category of Protected Landscape, Providing for its Management and for Other Purposes, 22 August 2007); and Mts Banahaw and San Cristobal Protected Landscape Act 2009 (Republic Act No. 9847, An Act Establishing Mts Banahaw and San Cristobal in the Province of Quezon as Protected Area under the Category Protected Landscape, Providing for its Management and for Other Purposes, 11 December 2009).

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Legal instruments

Most legal instruments discussed in this case study are available online. Readers may view the full text on the ECOLEX web site using the hyperlinks below, or at the URL provided.

Constitution of the Republic of the Philippines 1987

http://www.gov.ph/index.php?option=com_content&task=view&id=200034&Itemid=26

National Acts

Act Providing for the Establishment of National Parks 1932, Act No. 3915 [LEX-FAOC093167](#)

Batanes Protected Area Act 2000, RA No. 8991 [LEX-FAOC093257](#)

Central Cebu Protected Landscape Act 2007, RA No. 9486 [LEX-FAOC091233](#)

Indigenous Peoples Rights Act 1997, RA No. 8371 [LEX-FAOC013930](#)

Local Government Code 1991, RA No. 7160 [LEX-FAOC093246](#)

Mimbilisan Protected Landscape Act 2007, RA No. 9494 [LEX-FAOC091234](#)

Mt Apo Protected Area Act 2003, RA No. 9237 [LEX-FAOC093310](#)

Mt Hamiguitan Range Wildlife Sanctuary Act 2004, RA No. 9303 [LEX-FAOC093272](#)

Mt Kanlaon Natural Park Act 2001, RA No. 9154 [LEX-FAOC088041](#)

Mt Kitanglad Range Protected Area Act 2000, RA No. 8978 [LEX-FAOC093252](#)

Mt. Malindang Range Natural Park Act 2004, RA No. 9304 [LEX-FAOC093276](#)

National Caves and Cave Resources Management and Protection Act 2001, RA No. 9072 [LEX-FAOC045264](#)

National Integrated Protected Areas System Act 1992, RA No. 7586 [LEX-FAOC019796](#)

Northern Sierra Madre Natural Park Act 2001, RA No. 9125 [LEX-FAOC093313](#)

Philippine Clean Air Act 1999, RA No. 8749 [LEX-FAOC045271](#)

Philippine Clean Water Act 2004, RA No. 9275 [LEX-FAOC070789](#)

Philippine Fisheries Code 1998, RA No. 8550 [LEX-FAOC016098](#)

Sagay Marine Reserve Law, RA No. 9106 [LEX-FAOC093306](#)

Strategic Environmental Plan for Palawan Act 1992, RA No. 7611 [LEX-FAOC019797](#)

Wildlife Resources Conservation and Protection Act 2001, RA No. 9147 [LEX-FAOC041009](#)

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Executive Order No. 192: Providing for the Reorganization of the Department of Environment, Energy and Natural Resources; Renaming it as the Department of Environment and Natural Resources and for Other Purposes, 10 June 1987 [LEX-FAOC040802](#)

Executive Order No. 263: Adopting Community-Based Forest Management as the National Strategy to Ensure the Sustainable Development of the Country's Forestlands Resources and Providing Mechanisms for its Implementation, 19 July 1995	LEX-FAOC068061
Executive Order No. 533: Adopting Integrated Coastal Management as a National Strategy to Ensure the Sustainable Development of the Country's Coastal and Marine Environment and Resources and Establishing Supporting Mechanisms for Its Implementation, 6 June 2006	LEX-FAOC093267
Presidential Decree No. 389: Codifying, Revising and Updating all Forestry Laws and for Other Purposes, 5 February 1974	
Presidential Decree No. 705: Revising Presidential Decree No. 389, Otherwise Known as the Forestry Reform Code of the Philippines, 19 May 1975	LEX-FAOC019101
Proclamation No. 171: Declaring the Turtle Islands Municipality and its Surrounding Waters Reckoned Fifteen (15) Kilometers from the Shoreline of Each of the Islands Located in the Southwestern Sulu Sea, Province of Tawi-Tawi, as a Protected Area Pursuant to Republic Act No. 7586 (NIPAS Act of 1992), and Shall be Known as the Turtle Islands Wildlife Sanctuary, 26 August 1999	LEX-FAOC093373
Proclamation No. 442: Declaring the Samar Island Forest Reserve Established under Presidential Proclamation No. 744 by President Fidel V. Ramos in February 1996, Situated in the Municipalities of Basey, Calbiga, Catbalogan, Gandara, Hinabangan, Jiabong, Marabut, Matuguinao, Motiong, Paranas, San Jorge, San Jose De Buan, Pinabacdao, and City of Calbayog, in the Province of Samar; Arteche, Balangiga, Balangkayan, Borongan, Can-Avid, Dolores, Gen Macarthur, Giporlos, Hernani, Jipapad, Lawaan, Llorente, Maslog, Maydolong, Oras, Quinapondan, San Julian, Sulat, and Taft, in the Province of Eastern Samar; Catubig, Las Navas, Lope De Vega, Mondragon, and Silvino Lubos in the Province of Northern Samar, Island of Samar as a Protected Area and its Peripheral Areas as Buffer Zone Pursuant to Republic Act No.7586 (NIPAS Act of 1992), and Shall be Known as the Samar Island Natural Park, 13 August 2003	LEX-FAOC093312
DENR administrative orders and circulars	
DENR Administrative Order No. 1992-25: National Integrated Protected Areas System (NIPAS) Implementing Rules and Regulations, 29 June 1992	LEX-FAOC040801
DENR Administrative Order No. 2004-15: Establishing the list of Terrestrial Threatened Species and Their Categories, and the List of Other Wildlife Species Pursuant to Republic Act No. 9147, Otherwise Known as the Wildlife Resources Conservation and Protection Act of 2001, 22 May 2004	LEX-FAOC093275
DENR Administrative Order No. 2004-32: Revised Guidelines on the Establishment and Management of Community-Based Program in Protected Areas, 31 August 2004	LEX-FAOC093307

