

The Constitutional Policies on Indigenous Peoples

The framers of the 1987 Constitution, looking back to the long destitution of our less fortunate brothers, fittingly saw the historic opportunity to actualize the ideals of people empowerment and social justice, and to reach out particularly to the marginalized sectors of society, including the indigenous peoples. They incorporated in the fundamental law several provisions recognizing and protecting the rights and interests of the indigenous peoples, to wit:

“ Sec. 22. The State recognizes and promotes the rights of indigenous peoples within the framework of national unity and development.^[17]

Sec. 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.

The Congress may provide for the applicability of customary laws governing property rights and relations in determining the ownership and extent of ancestral domains.^[18]

Sec. 1. The Congress shall give the highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use and disposition of property and its increments.^[19]

Sec. 6. The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition and utilization of other natural resources, including lands of the public domain under lease or concession, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands.^[20]

Sec. 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.^[21]

Sec. 12. The Congress may create a consultative body to advise the President on policies affecting indigenous cultural communities, the majority of the members of which shall come from such communities.^[22]

IPRA was enacted precisely to implement the foregoing constitutional provisions. It provides, among others, that the State shall recognize and promote the rights of indigenous peoples within the framework of national unity and development, protect their rights over the ancestral lands and ancestral domains and recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of the ancestral domains.^[23] Moreover, IPRA enumerates the civil and political rights of the indigenous peoples;^[24] spells out their social and cultural rights;^[25] acknowledges a general concept of indigenous property right and recognizes title thereto;^[26] and creates the NCIP as an independent agency under the Office of the President.^[27]

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