



**Administrative Order No. 01**  
Series of 2018

# **2018 NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP) RULES OF PROCEDURE**

## **2018 NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP) RULES OF PROCEDURE**

Pursuant to Section 44 (o), and 69 (a) of R.A. 8371, otherwise known as "The indigenous Peoples Rights Act of 1997," the following rules are hereby promulgated for the information and guidance of all concerned.

### **RULE I - PRELIMINARY PROVISIONS**

**Section 1. Title and Scope.** - This Rules shall be known as the "**2018 National Commission on Indigenous Peoples (NCIP) Rules of Procedure**". It shall govern the procedures for the resolution of conflicts/disputes and exercise of the NCIP's quasi-judicial powers.

**Section 2. Construction, Interpretation, and Application of the Rules.** - This Rules shall be liberally construed to give meaning to the provisions of the 1987 Constitution of the Republic of the Philippines, Republic Act 8371, otherwise known as "The Indigenous Peoples Rights Act of 1997" (IPRA) and other relevant legislations and to assist the parties in obtaining just, expeditious and inexpensive resolution and settlement of claims and disputes. The following shall apply in the interpretation of this rules:

- a. All doubts in the interpretation of the provisions of this Rules or any ambiguity in their application shall be resolved liberally in favor of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs);
- b. In applying the provisions of this Rules in relation to other national laws, the integrity of the ancestral domains, culture, values, practices, institution, customary laws and traditions of the ICCs/IPs, shall be the paramount consideration;
- c. The primacy of customary laws shall be upheld in

- d. resolving all disputes involving ICCs/IPs;
- e. In resolving cases, the customary laws, traditions and practices of the ICCs/IPs in the ancestral domain where the conflicts arise shall first be applied with respect to property rights, claims of ownership, hereditary succession and settlement of land disputes;
- f. Proceedings in the NCIP shall be summary in nature and non-litigious.

## **RULE II - DEFINITION OF TERMS**

**Section 3. Definition of Terms.** - The terms and phrases defined under Section 3 (a) to (p) of R.A. 8371 shall be given the same meanings when used herein; and in addition, thereto:

- a. Commission *En Banc* (CEB) - shall mean the Commissioners of the NCIP acting as a quasi-judicial body;
- b. Regional Hearing Office (RHO) - the Office tasked to adjudicate conflicting claims in accordance with this Rules;
- c. Regional Hearing Officer (RHOr) - Refers to the duly appointed or officially designated officer who heads the RHO and is authorized to hear and resolve cases filed before it in accordance with this Rules;
- d. Special Hearing Office - Are those Offices created by the CEB with the primary purpose of aiding or furthering the quasi-judicial functions of the NCIP;
- e. *Amicus Curiae* - refers to a practitioner and/or a person knowledgeable on indigenous knowledge systems and practices (IKSP) and on customary laws, consulted on their expertise as friends of the court;



- f. Primacy of Customary Laws- refers to the legal concept that when there are disputes, customary laws must be applied first before the parties involved seek recourse through the NCIP or the regular Courts;
- g. Original Jurisdiction – is the authority of the CEB or the RHO to entertain a case in accordance with this Rules for the first time, try it, and set forth judgment on the law and facts.

### **RULE III – POWER AND AUTHORITY TO HEAR AND RESOLVE CASES (Jurisdiction)**

**Section 4. *Original Jurisdiction of the RHO.*** -The NCIP, through its RHOs, shall have jurisdiction over the following cases arising between and among parties belonging to the same ICCs/IPs group:

- a. All claims and disputes involving rights of ICCs/IPs: Provided, however that no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under the customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which certification shall be a condition precedent to the filing of a petition with the NCIP;
- b. Violation of any provisions of RA 8371, such as, but not limited to, unauthorized and/or unlawful intrusion upon any ancestral lands or domains as stated in Sec. 10, Chapter III, or shall commit any of the prohibited acts mentioned in Sections 21 and 24, Chapter V, Section 33, Chapter VI thereof, which are punishable under customary laws of the ICCs/IPs concerned: Provided, that the imposable penalty shall not be cruel, degrading or inhuman; nor the same amounts to excessive fines or imposition of the death penalty. However, in the event that the aggrieved party



choose to avail the remedies provided under other existing laws, the regular process in the filing of cases as provided therein shall be observed.

**Section 5. Original Jurisdiction of the CEB.** – The CEB shall exercise original jurisdiction over cases involving cancellation of CADTs/CALTs alleged to have been fraudulently acquired and issued, provided that such case for cancellation is filed within one (1) year from the date of registration with the Register of Deeds.

**Section 6. Other Quasi-Judicial Powers.** -In the exercise of its quasi-judicial powers, the NCIP shall have the power and authority:

- a. To promulgate rules and regulations governing the hearing and disposition of cases filed before it as well as those pertaining to its internal function and such rules and regulations as may be necessary to carry out the purposes of the IPRA.
- b. To administer oaths, summon the parties to a controversy, issue subpoenas, requiring the attendance and testimony of witnesses and or the production of such books, papers, contracts, records, agreements and other document of similar nature as may be material to a just determination of the matter under investigation or hearing conducted in pursuance of the IPRA;
- c. To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefore, and
- d. To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic activity.

