



DECOLONIAL STUDIES PROGRAM

UP CIDS POLICY BRIEF 2023–05

The Indigenous Peoples' Rights in the Bangsamoro Local Governance Code

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Introduction

The United Nations Development Group (UNDG) defines Indigenous Peoples (IPs) as “those which having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies now prevailing in those territories, or parts of them” (UNDG 2009, 8). The IPs in the Philippines refer to 110 major ethnolinguistic groups, most of whom live in the interiors of distant lands, including Luzon, Mindanao, Mindoro, Negros, Samar, Leyte, Palawan, and Sulu. In the Philippines, IPs are non-Christian tribes, cultural communities, and national minorities (p. 79). Throughout Philippine history, the IPs have struggled a lot—from resisting colonialism to the dispossession of their ancestral domains, to defending their rights.

The various rules and policies that make up legislation adopted by the government offer an understanding of this struggle. The government recognizes this struggle; hence,

there are a handful of laws that respect and protect the rights of IPs. For example, protecting the rights of the indigenous peoples is enshrined in the 1987 Philippine Constitution.

[T]he State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development. (Article II, Section 22)

[T]he 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. (Article XIV, Section 17)

On the other hand, Republic Act No. 8371, otherwise known as The Indigenous Peoples' Rights Act of 1997, states

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,

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lives, and destinies through procedures determined by them as well as to maintain and develop their indigenous political structures. Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in policymaking bodies and other local legislative councils. (Section 16)

In this regard, it is fitting to incorporate some rights of the ICCs/IPs in the proposed Bangsamoro Local Governance Code (BLGC). There are several other reasons for doing so, including:

- 1.) Recognition of their rights
- 2.) Representation in decision-making
- 3.) Promotion of cultural diversity
- 4.) Promotion of sustainable development

Overall, incorporating indigenous peoples in the local government code can help promote their rights, representation, cultural diversity, and sustainable development.

Summary of Observations on the IP Rights in the BLGC

- 1.) **Recognition.** The mention of the indigenous peoples' rights in the BLGC is an obvious indication that the regional government respects, acknowledges, and advances such rights. In doing so, the government takes steps to ensure that Indigenous peoples have equitable access to resources, opportunities, and services, and that their traditional histories and identities are conserved and protected. This is an important first step in fostering reconciliation and strengthening ties between the government and indigenous peoples.
- 2.) **Representation.** The regional government encourages IPs to

take part in decision-making by appointing them as sectoral representatives in the *Sanggunian* (Local Government Council). This complies with The Indigenous Peoples Rights Act of 1997 (RA 8371), which recognizes the collective and individual rights of IPs, including their ability to participate in community-impacting decision-making processes. By giving IPs a voice in the *Sanggunian*, the government ensures that IPs' opinions and concerns are considered when creating policies and initiatives that impact their lives. This inclusive approach may lead to better outcomes for communities, more efficient governance, and increased social cohesion.

- 3.) **Promotion of culture.** Recognizing the sociopolitical significance of Indigenous ways of life is the first step in fostering cultural tolerance and understanding. It acknowledges the value of the cultural heritage of Indigenous peoples and their unique contributions to society. By valuing and supporting Indigenous forms of sociopolitical organization, the government is promoting greater acceptance of diversity and the creating of a more inclusive society. This acknowledgment might result in the promotion and preservation of Indigenous customs, in addition to aiding in the prevention of their erosion or assimilation.

Salient Provisions

The Bangsamoro Local Governance Code has the following provisions on the ICCs/IPs (Bill No. 30):³

³ All citations are verbatim from Bangsamoro Transition Authority, Bangsamoro Parliament (2022).

