

THIRTEENTH CONGRESS OF THE }  
REPUBLIC OF THE PHILIPPINES }  
First Regular Session }

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**SENATE**

P. Senate Resolution No. 115

Introduced by Senator Madrigal

**A RESOLUTION**

**DIRECTING THE SENATE COMMITTEES ON CULTURAL COMMUNITIES; JUSTICE AND HUMAN RIGHTS; SOCIAL JUSTICE, WELFARE AND RURAL DEVELOPMENT; URBAN PLANNING, HOUSING AND RESETTLEMENT; AGRARIAN REFORM; AND ENVIRONMENT AND NATURAL RESOURCES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON EXECUTIVE ORDER NO. 364, SERIES OF 2004, PROMULGATED 27 SEPTEMBER 2004 BY PRESIDENT GLORIA MACAPAGAL-ARROYO, ENTITLED, "TRANSFORMING THE DEPARTMENT OF AGRARIAN REFORM INTO THE DEPARTMENT OF LAND REFORM (DLR)" WHICH PLACED BOTH THE PHILIPPINE COMMISSION ON URBAN POOR (PCUP) AND THE NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP) UNDER THE CONTROL AND SUPERVISION OF THE SECRETARY OF THE NEW DLR**

WHEREAS, recognizing the rights of the Indigenous Cultural Communities and Indigenous Peoples especially with respect to their respective Ancestral Domains, Article XII Section 3 of the 1987 Philippine Constitution was enshrined by the framers thereof which states that – "The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities (ICC) to their ancestral lands to ensure their economic, social, and cultural well-being. The Congress may provide for the applicability of customary laws governing property rights and relations in determining the ownership and extent of ancestral domain."

WHEREAS, it was reported that despite the existence of the aforementioned Constitutional provision, in reality, violations to the rights Indigenous Peoples (IPs) became even more rampant due to the perpetual efforts of the Executive to mainstream the ICCs/IPs so as to be able to exploit their lands;

WHEREAS, in order to provide the ICCs with the means to ward of land grabbers or such entities who are determined to exploit and consequently destroy their environment, life was given to Article XII Section 5 of the 1987 Philippine Constitution on 29 October 1997 by the tenth Congress through the enactment of Republic Act No. 8371, otherwise known as "The Indigenous Peoples Rights Act of 1997" or IPRA;

WHEREAS, through the case of Cruz v. DENR Secretary (G.R. No. 135385, 6 December 2000), the Supreme Court affirmed both the existence and enforceability of the rights of the ICCs and IPs as enshrined in the IRPA by upholding its constitutionality despite the multifarious challenges against the same;

WHEREAS, Section 38 of Republic Act 8371, otherwise known as "The Indigenous Peoples Rights Act of 1997" or IPRA, provided for the creation of the National Commission on Indigenous Peoples (NCIP) which is, to serve as the primary governmental agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto;

WHEREAS, Section 40 of Republic Act 8371, otherwise known as "The Indigenous Peoples Rights Act of 1997" or IPRA, prescribed that the aforementioned National Commission on Indigenous Peoples (NCIP) shall be an independent agency that shall directly be under the Office of the President;

WHEREAS, it has been alleged that despite the existence of the IPRA and the formation of the NCIP, the law was nevertheless rendered inutile by the Executive as it impeded the effectiveness of the NCIP by injecting disunity and turmoil within Commission and deprived the same of its much needed funds through executive impoundment;

WHEREAS, on 27 September 2004, President Gloria Macapagal-Arroyo promulgated Executive Order 364, Series of 2004, entitled, "Transforming the Department of Agrarian Reform into the Department of Land Reform (DLR)," whereby the newly created department was made responsible for all land asset reform programs in the country, including agrarian reform, urban land reform/resettlement, and ancestral domain reform;

WHEREAS, E0 364 further prescribed that the Commission on the Urban Poor (PCUP) and the National Commission on Indigenous Peoples (NCIP) would thereafter be placed under the supervision and control of the DLR Secretary and the Chairmen of the two Commissions to be deemed Ex-Officio Undersecretaries of the DLR for Urban Land Reform and Ancestral Domain Reform, respectively;

WHEREAS, though it is recognized that the President does possess the power to reorganize the different instrumentalities, bureaus and agencies of the government, the same however, is not absolute and can only be exercised within the limits prescribed by either or both the Constitution or law;

WHEREAS, it has been purported that due to the extraordinary nature of matters embraced by the IPRA Law, such has actually been deemed the one of the world's "landmark social legislation," which likewise justifies and gives enlightenment to the Congressional mandate that the NCIP be an independent government agency;


WHEREAS, it has been purported that EO 364 is not germane to, and is in fact, in direct contravention of Republic Act 8371, otherwise known as "The Indigenous Peoples Rights Act of 1997" or IPRA and must thus be deemed null and void;

WHEREAS, EO 364 is alleged to clearly be another undertaking which the Executive has employed so as to further weaken the struggle of the Indigenous People to have their rights of self determination and to their Ancestral Domains recognized, protected and enforced;

WHEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, directing the Senate Committees on Cultural Communities; Justice and Human Rights; Social Justice, Welfare and Rural Development; Urban Planning, Housing and Resettlement; Agrarian Reform; and Environment and Natural Resources to conduct an inquiry, in aid of legislation, on Executive Order No. 364, series of 2004, promulgated 27 September 2004 by President Gloria Macapagal-Arroyo, entitled, "Transforming the Department of Agrarian Reform into the Department of Land Reform (DLR)" which placed both the Philippine Commission on Urban Poor (PCUP) and

the National Commission on Indigenous Peoples (NCIP) under the control and supervision of the Secretary of the new DLR.

Adopted,

  
**M.A. MADRIGAL**