## **RULE IV – MEDIATION BEFORE ADJUDICATION**

**Section 7. *Mediation Under Customary Laws.*** – No case shall be brought before the CEB or the RHO unless the parties have exhausted all remedies provided for under the customary laws or indigenous dispute resolution processes of the ICCs/IPs. As proof thereof, the complainant/petitioner shall submit a Certificate of Non-Resolution (CNR) issued by the concerned council of elders/leaders.

When a complaint/petition is filed without the required CNR, the RHO shall refer the case to the concerned Council of Elders/Leaders, through the NCIP Provincial Officer or the head of the Service Center, provided that the RHO shall actively monitor the development of the proceedings under the indigenous justice system and concerned Council of Elders/Leaders.

Any prayer for the issuance of a Temporary Restraining Order (TRO) or Writ of Preliminary Injunction (WPI) shall not exempt the parties from the required mediation as provided herein.

**Section 8. *Referral to Mediators in Certain Cases.***–When a complainant/petitioner alleges that there is no known Council of Elders/Leaders who can mediate or if the Elders/Leaders refuse or are disqualified to mediate, the case shall be referred to a mediator/s chosen by them from an identified pool of accredited mediators or one mutually agreed upon by the parties. In case the parties fail to agree on who will mediate or when one or both of the parties refuse to submit to mediation, the RHO shall direct the NCIP Provincial Officer, the head of the Service Center, or any qualified officer of the NCIP to mediate the case.

If no settlement or compromise is reached after mediation, the assigned mediator shall issue a certificate to that effect.

## **RULE V – WHERE TO FILE**

**Section 9. *Filing of Complaints or Petitions.*** – Complaints or petitions which are cognizable by the NCIP shall be filed with the CEB or the concerned RHO or with the nearest NCIP Regional or Provincial Office or Service Center. Such filing with the nearest NCIP Regional Office or Provincial Office or Service Center shall interrupt the running



of the prescriptive or reglementary periods.

Complaints or petitions involving ancestral domain/land or portions thereof straddling two or more ethnographic regions shall be filed with the RHO where the greater portion of the subject property is situated.

**Section 10. *Transmittal to the CEB and/or RHO.*** -The NCIP Regional Office, Provincial Office or Service Center with which the complaint is filed shall cause the transmittal of the complaint or petition within ten (10) days from receipt thereof to the CEB or the RHO, as the case may be. The NCIP receiving office shall not be required to docket the case. They shall, however, keep a record of all cases received and transmitted.

Upon receipt of the complaint/petition by the Clerk of the Commission or concerned RHO, the same shall be docketed and the date of receipt indicated by the NCIP Regional Office, Provincial Office or Service Center shall be considered as the official date of receipt of the complaint/petition.

**Section 11. *Special Hearing Offices, Alternative Venues.*** - Whenever necessary, the CEB may create special hearing offices as alternative venues for the purpose of aiding or furthering the quasi-judicial functions of the NCIP.

## **RULE VI – WHO MAY FILE**

**Section 12. *Parties to a Case.*** - A case may be filed by any interested person/s who will be called as the “complainant” or “petitioner”. The person/s against whom the case is filed shall be referred to as the “defendant” or “respondent”.

In cases involving community interest, the real party in interest shall be the ICCs/IPs, represented by person/s authorized through a community resolution and selected following their customary practices.

**Section 13. *Indigent Party.*** - ICCs/IPs who are parties to a case may be authorized to prosecute their case or defend themselves as indigent litigants if the CEB or the RHO, upon application, is satisfied that they are indigent. Such authority shall exempt said parties from payment of docket, appeal, and other legal fees including transcripts of



stenographic notes as well as injunctive bond which the RHO or the CEB may order to be furnished to them.

## **RULE VII – PLEADINGS AND MOTIONS**

**Section 14. *Pleadings Allowed.*** –Pleadings allowed shall be the complaint/petition and the answer, both of which must be verified by the parties before any officer authorized by law to administer oath. For purposes of verification of the petition/complaint or answer, the NCIP Legal Officers may administer oath.

**Section 15. *Complaint/Petition.*** - A complaint or petition is a document stating clearly the act/s of a party which violates the rights of the complainant or petitioner (*cause of action*). The complaint or petition shall state and narrate clearly the following:

- a) the subject of the case which should be established to be within the jurisdiction of the NCIP to resolve;
- b) the violations committed, the substance of the claim made, the grounds relied upon, and the relief being pursued;
- c) the names, residences, contact details of the plaintiff/s and defendant/s and the ICCs/IPs group to which they belong;
- d) certificate of non-forum shopping or a statement that the complainant or petitioner has not filed or commenced any other case or proceeding involving the same issues in the Supreme Court, Court of Appeals, or any division thereof, or any court or tribunal; and in the event that he/she will file such case in the future, undertake to inform the NCIP of such fact within five (5) days from knowledge;

In the absence of a complaint or petition, ICCs/IPs may fill out a complaint/petition sheet which are available at the RHO. The

complaint/petition sheet may be translated in Tagalog and/or in the dialect known to the complainant/petitioner, and shall be in the form prescribed below:

