An introduction to

THE INDIGENOUS PEOPLES RIGHTS ACT (IPRA) of 1997

An IP Human Rights Based Policing Framework

Presented by:

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National Commission on Indigenous Peoples (NCIP)
References

- Indigenous Peoples Rights Act of 1997
- The United Nations Declaration on the Rights of Indigenous Peoples
- International Labour Organization Convention 169
- HB 659 by Sitti Djalla A Turabin-Hataman ‘An Act Prohibiting Discrimination Against Persons on Account of Ethnic Origin and/or religious Belief
- QRU -Central 5th Commission Report, 2013
- A Brief on Complaints on Indigenous Peoples Rights Violations (IPRVs), 15 February 2013
OBJECTIVES OF THE SESSION

- To enable participants to understand contexts of indigenous peoples/cultural communities IPs/ICCs);
- To understand the IPRA or Republic Act 8371 as an IP human rights policy framework;
- To enable participants to understand that IP rights are human rights;
- To understand issues affecting IP/ICCs towards an IP sensitive community policing;
- For participants to be advocates of IP rights
As newly designated HRDOs…

WHAT WILL YOU DO FIRST???

WHAT WILL YOU DO SECOND???

WHAT WILL YOU DO NEXT???
I. WHO ARE THE INDIGENOUS PEOPLES

- discrimination
- Peace/armed conflict
- Human security
- development

II. THE IPRA: AN IP HUMAN RIGHTS POLICY FRAMEWORK

IV. REALITIES ON THE GROUND

IV. SUMMARY & CONCLUSIONS
Who are THE PH INDIGENOUS PEOPLES?
(Chapter II, Sec. 3 (h) IPRA)

refer to a group of people or homogenous societies identified by **self-ascription and ascription by others**, who have continuously lived as **organized community on communally bounded and defined territory**, and who have, under claims of ownership, **since time immemorial**, occupied, possessed and utilized such territories.
THE PH INDIGENOUS PEOPLES

- 110 Ethno-linguistic groups
- estimated population of 14 million
- 16% of PH population
Indigenous Peoples of the Philippines

CORDILLERA & REGION I
Bontoc; Balangao, Isneg, Tinguian, Kankanay, Kalanguya, Karao, Ibaloi, Ayangan, Ifugao, Tuwali, Kalinga, Bago, Applai, etc.

REGION II, CARABALLO MOUNTAINS
Agta, Kalanguya, Bugkalot, Isinai, Gaddang, Aggay, Dumagat, Ibanag, Itawis, Ivatan, Yogad, etc.

REGION III & REST OF LUZON/SIERRA MADRE MOUNTAINS
(AIII, RIV & RV)
Aeta, Negrito, Abelling, Agta, Dumagat, Remontado, Bugkalot, Cimaron, Kabihug, Tabangnon, Abiyan, (Aeta), Isarog, Itom, etc.

ISLAND GROUPS
(RVI & R VII)
Agutaynon, Tagbanua, Dagayanen, Tao't Bato, Batak, Pala'wan, Molbog, Iraya Mangyan, Hanunuo Mangyan, Alangan Mangyan, Buhid Mangyan, Tadyawan, Mangyan, Batangan, Mangyan, Guabton, Mangyan, Ratagon, Mangyan, Ati, Cuyunon, Sulod/Bukidnon, Magahat Korolanos, Ata, Bukidnon, Escaya, Badjao, etc.

SOUTHERN & EASTERN MINDANAO
(RXI & RXIII)
Manobo, Mandaya, Mansaka, Dibabawon, Banwaon, Bagobo, Ubo Manobo, Tagakaolo, Talaningod, Langilan, Mamanwa, Higaonon, Blaan, T'boli, Kalagan, Tagabawa, Mangguangan, Tigwahanon, Sangil, Agusan Manobo, etc.

REGION III & REST OF LUZON/SIERRA MADRE MOUNTAINS
(RIII, RIV & RV)
Aeta, Negrito, Abelling, Agta, Dumagat, Remontado, Bugkalot, Cimaron, Kabihug, Tabangnon, Abiyan, (Aeta), Isarog, Itom, etc.

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NORTHERN & WESTERN MINDANAO (RIX & RX)
Manobo, Subanen, Arumanen Manobo, Arakan Manobo, Teduray, Dibabawon, Banwaon, Bagobo, Ubo Manobo, Tagakaolo, Talalingod, Langilan, Mamanwa, Higaonon, Blaan, T'boli, Kalagan, Tagabawa, Manobo Blit, Matigsalog, Tigwahanon, Talakingod, Sangil, etc.

CENTRAL MINDANAO (RXII)
Aromanon, Tiruray, Bagobo, Ubo Manobo, Higaonon, Subanen, Iranon, B'laan, Lambangian, etc.

