

# Points and Issues to Consider in the LGC and IPRA from the side of Local Governments

National Roundtable Discussion to Harmonize Local Government Code of 1991 and Indigenous Peoples Rights Act

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# Indigenous People/Indigenous Cultural Communities rights

## 1. The 1987 Philippine Constitution

There are four important sections that pertain to the State's recognition of the rights of Indigenous Peoples / Indigenous Cultural Communities:

- Sec 22, Art II
  - promotion of the rights of ICCs within the framework of national unity and development
- Sec 5, Art XII & Sec 6, Art XIII
  - protection of the rights of ICCs to their Ancestral lands to ensure their economic, social and cultural well-being
- Sec17, Art XIV
  - respect and promotion of rights of ICCs to preserve and develop their cultures, traditions and institutions, and shall consider these in the formulation of national policies and plans

## 2. Republic Act No. 8371 or the Indigenous Peoples Rights Act (IPRA)

- Rights to ancestral domains (*right to ownership; right to develop land and natural resources; right to stay in territories; right in case of displacement; right to claim parts of reservations; right to safe and clean air and water; and right to resolve conflict*)
- Right to self-governance and empowerment (*right to use their own justice system; right to participate in decision-making; and right to determine and decide priorities for development*)
- Social justice and human rights (*State provision of equal protection and non-discrimination; rights to equal opportunity and treatment; rights to basic services; and the guarantee of rights of women, children and youth*)
- Cultural integrity *including State protection of indigenous cultures, traditions and institutions, among others.*

### 3. Republic Act 7160 or Local Government Code of 1991

- LGC defines the arena of local participation in governance in the form of sectoral representation in Sanggunian (local legislative body) and membership in the local special bodies. It is in the LSBs where sectoral representation can be realized to ensure inputs to planning and local policy development related to the following:
  - the provision of basic services;
  - utilization of IRA (20% social dev't fund);
  - utilization of share in national wealth;
  - access to common/ natural resource management;
  - revenue sharing/ resource generation)
- Provides that ICCs have the option to establish tribal barangays -
- Section 386. “To enhance the delivery of basic services in the ICCs, barangays may be created in such communities by an Act of Congress” notwithstanding the minimum requirements for the creation of a barangay

#### **4. DILG Memorandum Circular No. 2010-119: Mandatory representation of ICCs/IPs in policy making bodies and other local legislative councils**

All LCEs are directed to strictly observe the mandate of Republic Act 8371 or IPRA, specifically

Section 16-on ICC/IP mandatory representation in the local sanggunian in accordance with the NCIP AO No. 1, Series of 2009: National guidelines for the mandatory representation of ICCs/IPs in local legislative councils

#### **5. NCIP Administrative Order No. 1, Series of 2004: Guidelines on the formulation of the ADSDPP**

- Art III, Sec 9-Incorporation of the ADSDPP into the local government plans.

“After approval of ADSDPP, the ICCs/IPs shall submit the same to the municipal and provincial government units having territorial and political jurisdiction over them for incorporation in their development and investment plans. The LGUs are also encouraged to provide financial and technical assistance in the implementation of the ICCs/ IPs’ development plans.”

# Points and Issues to consider

1. Conflicts in the provisions among the IPRA and other laws (LGC, NIPAs, etc)
2. Provision in the Constitution and the LGC/RA 7160 recognizing the right of the IPs/ICCs, needs operative mechanism to operationalize these concepts
  - ✓ Representation on the local sanggunian
    - Selection of IP representative into the Local Sanggunian and the issue on elected vs. appointed member
  - ✓ Integration of the ADSDPP in the local development plans (CLUP, and CDP)
    - Integration procedures
  - ✓ Recognition of rights
    - Hierarchy of governance that will govern the IPs/ICCs – local ordinances/resolutions vs. customary rule

# Ultimate goal

## 1. Genuine local participation as embodied in the Local Government Code

- *Stronger representation and direct participation of ICCs/IPs in the Local Development Council (from development planning, implementation to monitoring)*
- *Full implementation of DILG MC 2010-119 and operationalize mechanisms for local participation*
- *Improve local governance toward ensuring the interest and well-being of IPs (ensuring irreversibility of reforms, etc.)*

## **2. Enhanced natural resource management systems pertinent to communities of Indigenous Peoples**

- *Equitable access and management of natural resources and ensure benefit sharing between the local governments and local communities including ICCs/IPs, especially when the natural wealth is located in Ancestral domains*
- *Efficacy of conflict resolution mechanisms arising between private companies, local governments and ICCs/IPs (e.g. mining/energy companies operating in Ancestral domains)*
- *Maximize resource potentials and benefits to finance social services delivery such as on education, health, basic infrastructures, among others*
- *Support to comprehensive development planning on resource management, protection and utilization*





**Maraming Salamat po!**

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