

Reconciling IPRA with the Regalian Doctrine

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SUBJECT(S): INDIGENOUS PEOPLES' RIGHTS ACT, REGALIAN DOCTRINE

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The passage of the Indigenous Peoples' Rights Act of 1997 or IPRA (Republic Act No. 8371) raised concerns of constitutionality and fears of abrogation of ownership rights. The Author argues that the IPRA is constitutionally grounded and argues for its validity by reconciling IPRA with existing laws, jurisprudence, and legal principles. He advocates the abandonment of the feudal interpretation of the Regalian doctrine and situates it in the context of social justice and equity, as enshrined in the Constitution.

The Author also points to differing treatments of the concept of ownership in Civil Law and Indigenous Peoples' Rights Law. The former focuses more on the traditional bond of ownership and is defined by its attributes. The latter has a unique perspective in that it encompasses the natural resources found in ancestral domain as testament to the cultural commitment of the IPRA.