

COMMITTEE ON CULTURAL COMMUNITIES

Thursday, November 11, 2004
Sen. Geronima T. Pecson Room
1:00 p.m.

Senators Present : Senators Madrigal (Chairperson and presiding) and Flavier.

Resource Persons/Guests: Undersecretary RICARDO ARLANZA, Undersecretary for Planning & Legal Affairs Office, Department of Agrarian Reform (DAR); Ms. REMEDIOS REYNOSO, Officer-in-Charge Director, Policy & Strategic Research Service, DAR; Atty. REUBEN DASAY A. LINGATING, Chairperson, *Northern & Western Mindanao*, National Commission on Indigenous Peoples (NCIP); Ms. CORAZON M. ESPINO, Commissioner, Region II, NCIP; Mr. PABLO SANTOS, Commissioner, Region III and Rest of Luzon, NCIP; Mr. LAGTUM A. PASAG, Commissioner, Island Group, NCIP; Mr. FELECITO L. MASAGNAY, Commissioner, Southern and Eastern Mindanao, NCIP; Ms. JANNETTE C. SERRANO, Commissioner, Central Mindanao, NCIP; Atty. EUGENIO A. INSIGNE, Commissioner, CAR and Region I, NCIP; Ms. ROSALINA L. BISTOYONG, Executive Director, NCIP; Mr. LODEL MAGBANUA, Legal Rights and Natural Resource Center; Datu ANGELITO M. OMOS SR., Chairman, Katutubong Samahan ng Pilipinas (KASAPI), Inc.; Mr. ANDRES MENDIGOREN, Pederasyon ng mga Aetas sa Samahan ng Zambales; Father AL ALBOR, CARE Foundation; Engr. ANDRES NGAO-I, Chief, Cordillera Bodong Administration; Sister ROSARIO BATTUNG, Good Shepherd Sisters Women, Justice, Peace and Integrity of Creation (WJPIC) Team; Sister GENNY DUMAY, Good Shepherd Sisters Ministry Team; Mr. JOSE ANOY (Timuay), Subanon Tribe; Mr. RENE PINEDA JR., President, Concerned Citizens Against Pollution (COCAP); Ms. ESTER DE TAGLE, Chairperson, COCAP; and Ms. ELSIE DE VEYRA, Recycling Movement.

HIGHLIGHTS

Senator M. A. Madrigal stated in her opening remarks the reason why this hearing was called. She informed the guests/resource persons about the Privilege Speech she delivered last October 26, 2004, questioning the legality and the constitutionality of Executive Order No. 364, placing the National Commission on Indigenous Peoples (NCIP) under the supervision and control of the would-be created Department of Land Reform (DLR) and Executive Order No. 379, in its "metamorphosed form", making the NCIP an attached agency of the DLR instead. She added that this hearing is not for the purpose of discussing the legalities but rather as a consultation with both the NCIP Commissioners and the stakeholders - the Indigenous Peoples (IPs), to verify on their actual status in Philippine society today and to craft a legislation which will be very responsive to their needs.

Undersecretary Ricardo Arlanza of the Department of Agrarian reform (DAR) explained that the mandate of E.O. No. 364 transforming the department into the Department of Land Reform is in line with the harmonization of the functions in relation

to the asset reform agenda of President Gloria Macapagal-Arroyo. This was resorted to because of the scarcity of resources. The idea, he said, is to have access to some of the resources of the department such as on policy, planning, legal operations, etc. He cited that under Republic Act No. 6657, money derived from the so-called ill-gotten wealth will go to the agrarian reform fund, to which other agencies of the government will not have access unless the law is amended. Hence, if the NCIP will be an attached agency of the DLR, there will be a legal basis to access to the said funds.

Atty. Reuben Lingating of the National Commission on Indigenous Peoples (NCIP) stated that they will meet with the Secretary of the DLR in order to draft the Implementing Rules and Regulations (IRR) pertaining to the said Executive Order No.379.

When asked by the Chairperson whether they have any objection to the said E.O. 379, he replied that they do not have any as long as the prior agreements are adhered to and implemented. He also clarified that NCIP is still an independent agency, that they continue to operate and function in accordance with their own charter, that the sole purpose of E.O. 379 is for policy and program coordination specifically to those funds that will be accessed by NCIP for purposes of *delineation and titling - "to ensure the fast tracking of delineation and titling of ancestral domains by making sure that NCIP would be allocated with funds that would be sourced from the ill-gotten wealth"*. He said that in case of policy disagreement between the Secretary of the DLR and the NCIP, it will be elevated for consideration of the Chief Executive, accordingly. Moreover, he pointed out that the Secretary of the DLR is not allowed to sit in *en banc* meetings of the Commission, not even as a representative.

He added that Senator Juan Flavio Velasco gave NCIP an amount of 50 million for cultural mapping, President Gloria Macapagal-Arroyo, using the Presidential Social Fund gave 20 million for delineation and titling of lands and the Philippine Charity Sweepstakes Office gave them about 25 million.