REPUBLIC OF THE PHILIPPINES  
OFFICE OF THE PRESIDENT  
NATIONAL COMMISSION ON INDIGENEOUS PEOPLES

COMPLAINT/PETITION SHEET  
CASE NO. \_\_\_\_\_

1. \_\_\_\_\_

NAME OF COMPLAINANT/PETITIONER  
(pangalan ng nagrereklamo)

2. \_\_\_\_\_

NAME OF DEFENDANT/RESPONDENT  
(pangalan ng nirereklamo)

3. \_\_\_\_\_

ADDRESS OF COMPLAINANT/ PETITIONER  
(tirahan ng nagrereklamo)

4. \_\_\_\_\_

ADDRESS OF DEFENDANT/RESPONDENT  
(tirahan ng nirereklamo)

5. \_\_\_\_\_

COMPLAINANT OR PETITIONER'S ICCs/IPs  
GROUP (tribo ng nagrereklamo)

6. \_\_\_\_\_

DEFENDANT OR RESPONDENT'S ICCs/IPs  
GROUP (tribo ng nirereklamo)

7. Cause/s of action (bagaynainirereklamo)

\_\_\_\_\_ land dispute (patungkolsalupa)

\_\_\_\_\_ family relations (patungkolsausapingpampamilya)

\_\_\_\_\_ other matters (patungkolsaiba pang bagay)

8. Short statement of facts/events

(maiklingpagsasalaysay ng mgapangyayari)

9. Relief prayed for (mgakahilingangnaismaipatupad)

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

d. \_\_\_\_\_

e. \_\_\_\_\_

I hereby attest to the foregoing facts to prove my complaint and my entitlement to the relief prayed for herein.

(pinatotohanankoanglahat ng nabanggitsaitaasupangpatunayanangakingreklamo at sagayon ay ipatupadangakingmgakahilingan)

Date of Signing (araw kung kailannilagdaan)

Name and signature of Complainant/Petitioner  
(Pangalan at Lagda ng Nagrereklamo)

The concerned RHOr, from time to time, may introduce revisions of the above form to suit the peculiarities of his/her region and to make it more accessible to the ICCs/IPs.

The complainant/petitioner is required to attach a CNR as required by this Rules, if applicable; the affidavits of his/her witnesses, if any; and the resolution of authority from the community if filed in the



name of the community.

**Section 16. Answer.** - An answer is a document containing the defendant's/respondent's affirmative and negative defenses. The answer shall state in paragraphs the facts denying the material allegations in the complaint/petition.

**Section 17. Motions.** - A motion is a document containing a prayer for relief other than by a complaint/petition or answer. The RHO or the CEB may grant or deny the relief prayed for without need of a hearing if it is evident that the applicant is entitled or not to the relief and the conduct of a hearing entails additional burden and delay to the parties.

**Section 18. Motion to Dismiss Not Allowed; Exceptions.** - A motion to dismiss shall not be allowed unless based on the following grounds: (a) That the NCIP has no authority to resolve the case (*lack of jurisdiction*), (b) that the case has prescribed (*prescription*), and (c) that there is already a prior judgement on the same case involving the same parties and the same issue (*Res Judicata*); in which case, the RHO or the CEB may dismiss the case immediately.

For this purpose, the RHO or the CEB, may require the submission of position papers to aid in determining the propriety of the ground for dismissal.

A motion to dismiss filed alleging grounds that are not covered by the above exceptions shall be treated as an Answer.

## **RULE VIII - PROCEEDINGS IN THE REGIONAL HEARING OFFICE**

**Section 19. Receipt of Complaint/Petition.** - Upon receipt of the complaint/petition, the RHO shall specify the date of receipt, assign the case number, and immediately cause the issuance of an order to the defendant/respondent.

**Section 20. Order.** - The order shall direct the defendant/respondent to answer the complaint/petition within fifteen (15) days from receipt. It shall also contain a notice that unless the defendant/respondent so answers, resolution of the relief prayed for in the complaint/petition shall be rendered without his/her participation.

**Section 21. Service of Order and Proof of Service.** - The order,

together with a copy of the complaint/petition, shall be served upon the defendant/respondent personally. If personal service is not practicable, the order shall be served through registered mail or through a reputable private courier at his/her given address. The process server or person duly authorized to cause service of the order shall certify on the manner, place, and date of service thereof. Such certification shall constitute proof of service.

**Section 22 Failure to Answer.**- Upon failure of the defendant/s or respondent/s to file his/her/their answer within the prescribed period, the hearing shall proceed and the complainant/s or petitioner/s shall be allowed to present his/her/their evidence *ex-parte*. The defendants/respondents shall still be entitled to subsequent notices or processes and may only participate in the succeeding proceedings upon motion and based on meritorious grounds.

**Section 23. Conference of Parties (COP).** - After the answer is filed and the case is not dismissed based on Section 20 hereof, the RHO shall calendar the case for a conference and shall issue an order directing the parties to appear to determine the following:

- a. The possibility of an amicable settlement, or referral to indigenous dispute resolution, mediation or conciliation. The RHO must take into consideration the application of customary laws in settling disputes such as, but not limited to, *sakusak, bodong, dap-ay, tongtongan, bungkatol ha bulawadawnangkatasa ha lana, kaspala*, etc.;
- b. The issues to be resolved;
- c. The evidence, oral or written, and witnesses to be presented;
- d. The date or submission of any further written material;
- e. The fixing of a time and place for any inspection, if necessary;
- f. Manifestation of a party whether or not he/she/they will present oral evidence;
- g. Admissions and stipulations; and
- h. Such other matters which may be necessary or relevant to the case.