110 Ethnolinguistic Groups
14 M IP POPULATION (16%)
7.7 M HAS. (25.84%)
Who are the THE PH INDIGENOUS PEOPLES?

THEN... & NOW...

★ A deep-rooted history of discrimination, marginalization & continuing till the present

➢ called by various names & handled by different agencies (1901 to present)

➢ Non-participation & exclusion in local & national plans (Top –Down Approach; no agenda in national plans)

➢ Invisible in PH census (uncounted & an accounted)

➢ Devt aggression (inaccessibility of services; extractive industries)
I. WHO ARE THE IPs/ICCs?

- IPs/ICCs: PEOPLES CALLED BY VARIOUS NAMES
  - 1901: Bureau of Non-Christian Tribes (PCA 253) under the Dept of Interior
  - 1902: Bureau of Ethnological Survey for the Phil Islands vice DOI
  - 1957: Comm on National Integration (non-christian Filipinos) RA 1888
  - 1972: Pres’l Assistance on National Minorities (PANAMIN)
  - 1984: Office for Muslim Affairs & Cultural Communities (OMACC)
  - 1987: OSCC; ONCC & OMA
  - 1997: National Comm on Indigenous Peoples (merger of OSCC & ONCC)
  - 2007; National Comm on Muslim Filipinos
I. WHO ARE THE IPs/ICCs?

- **IPs/ICCs:** STRUGGLE TO SELF-DETERMINATION

- **1950s:** WB Chico Dam Project/
- **70s Macliing Dulag:** rise of insurgency
- **1993:** WB OP Guide for IPs
- **1997:** IPRA

IPRA as response; definitions
I. WHO ARE THE IPs/ICCs?

- Native Title (CADT)
- Customary Laws (leadership & justice systems)
- Ancestral Domains/territories/homelands & people
- Indigenous Knowledge Systems & Practices (IKSP)
- Indigenous Political Structure (IPS)
- Cultural Integrity

IPs/ICCs: STRUGGLE TO SELF-DETERMINATION
Spirit of the Law (IPRA)

“An act to recognize, protect and promote the rights of indigenous cultural communities/indigenous people, creating a National Commission of Indigenous Peoples, establishing implementing mechanisms, appropriating funds therefor, and for other purposes”

(thus rights based approach framework)
Pre-IPRA Issuances

1990: Department of Environment and Natural Resources, Special Order Number 31 (SO 31). CSTFAL was created.

1993: Secretary Angel C. Alcala of the DENR, issued Administrative Order Number 2 (DAO 2). Rules and Regulations for the Identification, Delineation and Recognition of Ancestral Land and Domain Claims.
What is social justice?

Equality under the law
What is social justice?

“Those who have less in life should have more in law”
Recognition of IP Rights

Century Old Struggle

- Treaty of Paris
  (10 December 1898)

- Philippines was ceded to US for $20M
Discovery vs. Conquest
Points to Ponder

Regalian Doctrine
“The King owns everything”

Native Title Doctrine
“Time immemorial Possession”
Regalian Doctrine

All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State.
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 or relations in determining the ownership and extent of ancestral domain.

[Section 5 Article XII, Philippine Constitution]
Definition of Native Title

Refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest

[Par. I, Section 3, RA 8371]
“[N]o one, we suppose, would deny that, so far as consistent with paramount necessities, our first object in the internal administration of the islands is to do justice to the natives, not to exploit their country for private gain… The same statute made a bill of rights, embodying the safeguards of the Constitution, and, like the Constitution, extends those safeguards to all. It provides that "no law shall be enacted in said islands which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws." (See. 5.)
In the light of the declaration that we have quoted from section 12, it is hard to believe that the United States was ready to declare in the next breath that "any person" did not embrace the inhabitants of Benguet, or that it meant by "property" only that which had become such by ceremonies of which presumably a large part of the inhabitants never had heard, and that it proposed to treat as public land what they, by native custom and by long association, one of the profoundest factors in human thought,--regarded as their own.”
Republic Act 8371
Indigenous Peoples Rights Act

- Landmark legislation to:
  - Correct Historical Injustice
  - Enforce Constitutional Mandates
  - Observe International HRts norms/standards

Source: NCIP
IPRA is based on int’l HRts standards among others

ICERD-1965
1967

CEDAW-1979
1981

ICECSR-1966
1974

CAT-1984
1986

CRC-1989
1990

ICCPR-1966
1989

CRPD
2008

CMW-1990
1995

ILO 169 UNDRIP

IPRA & UN policies
II. THE IPRA: AN IP HUMAN RIGHTS POLICY FRAMEWORK

SIMILARITIES of IPRA with UN policies

- SELF-DETERMINATION
- INDIVIDUAL & COLLECTIVE RIGHTS
- LAND & RESOURCES
- IDENTITY & UNIQUE INSTITUTIONS, CULTURE & PRACTICES
- DEVELOPMENT IN THEIR OWN ASPIRATIONS & AT THEIR OWN PACE
- NON-DISCRIMINATION
- SOCIAL, ECO, POL, CULTURAL, CIVIL RIGHTS
THE IPRA: An IP human rights framework

