



INDIGENOUS NAVIGATOR

Data by and for Indigenous Peoples



Policy Brief **2**

Strengthening the Indigenous Peoples Mandatory Representation

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Introduction

One of the historical injustices endured by Indigenous Peoples (IPs) of the Philippines is their invisibility and voicelessness in State institutions, from the national down to the most basic unit of national polity—the barangay. As a consequence of this, their particular and collective interests have been generally neglected, and most IPs felt detached, isolated and lived outside of the nation-state (Scott, 2009). The Philippine State vowed to rectify this condition through the 1987 Constitution and the 1997 Indigenous Peoples' Rights Act (IPRA).



Section 10, Article II of the 1987 Philippine Constitution provides that the State shall promote social justice in all phases of national development (also cited in section 2 of the NCIP AO 3, series of 2018). Section 17, Article XIV of the 1987 Philippine Constitution also provides that 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.” (NCIP AO 3, s. 2018).

In order to fulfill these State policies, Section 16 of Republic Act 8371, or the Indigenous Peoples’ Rights Act (IPRA) provides that the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. “Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in other local legislative councils and policy-making bodies.” (NCIP AO 3, s. 2018).

The National Commission of Indigenous Peoples (NCIP), a body mandated by IPRA to carry out the landmark legislation, issued Administrative Order 3, series of 2018, Revised National Guidelines for the Mandatory Representation of Indigenous Peoples in Local Legislative Councils and Policy-making Bodies. This was revised through another Administrative Order (AO) No. 1, series of 2021. These AOs are commendable as policy instruments. Their operational principles include the following: primary customary law and practices, consensus building, inclusivity and full participation, and representation of the collective interests of ICCs/IPs.

The IN-Philippines assessed the implementation of IPMR, among others. We present the findings below.

Methodology

This policy paper is based on the national and community surveys that the IN-Philippines carried out from the last quarter of 2022 to second quarter of 2024. The national survey relied on published secondary sources that were available online, while the community survey elicited feedback, experiences and perceptions from the community, specifically the (IPMR) representatives themselves.

Data/Findings

According to the NCIP, as of 2022, there are 5,503 Indigenous Peoples Mandatory Representatives (IPMR) in the Philippines (Human Rights Report as cited in Tebtebba, 2023). Although this may look considerably huge, it is only a fraction of the total number of legislative bodies (barangay to municipal and provincial) in the country where IPs are located. Still, the IPMR has opened opportunities and possibilities for a full and meaningful participation of Indigenous Peoples in decision-making processes at various levels of governance structures. We present, on side, the positive (advantageous) results or outcomes below (not necessary in this order).

1

First, the IPMR has served as a link between the IP communities and State authorities. Because of this, the IPs have had more access to government services. This became more pronounced during the COVID-19 pandemic, when the IPMRs served as focal persons for the identification and distribution of government assistance to Indigenous Peoples (NCIP CEB Resolution No. 08-008-2020). The IPMRs have served as a social and political capital of the IPs that they have used in order to gain access to government offices and services.



2

Second, the IPMR (at least some of them) were able to pass resolutions in favor of the collective interests of their people, although many of these resolutions did not necessarily tackle and resolve the fundamental issues like ancestral domain/ancestral land rights (Dolo, et. al, 2024).



3

Third, the IPMR built the capacity and self-confidence of many Indigenous leaders and elders. They learned about the government processes and at least a few were able to navigate these processes to their advantage and gained palpable benefits as a result (Dolo, et. al, 2024; Villanueva et. al, 2017; Jaymna and Porquis, 2017).



On the other side of IPMR are the negative trends and outcomes, and therefore need to be paid attention to by the State, Civil Society and IP communities and leaders. These are as follows:

1

First, albeit in terms of the structures and procedures, there is now an IP "presence," within the State, this does not necessarily translate to substantive gains. Most IP representatives are (still) not able to come up with policies (e.g. resolutions) pertaining to IP rights, such as the right to land and resources, because the legislative councils and local executives would discourage, if not dismiss outright such legislative initiatives. IPMRs have been confined to less controversial and disruptive concerns, such as culture, the arts and festivals (Dolo, et al., 2024).