Evidence to be presented shall be marked during the COP. For this purpose, a Conference Order will be issued indicating the stipulations made or agreement reached during said conference, the issues to be resolved, and the evidence to be presented. The Conference Order shall be signed by the parties and their respective counsels.

**Section 24. *Judgment Based on Settlement Under Customary Law or Indigenous Dispute Resolution Process.*** - If a settlement is reached as a result of the application of customary law or indigenous dispute resolution processes during the COP or at any stage of the proceedings, the same shall be submitted to the RHO for the rendition of judgment based on the settlement. The minutes of the settlement proceedings, the certification signed by the elders/leaders who participated, or the certification of the mediator/conciliator or person or body that intervened in the conflict resolution, is deemed sufficient to prove that the settlement process occurred and that a resolution was reached thereon.

**Section 25. *Judgment Based on a Compromise.*** - Where the parties agreed to settle the controversy during the COP or at any stage of the proceedings, an order shall be issued by the RHO directing the parties and their respective counsels to put in writing their compromise agreement within a period not exceeding ten (10) days. Judgment shall then be rendered based on the compromise agreement, which shall be considered as judgment on the merits.

**Section 26. *Submission of Position Papers; Judicial Affidavits.*** - After the issues have been joined, the parties shall file their respective position paper simultaneously within twenty (20) days from the signing of the conference order. All documents and evidence must be attached to the position papers. The filing of the Position Papers may be extended for another twenty (20) days upon motion of either/both parties only for justifiable reasons.

The affidavits of the parties and their witnesses may serve as their direct testimonies. For this purpose, the RHO may direct the parties to submit their judicial affidavits, in question and answer form, to expedite the proceedings.



**Section 27. *Mode of Presentation of Evidence by ICCs/IPs.*** – Any party manifesting the presentation of their evidence following their customs, traditions and rituals must always be allowed as part of the proceeding and shall be treated in like manner as those evidence presented in documentary form. For this purpose, the RHOr shall ensure that the manifesting party shall be afforded reasonable time and venue to make such presentation.

**Section 28. *Hearing Conducted Outside the Regular Hearing Office.*** - The RHOr, taking into consideration the applicability of customary laws and practices, may conduct hearings and resolve motions or other incidents outside of the hearing office at a specified time, date and place.

**Section 29. *Opinions of Amicus Curiae.***- At any stage of the proceedings, the RHOr at his/her own instance or upon the recommendation of the parties may invite *amicus/amici curiae* whose opinion/s on any question of fact concerning matters involving customs and tradition may be solicited. Such opinion may not be necessarily binding on the RHOr but will serve as a guide or tool in resolving the case using customary laws.

**Section 30. *When a Case is Deemed Submitted for Resolution.*** - The case is deemed submitted for Resolution after the parties have finally rested their case and/or submitted their respective position paper, or after the lapse of period within which to file the same.

**Section 31. *Period to Render Judgment.*** - The RHOr shall decide the case within ninety (90) days from the date the case was submitted or deemed submitted for resolution.

**Section 32. *Judgment.*** - The decision, award, or order shall determine the merits of the case, stating clearly and distinctly the facts, the customary law and the law on which it is based, personally and directly prepared by the RHOr, signed by him/her.

It is incumbent upon the RHOr to determine the applicable customary law in a given case. Resort to civil and other existing laws shall be made only upon showing of a diligent determination of the absence of applicable customary law.

**Section 33. Motion for Reconsideration.**- Only one motion for reconsideration on the RHO's decision, award or order which disposes of the case shall, be allowed. Said motion shall be filed within fifteen (15) days from receipt of a copy of the assailed decision, award or order.

The timely filing of a Motion for Reconsideration shall interrupt the running of the period to appeal. A party is afforded a fresh period of fifteen (15) days from receipt of the resolution of the Motion for Reconsideration within which to file its appeal.

**Section 34. Finality of Judgment.** - A judgment rendered by the RHO shall become final and executory upon the lapse of fifteen (15) days from the receipt of all parties and/or their respective counsel/s of the decision, award, or order denying the motion for reconsideration, and there is no appeal. If the 15<sup>th</sup> day falls on a Saturday, a Sunday or a Holiday, the last day shall be the next working day.

**Section 35. Execution of Judgment, Basic Rule.**- Only judgments, decisions, or final orders that finally dispose of the case shall be the subject of execution as a matter of right.

**Section 36. Effective Enforcement of Judgments, Decisions, or Final Orders of the RHO.** - In order for the RHO to effectively enforce its decisions, awards or final orders, any suitable process or procedure may be employed and adopted, unless this does not conform with the spirit of R.A. No. 8371 or this Rules, or violates customary laws and practices.

**Section 37. Appeal to the CEB.** - Decisions, awards, or final orders of the RHO may be appealed to the CEB by filing a Memorandum on Appeal with the RHO within fifteen (15) days from the receipt thereof or from the denial of the motion for reconsideration, and serving a copy to the adverse party.