- **13 CHAPTERS**
- **83 SECTIONS**
- Signed by former PFVR on Oct 29/1997
- **10 yrs after ‘87 Consti**
5 PILLARS of THE IPRA

Four Bundles of Right

1. Rights to Ancestral Lands & Domains
2. Right to Self-Governance and Empowerment
3. Right to Social Justice and Human Rights
4. Right to Cultural Integrity

5. THE NCIP
5 PILLARS of THE IPRA

1. Rights to AL/Domains
   (Sec 7-8)

   - Right of ownership
   - Right to develop lands & natural resources
   - Right to stay in territories
   - Right in case of displacement
   - Right to regulate entry of migrants
   - Right to safe clean water and air
   - Right to claim part of reservations
   - Right to resolve conflict
   - Rights to ancestral lands
   - Right to transfer land/property (AL)
   - Right to redemption (AL)
   - (responsibilities of IP/ICCs)
     - Maintain ecological balance
     - Restore denuded areas
     - Observe laws
5 PILLARS of THE IPRA

2. Rights to Self-governance & empowerment (Sec 13-20)

- Rights to *self-gov & self-determination*; integrity of values, practices and *institutions*;
- Support for autonomous regions;
- Right to use own commonly accepted *justice systems*, peace building processes, conflict resolution institutions;
- Right to participate in decision-making
- Right to determine & decide priorities for development
- Right to constitute *tribal barangays* in accordance with LGC
- Recognition of the role of *peoples organizations*
5 PILLARS of THE IPRA

3. Rights to social justice & human rights (Sec 21-28)

- Right to equal protection & non-discrimination
- Rights during armed conflict
- Freedom from discrimination & right to equal protection
- Right to Employment
- Right to basic social services
- Rights of indigenous women
- Rights of Indigenous children & youth
5 PILLARS of THE IPRA

4. CULTURAL INTEGRITY (Sec 21-28)

- Rights to preserve & protect their culture, traditions & institutions;
- Equal access to various cultural opportunities;
- Recognition of cultural diversity;
- Right to the restitution of cultural, intellectual, religious & spiritual property taken without their FPIC or in violation of their laws, traditions & customs;
- Right to religious, cultural sites & ceremonies;
- Right to IKSPs & to develop own science & technologies
- Access to biological & genetic resource with FPIC;
- Right to a sustainable agro-techno devt
- Right to receive funds earmarked or allocated for mgt & preservation of hist sites & artifacts
5 PILLARS of THE IPRA

5. The NCIP (Chap 6, Sec 38-50)

- To carry out policies set forth in R.A. 8371 (IPRA)
- 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
- NCIP exercises administrative, quasi-legislative & quasi-judicial functions/powers
- Decisions of the NCIP are appealable at the Court of Appeals
Native Title (CADT)

- Refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish conquest (Section 31, Chap 3, IPRA)
Customary Laws

- Refer to a body of written and/or unwritten rules, usages, customs and practices traditionally and continually recognized, accepted and observed by respective ICCs/IPs (Section 3(f), Chapter II).

(hudhud)
Ancestral Domains defined
(Section 3(a), Chapter II)

- All areas generally belonging to ICCs/IPs
  - Held under a claim of ownership, occupied and possessed
- By themselves or through their ancestors
- Communally or individually since time immemorial
- Continuously to the present
- Necessary to ensure their economic, social and cultural welfare

- It includes:
  - Ancestral lands
  - Forests
    - Pasture
    - Residential
    - Agricultural
    - Hunting grounds
    - Burial grounds
    - Worship areas
    - Bodies of water
    - Mineral & other natural resources
Ancestral Land defined
(Section 3(b), Chapter II)

Land occupied, possessed and utilized

- By individuals, families and clans who are members of the ICC/IP
- Since time immemorial
- By themselves or through their predecessors-in-interest
- Under claims of individual or traditional group ownership
- Continuously up to the present

- Except when interrupted by:
  - Force majeure or displacement by force
  - Deceit
  - Stealth
  - As a consequence of gov’t projects and other dealings between gov’t & private corporations
ANCESTRAL DOMAINS

Arts, sciences
Health, agri,
trade, values etc
IKSP

- Refer to knowledge, innovations, practices, institutions, mechanisms and technologies of the IPs that evolved/developed through time as they relate to their natural and human environment, within or outside their AD.