Provision	Summary
<p>Section 41 (c), Chapter VI, Title II In addition thereto, there shall be one (1) sectoral representative from the women, one (1) from the workers, and one (1) from any of the following sectors: the urban poor, indigenous cultural communities, disabled persons, or any other sectors as may be determined by the Sanggunian concerned within ninety (90) days prior to the holding of the next local elections, as may be provided for by law. The Comelec shall promulgate the rules and regulations to effectively provide for the election of such sectoral representatives.</p>	Sectoral representation of ICC on the Sanggunian Election.
<p>Section 296, Chapter 2, Title III. Share of Indigenous Communities Indigenous peoples and communities shall have an equitable share of the revenues generated from the exploration, development, and utilization of natural resources that are found within the territories covered by a native, traditional, or customary title in their favor, by way of direct benefits. The share shall not be more than ten percent (10%) of the revenues generated and shall be directly given by the Bangsamoro Government to the communities. Provided, that the rights and privileges granted to Indigenous peoples by Republic Act No. 8371 and other laws pertaining to indigenous peoples shall not be diminished.</p>	“Share of the revenues generated from the exploration, development, and utilization of natural resources” (Section 296) within the territory of IPs.
<p>Section 398 (a), Chapter I, Title I, Book III. Requisites for Creation A barangay may be created out of a contiguous territory with a population of at least two thousand (2,000) inhabitants as certified by the Philippine Statistics Authority. Provided, that the creation thereof shall not reduce the population of the original barangay or barangays to less than the minimum requirement prescribed herein.</p> <p>To enhance the delivery of basic services in the indigenous cultural communities, barangays may be created in such communities by an Act of Sangguning Panlalawigan or the Bangsamoro Parliament, notwithstanding the above requirement.</p>	Creation of barangays in ICC areas.
<p>Section 411 (f), Chapter VII In Barangays where majority of the inhabitants are members of indigenous cultural communities, local systems or through their councils of <i>datus</i> or elders shall be recognized without prejudice to the applicable provisions of this Code.</p>	Recognition of ICC’s local systems.
<p>Section 425 (c), Chapter VII. Conciliation Among Members of Indigenous Cultural Communities The customs and traditions of indigenous cultural communities shall be applied in settling disputes between members of the cultural communities.</p>	Application of ICC’s settlement of disputes.
<p>Section 462 (b), Article III, Chapter III In addition thereto, there shall be three (3) sectoral representatives: one (1) from the women; and, as shall be determined by the Sanggunian concerned within ninety (90) days prior to the holding of local elections, one (1) from the agricultural or industrial workers; and one (1) from the other sectors, including the urban poor, indigenous cultural communities, or disabled persons.</p>	Sectoral representation in the Sangguniang Bayan. A comment from the position paper suggests that there should be a mandatory non-Moro IP representative, as expressed in Section 16 of RA 8371.
<p>Section 470 (b), Article III, Chapter III In addition thereto, there shall be three (3) sectoral representatives: one (1) from the women; and, as shall be determined by the Sanggunian concerned within ninety (90) days prior to the holding of the local elections, one (1) from the agricultural or industrial workers; and one (1) from indigenous cultural communities.</p>	Sectoral representation in the Sangguniang Panlungsod. A comment from the position paper suggests that there should be a mandatory non-Moro IP representative, as expressed in Section 16 of RA 8371.
<p>Section 484 (b), Article III, Chapter III In addition thereto, there shall be three (3) Sectoral representatives: one (1) from the women; and as shall be determined by the Sanggunian concerned within ninety (90) days prior to the holding of the local elections, one (1) from the agricultural or industrial workers; and one (1) from the other Sectors, including the urban poor, indigenous cultural communities, or disabled persons.</p>	Sectoral representation in the Sangguniang Panlalawigan. A comment from the position paper suggests that there should be a mandatory non-Moro IP representative, as expressed in Section 16 of RA 8371.

Debates: Moro vs. Non-Moro IPs

There are some thoughts to ponder: when does the distinction between the Moro and non-Moro IPs occur? Some Moros do not identify as IPs, while others identify as Moro IPs (personal communication with Mr. Gurhan Adan).⁴ Islamized ethnolinguistic groups do not identify as “Moro”⁵ because of its historical connotations. However, over time, they have embraced this term.

