

ON THE RIGHT TO PARTICIPATE IN DECISION-MAKING

In 16 October 1996 the Philippine government signed into law (RA 8371) the Indigenous Peoples Rights Act (IPRA). The law supposedly meant to give justice to the decades of marginalization, misrepresentation, discrimination and dispossession of Philippine indigenous peoples from their ancestral lands. It was modelled from the provisions of the UN Draft Declaration on the Rights of Indigenous Peoples and enables the 1987 Constitutional provisions that the State should enact "to recognize and promote the rights of indigenous peoples/indigenous cultural communities (IPs/ICCs) xxx¹" and "to protect the rights of indigenous cultural communities to their ancestral lands xxx."²

The IPRA provides mainly for the recognition of ancestral land rights through the issuance of Certificate of Ancestral Domain/Land Titles (CADT/CALT); and recognizing indigenous peoples right to free prior informed consent.

Aside from these, the law created the National Commission on Indigenous Peoples (NCIP), which is "the primary government agency for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and their ancestral domains as well as their rights thereto."³

Fourteen (14) years has passed since the enactment of the IPRA. It is but opportune to conduct a thorough and impartial review of its implementation and impact on ~~the~~ indigenous peoples the supposed beneficiaries of the law: whether the situation of indigenous peoples improved with the enactment of the law. Crucial to the review is an evaluation/assessment on the performance of the NCIP. This becomes urgent as accusations, complaints and charges against the NCIP continue, a few of which are graft and corruption, undermining the right to free prior informed consent wherein it served as a tool for the further exploitation and oppression of indigenous peoples.

the CPA and KAMP

Recommendations: In this light, we forward the following recommendations:

① ~~In the light that~~ The Philippine government is under a new Presidency and has not yet made any official pronouncement on its policy on indigenous peoples, we strongly feel that a visit of the UNSR on IPRs to the Philippines would be more than opportune. The visit may highlight the experience of Philippine indigenous peoples on IPRA and the NCIP by directly meeting with the victims indigenous peoples who can further substantiate ~~our~~ claims that these (IPRA and the NCIP) facilitate plunder of ~~our~~ ancestral lands, brew disunity among indigenous peoples and between indigenous peoples and non-indigenous peoples, and the undermining of the right to FPIC.

¹ Sec. 2, Article II, Declaration of State Principles

² Sec. 5, Article XII, National Economy and Patrimony

³ http://en.wikipilipinas.org/index.php?title=National_Commission_on_Indigenous_Peoples

We also call for greater support to the UN Special Rapporteur for him to fully fulfill his mandate.

②^A Continuing and more comprehensive study and debate on the recognition and practice of the principle and right of Free-Prior-Informed-Consent; looking into actual case studies vis-à-vis implementation of the UNDRIP and other international standards respecting indigenous people rights. The FPIC wherein indigenous peoples can say NO or reject projects including research on their persons and culture. The thematic report does not discuss much on these.

③ It would also be helpful to include in the thematic study the participation of indigenous peoples in other State decision-making mechanisms especially legislative and policy-making bodies and look into the experience of indigenous peoples in elections, and the exercise of their right to suffrage. High illiteracy rate and lack of resources hinder indigenous peoples participation in these State mechanisms.

In the Philippines, even in the partylist system reserved for marginalized and underrepresented sectors, which include the indigenous peoples – indigenous peoples are further marginalized with the encroachment of traditional parties and high-ranking government officials into the system. In the last election, retiring or resigning commissioners of the NCIP used the partylist system to remain in government, even using government resources and facilities for their campaign creating an unfair and undue advantage for sincere and genuine indigenous peoples partylists.

④ Militarization and the filing of strategic lawsuits against public participation is one great issue that affect indigenous peoples participation in decision-making. This issue should be included in the thematic study – militarization and its impact on indigenous peoples.

In the Philippines, there is an increasing military presence in indigenous territories either for counter-insurgency, counter-terrorism or corporate security for unwanted or rejected projects. Militarization adversely impacts on the democratic rights and participation of indigenous peoples not only on decision making processes. Indigenous peoples cannot participate, dialogue or negotiate in good faith in a militarized environment and when the State accuses indigenous peoples as enemies of the State.

We hope that our recommendations be given consideration.

Thank you Mr. Chairperson!

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