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<b>Title:</b>	Comments on BTA Bill No. 40 also known as Indigenous People Rights Act in the Bangsamoro Autonomous Region	<b>Review No.</b> ____

## I. General Comments

- This bill is a great leap for the Bangsamoro Government. Nationally, the seat of IPs fundamental institution is the National Commission on Indigenous People, which is only a Commission attached to the Office of the President of the Philippines. In contrast, BARMM will elevate IPs' office to a ministry or equivalent to line agencies such as Public Works, Social Services, and Development; hence, a commendable initiative.
- There's a need to explicitly highlight a section or a chapter on the relation between the Ministry of Indigenous Peoples Affairs (MIPA) and other Bangsamoro Government agencies (i.e., Ministry of the Environment, Natural Resources and Energy) or with the National Government concerning the interplay of their relation on ancestral land titling. The reason being is that per experience of the national government there is an "institutional rivalries among agencies that are tasked with promoting exploitation of natural resources and that which is supposed to promote the interests of indigenous peoples"<sup>1</sup>. Clearly, it redounds as a loophole of the IPRA Law which must be addressed by the enactment of this bill.
- Using of "non-Moro IPs" and "Moro IPs": while it is acknowledged that there are tri-people in the Bangsamoro area such as Moro or the Islamized Groups, Indigenous People or generally termed as Lumads, and Settlers, it would be better to use religious-based categorization as in Islamized IPs or Non-Islamized IPs, as generally under the definition of the *Bangsamoro* in Bangsamoro Organic Law (BOL), all IPs may also consider themselves belonging to the Bangsamoro following the definition of the term in BOL, as mentioned in Article 2, Section 1 that states "[t]hose who, at the advent of the Spanish colonization, were considered natives or original inhabitants of Mindanao and the Sulu archipelago and its adjacent islands, whether of mixed or full blood, shall have the right to identity themselves, their spouses and descendants, as Bangsamoro"<sup>2</sup>. Hence, categorizing them under the binary concept of Moro and non-Moro is redundant as all of them are Bangsamoro or Moro under the purview of the BOL.

<sup>1</sup> The subversion of the Philippines' Indigenous People's Rights Act by Walden Belo accessed at <https://focusweb.org/the-subversion-of-the-philippines-indigenous-peoples-rights-act/> on August 3, 2021; 7:31 am

<sup>2</sup> Bangsamoro Organic Law or RA 11054, emphasis supplied

- Using of “tribe or tribal”: using of a tribe, as in Section 2 of the Bill, shall be replaced by “ethno-linguistic group”. The reason being is that ethno-linguistic group is more appropriate to describe the IPs especially in the current discourse on indigenous people. The word highlights the differences of the groups in relation to their languages or perhaps dialects and unique cultural distinction. Tribes, on the one hand, denotes a small number of people or a small community and is often connotes backwardness, which is not apt to describe groups such as Teduray or any other indigenous groups.

## II. Specific Comments

- Chapter I; General Provisions, Section 1: The title “Indigenous People Rights Act in the Bangsamoro Autonomous Region” may be amended as in “Indigenous People Rights Act in the Bangsamoro Autonomous Region *in Muslim Mindanao*” with the inclusion of “*in Muslim Mindanao*” to specify the name of the region completely.
- Chapter I; General Provisions, Section 3: There is a need to clarify how the MIPA certifies an Indigenous People ethno-linguistic group, including its criteria. Why do Sama and Yakan belong to the group while Iranun is excluded as Indigenous People? Does MIPA has standards or criteria? If the answer is affirmative, it is necessary to include it in the bill. (see comments below on IPs’ definition)
- Chapter I; General Provisions, Section 3: Declaration of State Policies. Paragraphs *a* to *h* shall be shortened as some of the wordings are closely similar. For example, paragraphs *a*, *b*, and *e* may be combined into one paragraph, the same with paragraphs *f* and *d*.
- Chapter II; Definition of Terms, Section 4: Chapter two, under the definition of terms, may include the definition of Pusaka tana and Fusaka engud as the two terms are crucial in determining the land or ancestral domain of the IPs in the Bangsamoro. In fact, these terms, if all the IP groups in Bangsamoro agreed, may change the term ancestral domain, and thus can replace the word ancestral domain in the entire bill for this to be contextualized in the BARMM realm. Pusaka tana, in specific, shall be defined in the context of the IPs in Mindanao considering that Pusaka tana is being used in another ethno-linguistic group such as Meranao or in Indonesia, particularly in Central Maluku.
- Chapter II; Definition of Terms, Section 4: Indigenous People’s Definition: The Bill’s definition of Indigenous People is clearly deduced from the IPRA Law. While there’s no wrong in using the said Law’s definition, the definition of IPs in BARMM context shall, as much as possible, be clear, definite and direct to the point. For example, in the IPRA law’s definition, all thirteen (13) Islamized groups, including Meranao, Maguindanao, and Tausug, can be categorized as Indigenous People, and likewise, this is true with categorization in other literatures<sup>3</sup>. Doing so would make a

