

INDIGENOUS PEOPLES RIGHTS ACT

The More Things Change, the More They Remain the Same

SUMMARY

Seventeen years hence, indigenous peoples still suffer the same problems and development barriers prior to the passing of Indigenous Peoples Rights Act (IPRA) in 1997. Working to secure the rights of indigenous peoples to their lands, and promoting their traditional indigenous farming methods would contribute to the development of more diversified and resilient agricultural systems. This would be a major step towards eradication of poverty and hunger among indigenous family farmers and communities.

CONTEXT AND IMPORTANCE OF THE PROBLEM

The enactment of Republic Act 8371, commonly known as the Indigenous Peoples Rights Act (IPRA) in 1997 brought so much hope and rejoicing among indigenous peoples in the Philippines. The IPRA, which sets out the legal framework for indigenous peoples' rights, was supposed to usher in a new era of development and protect their rights to their ancestral lands, and ensure their economic, social and cultural well-being.

Securing land rights remain elusive. The cumbersome land titling process almost grinds to a halt. In particular, there is quandary on how to resolve the bottlenecks in the registration of the CADTs (Certificate of Ancestral Domain Titles) as well as the pressure being made to bear on indigenous peoples in the light of the aggressive promotion of mining and other extractive industries in ancestral lands.

In recent years, while the National Commission on Indigenous Peoples (NCIP) has already approved a number of CADTs, these could not as yet be granted and awarded to the indigenous communities, unless these are first duly registered with the Land Registration Authority (LRA). This is a direct result of the Memorandum of Agreement (MOA) between the NCIP and the LRA which stipulates such condition.

This MOA gave further opportunity to the opponents of the CADT to prevent indigenous peoples from securing their rights. While the CADTs are pending with the LRA, the ancestral domains are subjected to development aggression. Extractive activities such as mining, logging, and plantation establishment are coming into ancestral domains sans the consent of the indigenous peoples.

An increasing number of CADTs, even those which were approved some ten years ago, are in danger of being compromised, because they are not yet considered as perfected titles unless they are registered. Despite the persistent pleadings from indigenous peoples and other support organizations, there is no sign that the NCIP is working towards reviewing such MOA with the LRA to rectify the situation. This situation does not bode well in the efforts to secure land tenure for the indigenous peoples.

The issuance of the DAR-DENR-LRA-NCIP Joint Administrative Order (JAO) No. 1 Series of 2012 on 27 January 2012 further complicates the already tedious and problematic delineation of ancestral domains. The JAO violates the provisions of the IPRA on the process and procedures

for the identification and delineation of ancestral domains. It allows the DAR, DENR, and LRA to undermine the NCIP's authority to perform its functions and duties in protecting and securing IP land rights.

The JAO allows these agencies to insert themselves into the exclusive authority and legal mandate of the NCIP under IPRA to determine the extent and scope of the ancestral domains and lands of indigenous peoples. This is detrimental to the interests of the indigenous peoples, which the NCIP is mandated to protect and promote.

This continuing insecurity and inability to regain control of their lands and resources threatens the very foundation of the traditional knowledge of indigenous peoples, and impairs their ability to further contribute to food production and environmental management.

It is generally acknowledged that the traditional knowledge accumulated by indigenous peoples is vital to strengthening resilient family-based agricultural enterprises. The major role played by indigenous peoples in selecting and handling various plant varieties from generation to generation has contributed significantly to agrobiodiversity.

RECOMMENDATIONS

- Restore the primacy of the provisions of the IPRA on the delineation of ancestral domains and the processing of the CADT.**
- Scrap DAR-DENR-LRA-NCIP Joint Administrative Order (JAO) No. 1 Series of 2012 and Memorandum of Agreement (MOA) between NCIP and LRA.**
- Stop large-scale mining in indigenous territories.**
- Promote the appropriate recognition and support in the governance and management of Indigenous Peoples and Local Communities Conserved Territories and Areas (ICCA).**
- Stop the entry and proliferation of toxic, banned, and harmful farm inputs in indigenous peoples' lands and territories.**