**Section 38. Perfection of Appeal.**- The appeal shall be perfected upon payment of the appeal fee which shall be accomplished by the appellant upon the filing of the Memorandum of Appeal. An indigent party appealing is exempted from paying the appeal fee but such fee shall be a lien on any judgment or award that may be granted favorable to said indigent party.



**Section 39. Transmittal of the Record.**- Within twenty (20) days from receipt of the Memorandum on Appeal and the payment of the appeal fee, the RHO shall transmit the entire record of the case to the Clerk of the Commission. The record containing a table of contents shall be accompanied by proof of payment of the appeal fee, and other legal fees, a certified true copy of the minutes of the proceedings, the order of approval, the certificate of correctness, all documentary evidence, and copies of transcripts chronologically arranged, with the earliest document at the front and appropriately paginated.

## **RULE IX - PROCEEDINGS IN THE COMMISSION *EN BANC***

### **PART I - APPEALED CASES**

**Section 40. Action on Appeal.**- Upon receipt of the entire record of the case, the Clerk of the Commission shall forthwith docket the case and notify the CEB.

**Section 41. Appellant's Memorandum on Appeal; Contents.**

- The Memorandum on Appeal shall indicate the parties to the appeal, specify the decision, award or final order appealed from, and state the material dates showing the timeliness of the appeal. It shall also contain a statement of matters involved, the issues or grounds relied upon, and the relief prayed for. The Memorandum on Appeal shall be filed in three (3) legible copies, with proof of service to all appellee/s. The original copy of the Memorandum on Appeal shall be indicated as such by the appellant.

**Section 42. Appellee's Memorandum on Appeal; Contents.**- The appellee shall submit a Memorandum on Appeal within ten (10) days from receipt of the order of the CEB requiring him/her to do so. It should contain a brief counter-statement of matters involved, the issues, and the relief prayed for. The appellee's Memorandum on Appeal shall be filed in three (3) legible copies with proof of service to the appellant.

**Section 43. Additional Evidence on Appeal, not Allowed; Exception.**

- The CEB shall decide the appeal based on the entire record of the proceedings before the RHO, and upon such memoranda and papers as are filed before the CEB.



No additional evidence shall be introduced on appeal, except upon motion of any party in cases of newly discovered evidence, which could not, with reasonable diligence, have been discovered and produced during the conduct of the hearing before the RHO, and which if presented, would probably alter the result.

**Section 44. *Quorum.*** - In deciding cases on appeal, a simple majority of all members of the CEB shall constitute a quorum. At the discretion of the CEB, the case may be set for hearing for purposes of clarification or to allow the parties to deliberate on their arguments.

**Section 45. *Vote Required for Judgment or Final Order.*** - A simple majority vote of all Commissioners shall be required for the pronouncement of a judgment or final order.

**Section 46. *Period to Render Decision.***- The CEB shall resolve an appeal within ninety (90) days from receipt of the last memorandum, or upon expiration of the period for filing the same.

**Section 47. *Decision.*** - The judgment, decision or final order of the CEB shall state clearly and distinctly the findings of facts, the customary law and the conclusions of law upon which it is based.

**Section 48. *Motion for Reconsideration.***- Only one motion for reconsideration on the resolution or decision of the CEB that finally disposes of the case shall be allowed. Said motion shall be filed within fifteen (15) days from receipt of a copy of the assailed judgment, decision or final order. The filing of a timely motion for reconsideration shall interrupt the running of the period to appeal.

**Section 49. *Appeal to the Court of Appeals.*** - A judgment, decision or final order of the CEB may be appealed to the Court of Appeals only by way of a petition for review on certiorari.

**Section 50. *Execution of Judgment, Basic Rule.***- Only judgments, decisions, or final orders in these appealed cases that completely disposes of the case shall be subject of execution as a matter of right. The filing of an appeal to the CA will not stay the execution of judgment or decision.

**Section 51. *Effective Enforcement of Judgments, Decisions, or Final Orders of the CEB.***- All judgment or decision on appealed cases

must be remanded to the concerned RHO for execution. Any motion for the issuance of a writ of execution pertaining to the case shall be filed with RHO.

In order for the CEB to effectively enforce its decisions, awards or final orders in these appealed cases, any suitable process or procedure may be employed and adopted unless the process/procedure does not conform with the spirit of R.A. No. 8371 or this Rules, or violates customary laws and practices.

## **PART II – PETITION FOR CANCELLATION OF CADTs/CALTs**

**Section 52. *Receipt of Petition; Order to Answer.*** - Upon receipt of the petition, the Clerk of the Commission shall specify the date of receipt, assign the case number, and immediately cause the issuance of an order requiring the respondent/s to answer the petition within fifteen (15) days from receipt. The order shall contain a notice that unless the respondent/s so answers, resolution of the relief prayed for in the petition shall be rendered without his/her/their participation.

**Section 53. *Number of Copies and Certification of Non-Forum Shopping.*** - The petition must be verified and filed in three(3) legible copies and shall contain a sworn certification of non-forum shopping. In case of non-compliance of these requirements, the CEB may order its return to the petitioner for compliance.