For a period of one and a half year, NCIP has already issued 23 Certificate of Ancestral Domain Titles and of the estimated 12 million indigenous peoples in the country comprising about 110,000 ethno-linguistic group, there are already a total of 5.2 million hectares of ancestral domain claims throughout the country.

He explained that NCIP remains to be an independent agency and remains to be the primary agency responsible for the formulation/implementation of programs, projects and plans for the promotion and protection of the lives of the IPs.

The Chairperson asked Atty. Lingating whether the extensive consultation has been conducted prior to the promulgation of the executive order. Senator Madrigal likewise queried if the executive branch also consulted the agency on this. Atty. Lingating replied on the negative.

The Chairperson then suggested that the stakeholders should scrutinize the IRR and Atty. Lingating promised to present the draft of the IRR to the representatives of the different indigenous cultural communities.

Undersecretary Arlanza explained that there were previous studies conducted by the Office of the Executive Secretary for Legal Affairs on the possibility of an executive order particularly on asset reform.

Senator Madrigal argued on the use of the phrase *asset reform*, citing that these are human beings they are dealing with and should not in anyway be considered for asset reform, neither as assets. She added that if the only purpose for the issuance of the E.O. is for the diversion of funds, the Department of Budget and Management can easily

allocate funds to the NCIP without the need of attaching it to the Department of Land Reform.

She added that she sees no logic in making it an attached agency because the tenor based on the IPRA Law is land protection and preservation and not land distribution. Agrarian reform, she said, is giving land to the landless, based on the Regalian doctrine, and presupposes the system of Torrens title. She questioned the expertise of DAR or the new DLR in giving lands to those who already have their lands. These people, she added, live communally, in harmony with nature. She clamored for DENR's role in stopping illegal logging and illegal mining in ancestral domains.

Mr. Rene Pineda, Sr., President of the Concerned Citizens Against Pollution (COCAP) stated that they view the E.O. to restructure government, streamline government functions to save revenues for a more effective operation. He stressed however that , the delineation of ancestral lands of the IPs is unpardonable and unacceptable because the IPs are the last bastion of our environment for protection, adding that they wanted to be assured that during the process of fast-tracking of delineation of ancestral lands, the environment will be protected and that ancestral domains will remain as they are.

Ms. Ester De Tagle, Chairperson of COCAP stated that it seems that the selling of natural resources is the government's solution to fiscal crisis. Money is useless for these IPs, what they need is their land, their resources, she added.

Ms. Elsie De Veyra of the Recycling Movement stated that the IPs are the very first who occupied and took care of these lands so they should be given the rights due them, adding that the country is rich in natural resources and the forests should be protected.

Timuay Jose "Bai" Anoy, a Subanon from Siocon, Zamboanga City stated that he is concerned about their rights, and since there is an immediate problem in their place, which has led to killings, he attended this hearing with the hope that it will be acted upon immediately. He also stated that if NCIP is really an independent body, it should have its own budget. He further stated that they have waited for so many generations for their rights to be given due recognition but they are again losing it, adding that they are not even consulted to explain their side. He felt sad that even places sacred to them and lands awarded to them are being bulldozed by a mining corporation.

Sister Genny Dumay of the Good Shepherd Sisters – Ministry Team, representing the Missionaries of the Philippines - Cordillera, an organization of church people working for the rights of the indigenous peoples particularly the indigenous peasants, said that Executive Order No. 364 is an outright act of discrimination against the dignity and rights of the IPs. The rights and dignity of the indigenous peoples, she said, should be strengthened instead, and opportunities should be broadened for self determination. She added that the necessary consultations should have been conducted prior to any issuance. She reiterated her stand that NCIP should have been an independent agency with an independent fund. She also stated that the IPs are experiencing 'ethnocide'.

Sister Rosario Battung, also of the Good Shepherd Sisters – Committee on Women, Justice, Peace and Integrity of Creation, an *'Ibanag'* lamented that many of them are not even considered as IPs because of integration. She stated that their rights have just been addressed with the Indigenous Peoples Rights Act (IPRA) and placing it under the Department of Land Reform runs counter to the mandate of the said law. She stressed that all of us Filipinos are indigenous to this land so we should claim our indigenous qualities. We should live our own ways, she said, as the IPs are the guardians of our environment, our women and our tradition. Ancestral domain then is not for land reform; it belongs to the IPs, she added. The issuance of E.O. 364 is a violation of the IPRA law, she further said.

Father Al Albor of the Interfaith Bishops Care for Creation (CARE) Foundation heads programs that promote the rights of the indigenous peoples, who opined that the said E.O. violates the mandate of the IPRA Law, he also wanted to know whether the Commissioners of NCIP are in support of the tribal peoples' rights. He wanted to be clarified if a comprehensive study was done considering the sensitivity of the life of the cultural minorities. He also stressed that prior consent of the IPs should be solicited before extracting natural resources and forests which are within their ancestral domains.