2

Second, many IPMRs lack the capacity to carry out their functions, as these are largely new to them. Let us take a look at these functions:

- ❖ Formulate the IP agenda with the community and submit the same to the NCIP;
- ❖ Conduct regular meetings with all IPs in his/her area of jurisdiction in coordination with the IPS/s;
- ❖ Facilitate provisions for financial support for the implementation of the IP Agenda, which are as follows:
 1. Delineation and titling of Ancestral Domains, 2. IPS documentation, 3. ADSDPP formulation and implementation of ADSDPP identified programs/projects, 4. Selection of IPMR, 5. Community-based IEC on IPRA, 6. Convening of the community for agenda formulation, periodic reporting and assessment on the IPMR's performance, 7. Sponsor an ordinance for the creation of a Standing Committee on Indigenous Peoples, 8. Sponsor ordinances and resolutions to include the conduct of other activities that will advance the other 36 specific rights;
- ❖ Sponsor ordinances and resolutions and conduct committee hearings that will promote and protect the well-being and interests of his/her community and inclusion to the LGU annual budget the implementation of programs and projects relevant to the community;
- ❖ Closely coordinate and collaborate with the NCIP on implementation of projects and programs;
- ❖ Submit a monthly accomplishment report on his/her initiatives or activities for the advancement of any of the 36 specific rights under the IPRA to be certified by the concerned ICCs/IPs through their IPS/s. The Accomplishment Report shall be validated by the CSC and reviewed by the Provincial Officer (POer) before submitting the same to the RD. The IPMR shall furnish a copy of the accomplishment report to the head of the local legislative council for information and guidance;
- ❖ Support conduct of IP census within his/her area of responsibility during the first year of his/her term;
- ❖ The IPMR shall regularly report to and consult with the IPS/s in his/her area of jurisdiction at least once every month;
 - Conduct an Annual IP Address (AIPA) to be termed in the local language which shall be rendered during the IPRA Month celebration; and
- ❖ Perform such other powers and functions as the community may deem appropriate.



These are indeed huge tasks and responsibilities that would require multiple abilities/skills. Yet, IP representatives lament that they have not been adequately trained to perform their functions.

This explains why they still lack the confidence to speak up and write resolutions, for example. It is worth mentioning that the NCIP AO categorically states that the NCIP should conduct capability training programs and projects to enable IPs to perform their functions.

3

Third, in many instances, the selection process and actual appointment of IPMRs have been influenced by local politicians, especially the local chief executives, contrary to the provision of the law and the AO that the selection should be based on customary law and practice. Because of this, IP leaders tend to be trapped by the culture of patronage politics that is still prevalent in the Philippines, thereby further constraining the possibility of advancing the “IP Agenda” enumerated above. This selection process makes the IPs “beholden” to the local chief executive.



4

Fourth, absence or lack of resources (e.g. budget) has constrained the IP representatives in performing their task of conducting consultations in their communities. Others simply did not bother to consult their communities, even if budget was not a problem.



Conclusion and Recommendation

The Indigenous Peoples’ Mandatory Representative (IPMR) is an auspicious mechanism towards the recognition, promotion and protection of Indigenous Peoples’ right to self-determination and governance. The guidelines for its proper implementation are robust and consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and IPRA provision on IP rights to self-determination. As revealed by the IN-Philippines’ study, the problem is in the full and proper implementation of the policy. We therefore recommend that the Philippine State, through the National Commission on Indigenous Peoples (NCIP), should ensure the full implementation of NCIP AO 3 s, 2018. Specifically, the State should:

1. Increase the number of IPMRs, particularly women representatives, in the country ensuring that the selection process does not discriminate against women, LGBTQ+, and persons with disabilities;
2. Strengthen the capacity of IPMRs by providing funds (GAA Budget), engaging the academe and CSOs as trainers (since the NCIP is under-funded and under-funded) for a sustained capacity building program;
3. Ensure that the process of selection of IPMRs are based on customary laws and practices, as provided for by the NCIP AO 3, s 2018 and should be shielded from politician’s influence and patronage;
4. Enable the IPMRs to legislate ordinances in pursuit of the IP agenda, as cited in the NCIP AO 3, s 2018, and we reiterate these as: delineation and titling of ancestral domains, IKSP documentation, ADSDPP formulation and implementation of identified programs and projects, selection of IPMR, community-based Information and Education Campaign (IEC) on IPRA, periodic assessment and evaluation of IPMR performance.

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