**Section 54. *Dismissal of the Petition.*** - The CEB may dismiss the petition if on its face it finds the same to be clearly without merit.

**Section 55. *Service of Order and Proof of Service.*** - The order, together with a copy of the petition, shall be served upon the respondent/s personally. If personal service is not practicable, the order shall be served through registered mail or through a reputable private courier at his/her/their given address. The process server or person duly authorized to cause service of the order shall certify on the manner, place, and date of service thereof. Such certification shall constitute proof of service.

**Section 56. *Decision Based on Pleadings Submitted.*** - The CEB may immediately render a decision based on the petition, answer and other pleadings filed by the parties. However, the CEB may require the submission of memoranda from the parties which shall be submitted within fifteen (15) days from the receipt of the order requiring such



submission. All documents and evidence must be attached to the petition, answer, memoranda, or other pleadings submitted. The filing of memoranda may be extended for another fifteen (15) days upon motion of either/both parties only for justifiable reasons.

**Section 57. Failure to Answer.**- Upon failure of the respondent/s to file his/her/their answer within the prescribed period, the CEB may refer the case to the concerned RHO for the reception of evidence *ex parte*. The respondent/s shall still be entitled to subsequent notices or processes and may only participate in the succeeding proceedings upon the discretion of the RHO or upon motion and based on meritorious grounds.

**Section 58. Prayer for reconveyance not allowed.** - Any prayer for reconveyance in the petition for cancellation of a registered CADT/CALT shall not be allowed. The proceeding shall not be used as a venue to substitute the procedures of delineation and recognition provided for under the Omnibus Rules of Delineation and Titling of Domains/Lands.

**Section 59. Referral to the RHO.** - If the CEB deems that the pleadings submitted are insufficient to support a judicious resolution of the case and that there is a necessity for the conduct of a further hearing, it may refer the case for the COP and reception of evidence to the RHO having jurisdiction over the domain/land subject of the CALT/CADT being challenged. The concerned RHO shall observe applicable rules provided for in Rule VIII of this rules.

In case the parties arrived at a settlement based on compromise agreement or when the parties belonging to the same ICC reached a settlement based on the application of their customary law, the RHO shall immediately elevate the matter to the CEB for the required judgment.

**Section 60. Elevation of the Record of the Case to the CEB.**- Within thirty (30) days from the referral of the case, the RHO shall elevate the entire record of the proceeding including the submissions of the parties to the CEB. The period may be extended for justifiable reasons but shall not exceed thirty (30) days.

**Section 61. Decision.**- The CEB shall render its decision within ninety (90) days from receipt of the last memorandum or expiration of the period for filing the same. When the case emanates from the RHO as



required in the immediately preceding section, the period to render judgment shall be reckoned from the receipt of the record of the case from the RHO.

**Section 62. *Motion for Reconsideration.***- Only one motion for reconsideration on the judgment, decision or order of the CEB that finally disposes of the case shall be allowed. Said motion shall be filed within fifteen (15) days from receipt of a copy of the assailed judgment, decision or order. The filing of a timely motion for reconsideration shall interrupt the running of the period to appeal.

**Section 63. *Appeal to the Court of Appeals.***-Judgement, decision or final order of the CEB may be appealed to the Court of Appeals only by way of a petition for review on certiorari.

## **RULE X - EVIDENCE**

**Section 64. *Flexible Approach.*** - The CEB and the RHO shall not be bound by technical rules on evidence provided under the Rules of Court, but shall proceed to hear and decide all cases, disputes or controversies in the most expeditious manner, employing all reasonable means to ascertain the facts of every case with utmost regard to the manner or mode of presenting evidence by ICCs/IPs as their customs, traditions, and practices may allow. In the reception of evidence, relevance shall be the controlling test, taking into consideration the following:

- a.Oral tradition and history as attributed by ICCs/IPs experts or anthropologists;
- b.Self-ascription and ascription by others; and/or
- c.Current application of such customs, beliefs, or practices.

**Section 65. *Unwritten Customs and Traditions, Oral History.*** - Unwritten customs and traditions or oral history of a certain ICCs/IPs shall be admitted in evidence for as long as they are relevant to the issue of the case and that they can be established as a fact by any of the expert witnesses and/or *amicus/amici curiae*.

**Section 66. *Test of Relevancy and Credibility.*** - A testimony is relevant when it has a logical connection with the issue raised and the same is given by a recognized and credible elder/leader of the

community. Likewise, there is credibility when the person testifying is a recognized and respected elder/leader in the community and that he/she has participated in the resolution of the dispute that is/are related to the fact in issue.

**Section 67. *Perpetuation of Testimonies Other than Judicial Affidavits.*** - If an ICCs/IPs elder/leader is identified as a witness and is indisposed due to illness, old age, justifiable distance, or other related causes, his/her testimony may be in the form of a deposition or any other mode allowed by their customs, traditions or practices. The concerned party shall submit their questions to the RHO or the CEB and the latter may direct the Provincial Officer concerned or any officer of the NCIP to facilitate the deposition or taking of testimony. As much as possible, the process shall be recorded by the concerned officer taking the testimony.