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<sup>3</sup> See Teaching Philippine Indigenous Cultures: Modules for Higher Education Institutions (2016), p. 19-20. Retrieved at <https://www.dlsu.edu.ph/wp-content/uploads/pdf/sdrc/books/ubcheamodule->

significant impact on the entire Bill. For example, if the definition of the IPs is retained, a Meranao, for being an indigenous per the definition of the IPRA law and other literature, may apply for the position of the Minister, which is quite different from what the bill intends.

- Chapter IV; Right to Self-Governance and Empowerment: Section 13, Paragraph d: Paragraph d need to specify to whom the Indigenous People’s Council coordinates matters, directly and indirectly, affecting them, if it is with MIPA or with respective LGUs.
- Chapter IV; Right to Self-Governance and Empowerment: Section 21, IP LGUs: How do IP LGUs operate? How IP LGUs and regular LGU do operate concerning delivering services? IP LGUs need to be clarified in further sections to avoid confusion.
- Chapter V; Traditional or Tribal Justice System, Section 26, IP Traditional Courts: While this chapter intends to empower Indigenous People, creating traditional courts may need further study. For example, let us take a look at the case of Sama and Yakan<sup>4</sup> who are considered here both as IP and Muslim. Cases involving the two groups may avail of this court, and at the same time with Shariah Court for being a Muslim and finally, if both parties agree, with Civil Courts. Given that Shariah Court has jurisdiction over personal and family relations, which the IP Tribal Courts has likewise had jurisdiction (as stated), it is imperative that this be further elaborated to thresh out the differences and extent of power of the two courts concerning Muslim IPs.
- Chapter VI; Social Justice and Human Rights, Section 37: Using “Non-Moro” may be changed to another term such as non-Islamized IPs. (See discussion on Non-Moro and Moro in General Comments.)
- Chapter VII; Cultural Integrity and Identity of Indigenous Peoples, Section 41: (the same comments above on using non-Moro and Moro.)
- Chapter VIII: Ministry of Indigenous Peoples Affairs, Section 49, Powers and Function: the function of MIPA in the last paragraph—letter v—must be elaborated further in section as to the set of criteria of giving tribal (ethno-linguistic) membership certificate. This is to avoid exploitation from unscrupulous individuals. Likewise, MIPA should be strict as to the issuing of tribal certificates to prevent, again, exploitative individuals.

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[sept262016.pdf on August 8, 2021](#) and Country Technical Notes on Indigenous Peoples’ Issues Republic of the Philippines (2012). Retrieved at [https://www.ifad.org/documents/38714170/40224860/philippines\\_ctn.pdf/ae0faa4a-2b65-4026-8d42-219db776c50d on August 8, 2021](https://www.ifad.org/documents/38714170/40224860/philippines_ctn.pdf/ae0faa4a-2b65-4026-8d42-219db776c50d on August 8, 2021).

<sup>4</sup> Both the definition of the IPs in this Bill and other literature claim that there are IPs belonging to the Islamized ethno-linguistic groups such as Sama and Yakan.