



CORDILLERA PEOPLES ALLIANCE

For the Defense of the Ancestral Domain and for Self Determination

24 October 2014

IPRA and NCIP: 17 years of IP Rights Violations

October 29, 2014 marks 17 years of the Indigenous Peoples Rights Act or RA 8371. The Cordillera Peoples Alliance is issuing this paper to iterate anew its evaluation of and position rejecting the IPRA and declaration for the abolition of NCIP.

On State Laws

In our critique and evaluation of State laws, we take into account and relate these to the nature of the State, as we further sharpen our analysis and calls based on experience. In the present set-up, the State is represented by the government of Philippines and remains under tight control of the few ruling elite. The State's overall authority, basic policies and main body of laws, which it imposes on the entire population including indigenous peoples, reflects the general will and long-term interest of the exploiting classes. It thereby serves as the main instrument to advance their interests, preserve power and wealth, and resist basic changes demanded by the marginalised majority.

Under the framework of the Regalian Doctrine, State laws and policies of the State contradict indigenous laws and practices on land and resources. These were imposed, resulting to the outright violation of indigenous peoples' collective rights over their ancestral lands, resources and territorial integrity. State imposed development beneficial only to the ruling elite and their imperialist masters is tantamount to the violation to indigenous peoples' right of self-determination. With this, indigenous peoples have been historically marginalised. For one, the Cordillera region has long been regarded by the State as a resource base for plunder, profit and exploitation, in stark contrast to indigenous peoples' view that land is life, and thus must be nurtured and protected.

Deception and Conspiracy

The IPRA was enacted in 1997 as a result of efforts of various lobby groups and NGOs. While IPRA was hailed nationally and internationally as a landmark legislation that would pave the way for the implementation of the constitutional provision recognizing ancestral land and domain rights of indigenous peoples, CPA from the start, viewed IPRA as a masterpiece of deception and called for its rejection. The law must be exposed as a deceptive and divisive tool of the State and ruling classes against the people. While seemingly progressive in form, it was clear at the onset that IPRA would never be meaningful because recognizing indigenous peoples' rights to land was inconsistent with the interest of the ruling classes. IPRA also set up the National Commission on Indigenous Peoples (NCIP), which indeed became instrumental in surrendering ancestral lands to capitalist mining, destructive energy projects, and other private interests.

As time passed, the actual practice of the government through the NCIP unmasked the deceptive nature of the law and its utilization to advance corporate energy and mining interests, disenfranchise IPs of their ancestral lands, coopt and pit indigenous communities against each other. The State manipulated the FPIC provision to facilitate the entry of destructive projects within ancestral lands. The actual experiences of communities with implementation of the IPRA proved CPA's reject position correct. We cite the following examples in the Cordillera:

- Non-recognition of prior property rights of the Kankanaey in Mankayan, Benguet in favor of the ISMI's MPSA application (1999)
- Manipulation of the FPIC process in Bakun, Benguet in favor of the mining application of Royalco (2009), manipulation of FPIC process in Mankayan, Benguet on the expansion of Lepanto and its application to convert its MPSA application into FTAA (2013)
- Issuance of certifications of pre conditions to several mining corporations from 1998 to 2000 without the FPIC of affected communities which resulted in the approval of 9 MPSAs, non-recognition of the rejection or opposition of indigenous communities to a project (i.e. 2009 Binongan indigenous peoples rejection of Olympus Pacific Minerals application, 2013 Guinaang indigenous peoples rejection of Makilala Mining)

- Manipulation of FPIC process for the entry of big energy projects such as Chevron in Guinaang, Kalinga and Hedcor in Sabangan, and Philcarbon in Sagada, Mountain Province Cause of boundary disputes and tribal conflicts due to CADCs and CADTs
- Issuance of questionable CALTs and CADTs to bogus claimants as in the case of Baguio City
- No protection/intervention/action to protect indigenous communities from militarization, bombings, extrajudicial killings, and human rights violations committed by State military and companies in protecting capitalist and destructive projects

The manipulation of the NCIP and corporations for obtaining FPIC has caused human rights violations and divisions in indigenous communities targeted by mining and energy corporations. Community consent for destructive projects is forcibly secured by the government and private corporations, rather than freely given by the people.

We also cite the findings of UP Baguio College of Social Sciences¹ in a study that validated the basis of CPA's rejection of the IPRA. We cite the following:

- *that NCIP's institutional performance and behavior is greatly affected by presidential leadership and commitment to specify policy options...the susceptibility or vulnerability of government bodies and decision makers to external pressures from the interest groups and other political actors*
- *Almost complete budgetary dependence to the State; personnel-heavy bureaucracy; persistently weak financial control measures*
- *Related to financial resources is the availability of Official Development Assistance (ODA), which generally aimed to integrate or mainstream indigenous peoples into the neoliberal development framework—that this situation has led to State, capital and elite capture of the indigenous peoples' movement agenda of empowerment*
- *That the implementation of titling as well as NCIP's performance of its quasi-judicial functions resulted in the strengthening of State powers within ICC (indigenous cultural communities) through the NCIP, with the ostensible aim of incorporating the IPs within the framework of the State's legal system... that these 'footprints' nonetheless manifest increasing penetration into the lives and affairs of the IPs*
- *That while the government claims that no complaint in FPIC implementation exists, various case studies and news paper accounts have documented serious problems and flaws related to the FPIC process in indigenous communities all over the Philippines*
- *That State institutionalisation and bureaucratisation of the Human Rights Based Approach (HRBA) paradoxically pose constrains to the agenda of indigenous peoples' empowerment*
- *That community-based and rights bearer based activities and approaches are not evident in the accomplishment reports of NCIP*
- *That there is growing empirical evidence that the process and politics of land titling may in fact lead to market (corporate) and elite capture of the resources and benefits resulting from land exploitation due to the asymmetrical power relations among the corporations, State and indigenous peoples, with the latter usually losing out in a complicated bureaucratic process that is alien and alienating to them*
- *That 'mainstreaming' or 'assimilationist' direction of State programs and policies is a clearly a continuity of the colonial an post-colonial tack of assimilating and integrating indigenous communities into the economic, social, political and cultural life of the Philippine nation state and its development agenda*

