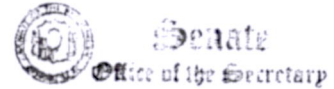



SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session )



'18 FEB 28 A11 :27

SENATE

P. S. RES. NO. 667

RECEIVED BY: 

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Introduced by **SENATOR LEILA M. DE LIMA**

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**RESOLUTION**

**DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE VARIOUS ISSUES OF THE INDIGENOUS PEOPLES OR INDIGENOUS CULTURAL COMMUNITIES WITH THE END VIEW OF CRAFTING NECESSARY AMENDMENTS TO REPUBLIC ACT NO. 8371, OR THE INDIGENOUS PEOPLES RIGHTS ACT OF 1997, TO STRENGTHEN THE PROMOTION AND PROTECTION OF THE RIGHTS OF INDIGENOUS PEOPLES OR INDIGENOUS CULTURAL COMMUNITIES**

*WHEREAS*, the 1987 Constitution (“the Constitution”) in Article II, Section 22 of State Policies, provides that “[t]he State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development”;

*WHEREAS*, the Constitution likewise upholds the rights of indigenous peoples or indigenous cultural communities to participate in political processes, seek and hold public office,<sup>1</sup> protect rights to ancestral lands,<sup>2</sup> develop lands,<sup>3</sup> utilize their own indigenous learning systems,<sup>4</sup> and participate in cultural life<sup>5</sup>;

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- 1 **Article VI, Section 1.** The party-list representatives shall constitute twenty per centum of the total number of representatives including those under the party list. For three consecutive terms after the ratification of this Constitution, one-half of the seats allocated to party-list representatives shall be filled, as provided by law, by selection or election from the labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors as may be provided by law, except the religious sector.
  - 2 **Article XII, Section 5.** The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being.
  - 3 **Article XIII, Section 6.** The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands. The State may resettle landless farmers and farm workers in its own agricultural estates which shall be distributed to them in the manner provided by law.
  - 4 **Article XIV, Section 1.** Encourage non-formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school study programs particularly those that respond to community needs.
  - 5 *Id* at Section 17. The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.

*WHEREAS*, Republic Act No. 8371, or the Indigenous Peoples Rights Act of 1997 (IPRA), further acknowledges and promotes the rights and freedoms of indigenous peoples and establishes a national mechanism to uphold and protect the said rights;

*WHEREAS*, the Philippines, as a State Party to the International Covenant on Civil and Political Rights (ICCPR),<sup>6</sup> is obligated to respect the rights of persons belonging to cultural minorities, who, in community with the other members of their group, are entitled to enjoy their own culture, to profess and practice their own religion, or to use their own language<sup>7</sup>;

*WHEREAS*, the Philippines, as likewise a State Party to the International Covenant on Economic Social and Cultural Rights (ICESCR), is obligated to respect the rights of indigenous peoples to self-determination<sup>8</sup>;

*WHEREAS*, on 7 September 2007, during the United Nations General Assembly, the Philippines voted to adopt the Declaration of the Rights of Indigenous Peoples;

*WHEREAS*, the Committee on Economic Social and Cultural Rights, in its General Comment No. 24, observes that indigenous communities are often disproportionately affected by business activities in relation to the development, utilization or exploitation of lands and natural resources<sup>9</sup>;

*WHEREAS*, General Comment No. 24 also emphasizes that impact assessments of business activities should examine actual or potential effect on indigenous peoples rights to land, resources, territories, cultural heritage, traditional knowledge and culture<sup>10</sup>;

*WHEREAS*, General Comment No. 24 recommends the formulation and adoption of national action plans to ascertain realization of the rights set forth in the ICESCR<sup>11</sup>;

*WHEREAS*, the Philippine Development Plan 2017-2022 contains a legislative agenda that identifies issues concerning indigenous peoples, including a “commemoration of indigenous peoples’ rights act”, which resulted in the enactment in 2013 of Republic Act No. 10689 or “AN ACT DECLARING AUGUST 9 AS NATIONAL INDIGENOUS PEOPLES DAY AND MANDATING THE MEANINGFUL OBSERVANCE THEREOF”<sup>12</sup>;

*WHEREAS*, certain issues concerning indigenous peoples persist, which include allegations of human rights violations such as displacement of communities

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6 Ratified 07 June 1974.

7 ICCPR, Article 27

8 ICESCR, Article 1

9 General Comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities (E/C.12/GC/24 ), available at <file:///C:/Users/Liezl/Downloads/G1723717.pdf>, accessed on 31 January 2018.

10 *Ibid.* para.17.

11 *Ibid.* para. 58.

12 <[http://www.lawphil.net/statutes/repacts/ra2015/ra\\_10689\\_2015.html](http://www.lawphil.net/statutes/repacts/ra2015/ra_10689_2015.html)> accessed on 31 January 2018.

due to armed conflict,<sup>13</sup> killing of community leaders such as Dexter Condez in 2013,<sup>14</sup> killings of Lumads<sup>15</sup> in Mindanao and Igorots of Cordillera,<sup>16</sup> the threat of eviction of an Ati tribe in a section of Boracay,<sup>17</sup> and violations of the legal duty of the mining companies to secure free, prior and informed consent from the affected communities<sup>18</sup>.