The Philippines is home to many IPs, each having their unique cultural traditions, languages, and histories. The two most important categories are the Moro and non-Moro IPs, who have various identities, issues, and experiences. Although these groups share some characteristics, their differences are substantial enough so much so that each group merits a separate self-definition. In essence, Muslim populations known as Moro IPs are concentrated in the southern Philippines, particularly in Mindanao. They differ from other IPs since they are predominately Muslim, and their culture is strongly influenced by Islam. On the other hand, non-Moro IPs are the numerous Indigenous tribes spread across the nation who do not identify as Moro. Their ideas, cultural traditions, and languages are diverse.

Currently, the indigenous people in the Bangsamoro region are divided into two categories: the Islamized ethnolinguistic groups (Moro IPs), and the non-Islamized groups (non-Moro IPs). Presently, the 13 Islamized ethnolinguistic groups include the following: Meranao, Maguindanaon, Iranun, Yakan, Tausug, Sama, Badjao, Jama Mapun, Kagan/Kalagan, Kalibugan, Sangil, Molbog, and Palawanon (BCPCH-BARMM). On the other hand, Non-Moro Indigenous People are the Teduray, Lambangian, and Manobo Dulangan.

For a variety of reasons, it is crucial to distinguish between Moro and non-Moro IPs. First and foremost, doing so recognizes and respects the distinctive identities and experiences of each group. The government may be able to create policies and programs that are more effective by considering the unique demands and difficulties of everyone. Additionally, it can be applied to stop marginalization, prejudice, and breaches of human rights.

Second, acknowledging the IPs of the Moro and non-Moro populations may promote a broader understanding of the importance of cultural diversity. The government may encourage deeper respect for diversity and encourage the preservation of indigenous traditions and languages by acknowledging and promoting the cultural legacies of these communities. Furthermore, it can aid in halting the decline of indigenous cultures, which could result in the loss of important customs and information.

Thirdly, establishing more direct connections between these communities and the state can be facilitated by recognizing Moro and non-Moro IPs. By engaging in meaningful discussions and consultations with each group, the government may develop policies and initiatives that are more responsive to their interests and goals. This might lead to more trust, collaboration, and cooperation between these communities and the government.

Defining Moro and non-Moro IPs is crucial to recognize the unique identities and experiences of these communities, promoting cultural diversity and understanding, and building stronger relationships between these people and the government. The government can create a more inclusive, egalitarian, and just society by recognizing and valuing the uniqueness of indigenous peoples.

⁴ Personal communication with Mr. Gurhan Adan, a Legislative Staff Officer of the Bangsamoro Parliament's Policy Research and Legal Services, 12 May 2023.

⁵ The word “Moors” is a term given to dark-skinned Muslims.

Conclusion

Indigenous peoples have long been marginalized and denied access to lands, resources, and cultural treasures that were once theirs. The inclusion of indigenous peoples' rights in the local government code is necessary to acknowledge them and enable the government to provide legal protection.

Furthermore, inclusivity and cultural diversity can be encouraged by incorporating indigenous peoples' rights into the local governance code. Local governments may encourage tolerance for differences and foster more inclusive communities by recognizing indigenous peoples' rights to practice their culture and protect their cultural heritage.

The progress of indigenous peoples' rights, the preservation of their lands and resources, and the advancement of cultural variety and inclusivity all depend on the inclusion of indigenous people's rights in the local governance code. Local governments must acknowledge the crucial role that indigenous peoples play in society and provide them with the legal protection they need to prosper. The abovementioned provisions are crucial predecessors to the proposed Indigenous Peoples' Code. The proposed Indigenous Peoples' Code is a priority code that will serve as a guideline in governing the IPs in the BARMM (Bangsamoro Parliament 2022). It upholds the recognition, representation, and promotion of IPs in the BLGC.

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