DENR Administrative Order No. 2004-55: DENR Streamlining/Procedural Guidelines Pursuant to the Joint DENR-DA-PCSD Implementing Rules and Regulations of Republic Act No. 9147 Otherwise Known as “Wildlife Resources Conservation and protection Act”, 31 August 2004	LEX-FAOC093376
DENR Administrative Order No. 2005-21: Revised Guidelines on the Establishment and Management of Integrated Protected Areas Fund, 14 October 2005	LEX-FAOC093277
DENR Administrative Order No. 2005-25: Guidelines in the Implementation of Upland Agroforestry Program, 17 November 2005	LEX-FAOC093255
DENR Administrative Order No. 2007-01: Establishing the National List of Threatened Philippine Plants and Their Categories, and the List of Other Wildlife Species, 22 January 2007	LEX-FAOC093308
DENR Administrative Order No. 2007-17: Rules and Regulations Governing Special Uses Within Protected Areas, 25 July 2007	LEX-FAOC093369
DENR Administrative Order No. 2007-24: Amending DAO 2007-01, “Establishing the National List of Threatened Philippine Plants and Their Categories, and the List of Other Wildlife Species”, 31 July 2007	LEX-FAOC093309
DENR Administrative Order No. 2008-01: Creation of Task Force Kalikasan, 6 February 2008	LEX-FAOC093776
DENR Administrative Order No. 2008-08: Guidelines on Self-regulation of the Floriculture Industry for the Sustainable Management of Philippine Wild Flora, 21 May 2008	LEX-FAOC093269
DENR Administrative Order No. 2008-17: Amending Section 10 of DAO No. 25 Series of 1992 and Providing Criteria in the Identification and Procedures in the Delineation and/or Demarcation of Management Zones within Protected Areas, 8 September 2008	LEX-FAOC093268
DENR Administrative Order No. 2008-26: Revised Implementing Rules and Regulations of Republic Act No. 7586 or the National Integrated Protected Areas System (NIPAS) Act of 1992, 24 December 2008	LEX-FAOC093391
Department Memorandum Circular 2007-02: Guidelines on the Establishment and Management of Critical Habitat, 28 February 2007	LEX-FAOC093271
Joint DENR-DA-PCSD-NCIP Administrative Order No. 2005-01: Guidelines for Bioprospecting Activities in the Philippines, 14 January 2005	LEX-FAOC093259
Joint DENR-NCIP Administrative Order No. 2008-01: Guidelines and Procedures for the Recognition, Documentation, Registration and Confirmation of all Sustainable Traditional and Indigenous Forest Resources Management Systems and Practices of Indigenous Cultural Communities or Indigenous Peoples in Ancestral Domain/Land, 8 July 2008	LEX-FAOC093380
Joint DENR-NCIP Memorandum Circular No. 2007-01: Management of Overlapping Protected Areas and/or their Buffer Zones and Ancestral Domains/Lands, 9 May 2007	LEX-FAOC093264

Provincial Ordinances

Bohol Provincial Ordinance No. 2003-235: Declaring the Province of Bohol to be GMO-free or Free from Genetically Modified Organisms, 16 June 2003 [LEX-FAOC093270](#)

Negros Occidental Provincial Ordinance No. 2007-07: Instituting Stringent Measures Towards the Protection of Biodiversity and the Attainment of the Status of Negros as an Organic Food Island by Banning the Entry, Importation, Introduction, Planting, Growing, Selling and Trading of Genetically Modified Plants and Animals Within the Territorial Jurisdiction of the Province of Negros Occidental, Providing Penalties For Violations Thereof, and For Other Purposes, 25 April 2007 not available

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