*WHEREAS*, on top of these foregoing issues that directly relate to the IPs, there are recurring concerns involving disputes over ancestral domains, ancestral lands, and titles issued pertaining to the same. In particular, there appears to be operational concerns and apparently conflicting claims between and among the NCIP, Department of Agrarian Reform (DAR), and Department of Environment and Natural Resources (DENR) as to, among others: (1) untitled lands being claimed by IPs as part of their Ancestral Domain or Ancestral Lands (AD/ALs) on the one hand, or either or both the DAR, as coverable lands under the Comprehensive Agrarian Reform Program (CARP), and the DENR, on the other, (2) titled lands with registered Certificate Land Ownership Awards (CLOAs) and Emancipation Patents (EPs) that fall within the Certificates of Ancestral Domain or Ancestral Land Titles (CADTs/CALTs), (3) issues arising from the issuance by the DENR of resource access or development instruments over lands within Ancestral Domain or Ancestral Land claims, (4) similarly, those arising from Exploration Permits, Financial or Technical Assistance Agreements issued within the CARP-covered areas (5) special law-declared areas or lands that have been previously reserved by proclamation that were subsequently issued CADTs/CALTs, areas with existing and/or vested rights after the registration of CADTs/CALTs, but were not segregated or excluded for any reason, (6) resolution of formal complaints filed by concerned ICCs/IPs or by the NCIP in their behalf, as to contested areas/issues, and (7) other jurisdictional and operational issues that arise or may arise between and among the DAR, DENR, NCIP, and the courts;

*WHEREAS*, it is a fact that many of the mineral-rich areas of the country are found in the vicinity of the ancestral domains of the IPs. This has led to situations where IPs have been subjected to bribery, harassment, intimidation and acts of violence, in order to prevent or defuse resistance to the arrival of mining companies. There are likewise reports that IPs have also been subjected to the pernicious effects of the government's counterinsurgency strategy. Allegations have been made of IPs being forced to join paramilitary units of the government. And if they refuse, they run the risk of being branded as rebel sympathizers, making themselves targets, without cause;

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13 Commission on Human Rights of the Philippines, "COMMENTS IN RELATION TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/C.12/PHL/CO/4)", available at <[http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/PHL/INT\\_CESCR\\_ICO\\_PHL\\_23087\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/PHL/INT_CESCR_ICO_PHL_23087_E.pdf)>, accessed on 31 January 2018.

14 Rappler, "Suspect in murder of Ati tribal leader arrested", available at <<https://www.rappler.com/nation/52191-ati-tribe-murder-suspect-arrest>> accessed on 31 January 2018.

15 Summary of Stakeholders' submission - Philippines (A/HRC/WG.6/27/PHL/3).

16 *Ibid.*

17 Philippine Daily Inquirer "Boracay Ati tribe seeks help vs. ejection from ancestral land", available at <<http://newsinfo.inquirer.net/952279/boracays-ati-tribe-seeks-help-vs-ejection-from-ancestral-land>> accessed on 26 February 2018.

18 *Ibid.*

*WHEREAS*, member States of the UN Human Rights Council raised issues concerning the indigenous peoples in Philippines during the Interactive Dialogue, that included the needs for preservation of ancestral lands, access to modern contraceptives, ratification of ILO Convention No. 169 or Indigenous and Tribal Peoples Convention, and participation in political and public life<sup>19</sup>;

*WHEREAS*, in response, the Philippines expressed support to the recommendations in the Universal Periodic Review, but it did not make specific commitments<sup>20</sup>;

*WHEREAS*, it is imperative to address the above issues and concerns of the indigenous peoples in an inclusive and participatory dialogue through the process of a legislative review toward the enhancement and improvement of existing domestic legal standards and mechanisms, specifically those spelled out in the IPRA and those carried out by the National Commission on Indigenous Cultural Communities/ Indigenous Peoples (NCIP), which is the “primary government 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.”<sup>21</sup>

***NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED***, to direct the appropriate Senate Committee to conduct an inquiry, in aid of legislation, into the various issues of the indigenous peoples with the end in view of amending, if needed, Republic Act No. 8371, or the Indigenous Peoples Rights Act of 1997, and ensuring the implementation of the mandate of the National Commission on Indigenous Cultural Communities/ Indigenous Peoples (NCIP) towards the enhanced promotion and protection of the rights and welfare of the indigenous peoples or indigenous cultural communities.

*Adopted,*

  
LEILA M. DE LIMA

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<sup>19</sup> *Ibid.*

<sup>20</sup> Report of the Working Group on the Universal Periodic Review- Philippines (A/HRC/36/12/Add.1).

<sup>21</sup> RA No. 8371, Sec. 38.