**Section 68. *Oath or Affirmation.***- In accordance with the culture and tradition of ICCs/IPs, witnesses shall be asked to take an oath or affirmation before testifying individually or as a group. Oath or affirmation or its equivalent in accordance with their customs and practices shall be made by simply asking the witness or witnesses to affirm that when asked questions in the hearing, he/she will tell the truth.

**Section 69. *Members of ICCs/IPs as Expert Witnesses.***- Expert witnesses are qualified as such on account of their education or training, experience, and expertise. Education or training does not necessarily refer to formal education but also includes non-formal education or training received from elders or experts in the ICCs/IPs. A member of the ICCs/IPs possessing the appropriate non-formal education or training, experience, and expertise on matters relating to their customary laws and traditions may be considered as an expert witness. In case of conflict between the learned opinion of an anthropologist and the ICCs/IPs expert witness on customary law and traditions, the opinion of the latter shall prevail.

**Section 70. *Quantum of Evidence.*** - Substantial evidence is necessary to establish a claim or defense under this Rules.



## **RULE XI - SUBPOENA AD TESTIFICANDUM AND SUBPOENA DUCES TECUM**

**Section 71. Power to Issue Subpoena.** - The CEB and the RHO, in the exercise of its quasi-judicial function may issue *subpoena ad testificandum* and *subpoena duces tecum* to compel the attendance of a witness or persons in a proceeding before it and to require the production and presentation of documents during a hearing.

**Section 72. Service of the Subpoena.**- The *subpoena* may be personally served to the person named therein or by registered mail or by private courier.

**Section 73. Failure to appear.**- The failure by any person without adequate cause to obey a *subpoena* served upon him/her shall be deemed an act in contempt of the CEB or the RHO that issued the *subpoena*. This provision shall not apply when the non-appearance is due to restraints imposed by customary law and/or tradition or for any other justifiable cause, provided the same shall be immediately communicated to the CEB or the RHO prior to the date of intended appearance.

## **RULE XII - CONTEMPT**

**Section 74. Direct Contempt.**- The CEB or the RHO may summarily pass judgment on acts of direct contempt committed in the presence of, or so near the Chairperson or any member of the CEB or RHO, as to obstruct or interrupt the proceeding before the same, including disrespect towards the members of the CEB or the RHO, offensive behavior towards other parties, refusal to be sworn in or to answer as a witness, or to subscribe to an affidavit or deposition when lawfully required to do so. Those found to be in direct contempt shall be punished by a fine not exceeding Two Thousand Pesos (Php 2,000.00) or imprisonment not exceeding ten (10) days, or both, if it be committed against the CEB or any of its members; or by a fine not exceeding Two Hundred Pesos (Php 200.00) or imprisonment not exceeding one (1) day, or both, if it be committed against the RHO. The judgment of the CEB or any of its RHO on direct contempt shall be immediately executory and non-appealable.



**Section 75. *Indirect Contempt.***- The CEB or RHO may cite and punish any person for indirect contempt on any of the grounds, as prescribed under Rule 71 of the Revised Rules of Court, and for this purpose, the grounds and proceedings laid down in Sections 3, 4, 5 and 6 of Rule 71 of the Revised Rules of Court is hereby adopted.

If the respondent is adjudged guilty of indirect contempt committed against the CEB or any of its members, he/she may be punished by a fine not exceeding Thirty Thousand Pesos (Php 30,000.00) or imprisonment not exceeding six (6) months, or both. If he/she is adjudged guilty of indirect contempt committed against a RHO, he/she may be punished by a fine not exceeding Five Thousand Pesos (Php 5,000.00) or imprisonment not exceeding one (1) month, or both.

**Section 76. *Appeal from Indirect Contempt.*** - Any person found guilty of indirect contempt by the RHO may appeal the same to the CEB, within a period of five (5) days from notice of judgment, and in which case the execution of said judgment shall be suspended pending the resolution of the appeal upon filing by said person of a bond on the condition that he/she will abide by, and perform the judgment should the appeal be decided against him/her.

An appeal on the order of indirect contempt shall not stay the proceedings of the main case.

## **RULE XIII – PROVISIONAL REMEDIES**

**Section 77. *Preliminary Injunction/Temporary Restraining Order(WPI/TRO).*** – The CEB or the RHO may issue a WPI/TRO in a case pending before it when it is established in the complaint or petition that the acts complained of, if not restrained, may cause grave or irreparable damage or injury to any of the parties, or seriously affect social or economic activity.

**Section 78. *TRO may be Issued Ex Parte.*** - The CEB or the RHO may issue *ex parte* a TRO for a period of seventy-two (72) hours from service to the party or person sought to be enjoined upon showing that the applicant would suffer great or irreparable injury before the matter can be heard on notice.

Thereafter, within the aforesaid seventy-two (72) hours, the CEB or the RHO before whom the case is pending shall conduct a summary hearing to determine whether the TRO shall be extended until the application for preliminary injunction can be heard. In no case shall the total period of effectivity of the TRO exceed twenty (20) days, including the original seventy-two (72) hours provided herein.

**Section 79. *Period to Resolve the Prayer for a WPI.*** - Within the twenty (20) days period of the TRO, the CEB or the RHO shall order the respondent to show cause, at a specified time and place, why the preliminary injunction should not be granted. Within the same period, the CEB or the RHO must resolve whether or not the WPI should be granted.