Cases of corruption in NCIP were also evident. Peoples' money is corrupted and, worst, used in violating indigenous peoples rights that NCIP is supposed to protect. In many cases, the NCIP has become the spokesperson and defender of mining and energy companies. Such injustice and accumulated anger of communities who have been marginalized through the years fueled the call to Scrap IPRA and Abolish NCIP.

Inthe *SUMIKAD KORDILYERA!* people's protest versus militarization and national oppression on October 20 in Baguio City, there were similar stories of NCIP connivance with mining and energy companies, and manipulation of the FPIC process—from Guinaang, Pasil, Kalinga; Sabangan and Sagada, Mountain Province; Tinoc, Ifugao; Kapangan and Mankayan in Benguet; Conner, Apayao; and Lacub, Abra. The accounts came from community leaders themselves, from their own experiences—*ti kinaagpayso na, nauma ti umili ken napnuan da ti unget. Ti panawagan nga isara, runawen wenno buraken ti NCIP ket nagapo metlaeng ti umili gapu iti nalawag a kapadasan da. Paneknekan ti kapadasan ti umili ti kinapudno iti panawagan ti CPA nga reject IPRA. Saan a tongtongan ti panag-amyendar nu di ket panagwaswas iti mismo a linteg a nangpakaru ti panaglabsing ti karbengan dagiti*

nainsigudan nga umili. An-anoen dagiti umili nga napan nagprotesta idiay NCIP CAR idi October 20 nu ar-aramiden kuma ti NCIP ti trabaho na.

Communities also condemned NCIP's silence on the continuing extrajudicial killings of indigenous leaders and militarization of communities resulting in various human rights violations. NCIP must also be held accountable for these killings and human rights violations. State militarization accompanies the entry of capitalist mining and energy projects, as the Cordillera experience has clearly shown, and thus the protests at Camp Allen and NCIP on October 20, on top of the other human rights and international humanitarian law violations of the AFP in the region.

Conclusions and Alternative

Seventeen years of IPRA is enough. It does not recognise, respect or promote the rights of indigenous peoples and the struggle of indigenous peoples for self-determination. IPRA did not repeal oppressive land laws or correct the historical injustice committed against indigenous peoples. It is a tool of the State, the few ruling elite and capitalists for plunder and exploitation of indigenous peoples' territories.

IPRA and the NCIP are being used to facilitate the entry and implementation of destructive projects detrimental to indigenous peoples' rights and welfare. Worst, it does not address and stop the militarization of indigenous communities and killings of indigenous peoples. IPRA and the NCIP are not the solution to the problems of indigenous peoples—in fact, it has become one of their problems. Even from other groups we have heard experiences of the local NCIP personnel inventing 'tribal dealers' and enriching themselves at the expense of indigenous peoples.

Enough experience and lessons have been drawn for the past 17 years, all leading to the conclusion that IPRA deserves to be scrapped and NCIP immediately abolished as indigenous peoples pursue demands and struggles for comprehensive rights. Our strategic and best option is to firmly and consistently reject IPRA as an inutile and deceptive law and sustain the call for the abolition of NCIP, while asserting self-determination and people's empowerment at the grassroots level as an immediate alternative.

The people's anger resulting in the call for the abolition of the NCIP attests to the people's faltering confidence in government. Abolish NCIP, not to put up another structure nor to amend the IPRA, but to recognise and strengthen the grassroots self-determining institutions and processes of indigenous communities.

The struggle for the full recognition of indigenous peoples' comprehensive rights is strategic and cannot be attained in the present dispensation. It requires a mass struggle by an empowered people to effect change for a genuine democratic and sovereign Philippines where our collective right of self-determination thru Genuine Regional Autonomy can only be possible. Genuine Regional Autonomy is not possible in the present set up, as there are many constraints like the Regalian Doctrine and other oppressive land laws; State terrorism such as extrajudicial killings of indigenous peoples, widespread militarization of indigenous communities; bureaucratic corruption, plunder and destruction of our territories and resources for corporate greed; imperialist control over the country; etc. Even democratic reforms are not possible.

Our problems as indigenous peoples as the rest of the country are deep-rooted and systemic which requires strategic solutions and system change including government. Just as we unite with other oppressed Filipinos, we will continue to unite with other indigenous peoples in the struggle for self-determination even with those who felt or found they had something to gain from using the provisions of IPRA. Hence, thinking for a replacement of the NCIP when abolished must be seen in the context of advancing Genuine Regional Autonomy in the Cordillera under a truly democratic and sovereign Philippines. At the grassroots, building blocks of GRA and self determination are progressing as political power is increasingly built in the hands of the people.***

Reference: ATB Anongos, Secretary General

¹“Unbundling Rights: State and Indigenous Communities Relations” by Alejandro R. Ciencia, Jr., Santos Jose O. Dacanay, III, and Raymund D. Rovillos. The Cordillera Review, Journal of Philippine Culture and Society, Vol 3, Numbers 1 – 2. March – September, 2011. Cordillera Studies Center, University of the Philippines Baguio, Baguio City, Philippines. Presented by Dr. Raymund Rovillos, UP Baguio Chancellor during the 2013 Cordillera Peoples Development Conference