- +direct & indirect responses & adaptive coping mechanisms for survival;

- Indigenous arts, values, beefs, rituals, law, local language, agricultural practices, political systems, environment protection, sustainable resource use, health practices, education & learning system & knowledge on flora and fauna.

  (Ex. Banaue rice terraces; rituals; rice stalks (dagami); erythromycin)
IPS
Indigenous Political Structure

- Refer to organizational & cultural leadership systems, institutions, relationships, patterns, and processes for decision-making and participation, identified by IPs such as but not limited to, Council of Elders, Council of Timuay, Bodong Holders, or any other tribunal or body of similar nature;
FREE & PRIOR INFORMED CONSENT:
means the consensus of all members of the ICs/IPs to be determined in accordance with their respective customary laws and practices free from any external manipulation, interference & coercion, and obtained after fully disclosing the intent & scope of the activity, in a language & process understandable to the community.
III. IN REALITY

An IP situation: challenges to policing
III. REALITIES ON THE GROUND

SITUATION/ISSUES OF IPs

- NON-RECOGNITION / ANCESTRAL DOMAINS, NATURAL RESOURCES & SELF-DETERMINATION
- INSURGENCY/ARMED CONFLICT: ADs battleground of armed groups; recruitment of IP & children; displacement; IPRVs
- CLIMATE CHANGE: increased IP vulnerability to food; human; territories insecurity;
- DEVELOPMENT AGGRESSION: extractive industries; militarization; security forces
- IP CENSUS; NATIONAL ACCTS;
III. REALITIES ON THE GROUND

- With what’s left of Ancestral domains
  - 7.7m hectares of AD
  - AD left frontiers of biodiversity; ecology;
  - more than 10 million hectares applications for AD
IPRV PROBLEM TREE

ROOT CAUSES
- Displacement of IDPs
- Destruction of environment
- Human Rights Violations
- Polarized/divided communities
- Distrust to government & public disorder
- Fear/insecurities/unpeace
- Poverty & hunger
- Limited access to basic services

EFFECTS
- Non-recognition of ancestral domains (holistic)
- Exploitation of natural resources
- Disregard for customary laws/IKSP
- Human Rights Violations
- Poor governance
- Ideological differences

TYPOLOGY OF CONFLICTS
- Resource-based conflicts (Business)
- Ideologically-based armed conflict (insurgency)
- Tribal/ethnic/community conflict

PLAYERS IN CONFLICT
- IPs vs. corporations/business
- Rebel vs security forces
- IPs vs armed/rebel groups
- NGAs vs LGA/LGUs
- IPs vs IPs
Fig 3. Total Number of Alleged Perpetrators per Sector

1. Military, Police and Security Forces
2. Armed Group/Militia
3. Mining Corporation, Plantation, Hydro Corp, Farmers Association, University, Communication Project, Business/Resort
4. IPs/Clans/Individuals
5. Government Agencies
6. Non-IPs/Ranch Owners
7. Unidentified

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Source: NCIP QRU-Central, December, 2012
WHAT’S IP SIT TO POLICING?

- Public/civil unrest
  - Distrust in govt
  - Social conflict
- Threatened internal & natl security

- Displacement
- Scarce resources
- Food insecurity
- Human insecurity
  - Threatened survival & subsistence
- AD & territories
- IKSPs threatened

Non-recognition of AD
Clash of concepts

INSURGENCY
ARMED CONFLICT

CLIMATE CHANGE

DEVELOPMENT
AGGRESSION

Wat now?
SUMMARY & CONCLUSION

- National law on the rights of IPs reinforces international standards on human rights
- Indigenous peoples rights are human rights
- IPs rights are guaranteed in national policies
- IPRA an IP human rights (peace, security, anti-discriminatory & devt) framework
- IPRA an IP human rights policing framework
- Peace & order unstable with non-respect & recognition of IP human rights that affects policing, law enforcement & other police activities.
WHAT now?
THE IP COMMUNITIES & PNP
(Policing in IP communities)
- Know the ‘people (s)/ communities in your AOR
- Understand their systems, cultural practices,
Finally, BEAR IN MIND… 3 principles

- **Ancestral land & resources:** loss, degradation of AD set far more reaching violations of IP rights;
- **Interdependence:** role of IPs/ICCs with the Filipino society; culture and context and IPs rights (individual & collective);
- **Cognizant of history:** the rights of IPs cannot be understood or appreciated without considering historical context. What has been presented is systematic & forms a bigger part of the larger history of the violations of HRts of IPs/ICCs around the world.

- **Self-determination:** most consistent universal demand of IPs/ICCs throughout the world. Obstacles to the exercise of IP rights most significant barrier to the realization of their rights.

After all, we as government should be the first ones to understand the people we are mandated to serve…
THANK YOU FOR LISTENING...

MAPHOD AN ALGO TAKUN AM-IN...