**Section 80. *Grounds for Dissolution of the WPI or TRO.*** - The TRO or WPI may be dissolved on the following grounds:

- a. Upon proper showing of its insufficiency; or
- b. If it appears after hearing that although the applicant is entitled to the restraining order or the injunction, the continuance thereof would cause irreparable damage to the party enjoined while the applicant can be fully compensated for such damages as he/she may suffer.

**Section 81. *Injunctive Bond.***- A WPI shall be issued only upon filing of the required bond as may be determined by the CEB or the RHO, which bond shall answer for any damages that might be suffered by the adverse party. An indigent party may be exempt from payment of the injunctive bond as provided for in Section 13, Rule VI hereof.

#### **RULE XIV - LEGAL FEES**

**Section 82. *Filing Fees/Appeal Fees.***- The following shall be the prescribed filing fees/appeal fees:

- a. Real or personal actions, a filing fee/appeal fee of PhP 500.00 shall be required;
- b. Actions involving community interest that is litigated in the name of the community, no filing fees/appeal fees shall be charged;



c.Actions filed by natural or juridical persons operating within ancestral domains/lands, a filing fee/appeal fee of PhP 2,500.00 shall be required;

d.If there is a prayer for a TRO and/or WPI is sought, an additional amount of PhP1,500.00 shall be required;

e.For claims of damages, the following schedule of filing fees/appeal fees shall be observed:

1. For claims of less than PhP 100,000	Php1,000.00
2. For claims of PhP 100,000.00 or more but less than PhP 150,000.00;	PhP 1,500.00
3.For claims of PhP 150,000.00 or more but less than PhP 200,000.00;	PhP 2,000.00
4.For claims of PhP 200,000.00 or more but less than PhP 250,000.00;	PhP 2,500.00
5.For claims of PhP 250,000 or more but Less than PhP 300,000.00;	PhP 3,000.00
6.For claims of PhP 300,000.00 or more but less than PhP 350,000.00;	PhP 3,500.00
7.For claims of PhP 350,000.00 or more but less than PhP 400,000.00;	PhP 4,000.00
8.For each PhP 1,000.00 claim in excess of PhP 400,000.00;	PhP 20.00

**Section 83. Legal Fees.** - The following legal fees shall be charged and collected.

a.For furnishing copies of transcript of proceedings or any part of the records, Ten Pesos (PhP 10.00) per page; and

b.For every certification issued, One Hundred Pesos (PhP 100.00).



**Section 84. *Sheriffs and Other Persons Serving Processes.***- The following fees shall be charged and collected.

- a. For serving order/s and copy/ies of the complaint, PhP 100.00 for each defendant;
- b. For serving subpoenas, PhP 80.00 for each witness to be served;
- c. For serving TRO, or Writ of Injunction, preliminary or final, PhP 200.00;
- d. For filing bonds or other instruments of indemnity or security in provisional remedies, PhP 80.00 for each bond or instrument;
- e. For executing a writ or process to place a party in possession of real estate, PhP400.00.

In addition to the fees herein above fixed, the party requesting for the issuance of any process whether preliminary, incidental, or final, shall pay the Sheriff's expenses in serving, or executing the process, or safeguarding the property levied upon, attached or seized, including actual travel expenses by the regular means of transportation, guard's fees, warehousing, and similar charges, in an amount estimated by the sheriff, subject to the approval of the RHO.

Upon approval of said estimated expenses, the interested party shall deposit such amount with the Clerk of the RHO, who shall disburse the same to the sheriff assigned to affect the process. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the Sheriff assigned with his/her return and the Sheriff's expenses shall be taxed as cost against the losing party.

**Section 85. *Applicability of Section 13, Rule VI of this Rules.*** - The above prescriptions are subject to the provision on indigent litigants.

## **RULE XV - FINAL PROVISIONS**

**Section 86. *Applicability of the Rules of Court.***- The provisions of the Rules of Court which are not inconsistent herewith shall apply suppletorily whenever practicable and convenient.

**Section 87. Separability Clause.** - In case any clause, sentence, section, or provision of this Rules or any portion hereof is held or declared unconstitutional or invalid by a competent court, the other sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

**Section 88. Repealing Clause.** - All administrative orders, rules and regulations, guidelines, circulars, and other issuances inconsistent herewith or contrary to the provisions of this Rules are hereby repealed or modified accordingly.

**Section 89. Effectivity.** - This Rules shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation.

*APPROVED this 18<sup>th</sup> day of April, 2018, Quezon City, Philippines.*

(SGD.)  
**HON. BASILIO WANDAG**  
Commissioner

(SGD.)  
**HON. NORBERTO NAVARRO**  
Commissioner

(SGD.)  
**HON. ROY DABUIT**  
Commissioner

(SGD.)  
**HON. RAMCY ASTOVEZA**  
Commissioner

(SGD.)  
**HON. DOMINADOR GOMEZ**  
Commissioner

(SGD.)  
**HON. ERA ESPAÑA**  
Commissioner

(SGD.)  
**HON. LEONOR ORALDE-QUINTAYO**  
Chairperson