Engineer Andres Ngao-I of the Cordillera Bodong Administration admitted that they do have ill feeling with the government not only because of the merging of the NCIP with that of the DAR but also because of the continuous illegal logging activities in the Cordillera despite the agreement with then President Corazon Aquino that illegal logging in the Cordillera must be stopped. He mentioned about the existing logging concession in Apayao which is covered by ancestral domain lot. An Integrated Forest Management Agreement was drawn between the DENR and the Star Veneer Corporation which manufactures plywood but it is being used to continue illegal logging concessions, he explained. A few months ago, he said, the Cordillera People's Liberation Army tried to stop the logging operations, the owner asked the help of the Philippine Army, hence, a confrontation ensued which resulted in the death of some civilians.

He also informed the Committee that according to the former NCIP Chairperson Evelyn Dunluan, they could have managed their target to undertake the land surveys had the national government given them the necessary funds, but it was given instead to the Department of Environment and Natural Resources (DENR). If NCIP would be attached to the DAR, he would be in deep quandary as to what would eventually happen, he said.

Mr. Andres Medigoren of the Pederasyon ng mga Aetas sa Samahan ng Zambales, reiterated that NCIP should be maintained as an independent agency. He explained that in Kabangan, Zambales, the titling of lands is still pending and there is still illegal logging.

Datu Angelito Omos, Chair of the Katutubong Samahan ng Pilipinas (KASAPI), Inc., pointed out that there should have been prior public hearing or consultation with the IPs and also said that they prefer their independence rather than being an attached agency. When asked by the Chairperson about the existence of illegal logging, he stated that Alcantara and Sons has been in the business since 1964.

Senator Juan Flavio Velasco, the Father of the IPRA Law stated that what needs to be done is only to **delineate** since the lands are already owned by the IPs and this is a collective ownership, of communal lands. He is puzzled as to which agency now gives the *title* to the land, although he opined that the NCIP should be in-charge. He suggested elevating the matter to the Supreme Court for clarification. He said that he is not in accord with the way the government has rationalized. He also took cognizance of the issue of independence of the IPs, which in the process might be endangered.

The Chairperson viewed this as an interlocking issue and encroachment to IPs rights. She also queried about DARs expertise regarding the IPs, whether anthropological studies have been conducted, and whether they have worked with them.

Undersecretary Arlanza explained that for the last two years, the DAR and NCIP conducted consultations on how they could extend areas of convergence and on how they could help the IPs, adding that there was never the intention to acquire and distribute these ancestral domains.

Again, the Chairperson argued that the E.O. can be subject to many interpretations, and seeks for clarification. She informed the Committee that even foreign anthropologists

who once lauded the IPRA Law now inundate the Committee with letters, e-mails, mourning the demise of the independence of the IPs.

Mr. Lodel Magbanua of the Legal Rights and Natural Resources Center stated that NCIP must be maintained as an independent agency so as not to compromise the independence that the IPRA Law mandates. He explained further that NCIP's structure cannot be changed. He added that accessing the proceeds from the Marcos wealth was legislated under the Comprehensive Agrarian Reform Law (CARL), to be used for agrarian reform, and he doubts if these fund can really be accessed by NCIP. Instead, a law should be legislated that would similarly provide funds for NCIP.

In closing, the Chairperson stated that together with Senator Flavier, she will fight for what she thinks is the rightful claim of the IPs. The law, she adds is difficult, but it is the law and they will fight to enforce the constitutionality of the law, and that the claims of the indigenous peoples is not just an issue.

She expressed appreciation for the presence of the indigenous community, religious community, the NGO community and the government.

The meeting was adjourned at 4:12 p.m.

Prepared and submitted by Ma. Lourdes A. Juan-Alzate,
Legislative Committee Secretary – Committee on Cultural Communities

November 11, 2004 meeting - Cultural Communities

Spot Report: The meeting was called as an offshoot of the numerous complaints received by the Office of Senator M. A. Madrigal regarding E.O. 364, “Transforming the Department of Agrarian Reform into the Department of Land Reform, placing the National Commission on Indigenous Peoples (NCIP) under its supervision and control.” Also, E.O. 379, an amendment to the aforementioned E.O. 364, making NCIP an attached agency of the Department of Land Reform.

Most of the guests especially the representatives of the Indigenous Peoples (IPs) strongly oppose such move of the government and reiterated their independence, citing the Indigenous Peoples Rights Act’s mandate being contravened. It appears that there was no prior consultation with the stakeholders and the Undersecretary of the Department of Agrarian Reform informed that this is for the purpose of accessing funds, particularly money from the so-called ‘ill-gotten wealth of the Marcoses’, to be used for programs of the NCIP which, up to these days, are unfunded, particularly for the “titling of lands” of the IPs.