



MEMORANDUM

FOR : **The Directors**
Legal Affairs Service
Policy and Planning Service
Climate Change Service
Indigenous Peoples Concerns - Mindanao and Bangsamoro
Autonomous Region in Muslim Mindanao Affairs

All Bureau Directors

The Officer-In-Charge
Mines and Geosciences Bureau

The Executive Director
Palawan Council for Sustainable Development Staff

All Regional Executive Directors

FROM : **The Director**
Legislative Liaison Office

SUBJECT : **INVITATION TO TECHNICAL WORKING GROUP (TWG) MEETING
AND REQUEST FOR COMMENTS ON SEVERAL HOUSE BILLS
FROM THE COMMITTEE ON INDIGENOUS CULTURAL
COMMUNITIES AND INDIGENOUS PEOPLES OF THE HOUSE OF
REPRESENTATIVES**

DATE : 24 August 2023

This refers to the electronic letter received by our Office dated 23 August 2023, the Committee on Indigenous Cultural Communities and Indigenous Peoples of the House of Representatives will hold a **face-to-face Technical Working Group (TWG) Meeting** on **06 September 2023, Wednesday, 9:00 AM** at **Room 5, Ramon V. Mitra Building, House of Representatives** on the following legislative measures:

- **HOUSE BILL 1064** – “AN ACT TO ENSURE EQUAL EMPLOYMENT OPPORTUNITIES TO MEMBERS OF INDIGENOUS CULTURAL COMMUNITIES AND PREFERENCE IN CERTAIN CASES AND FOR OTHER PURPOSES” Introduced by Rep. Luisa Lloren Cuaresma;
- **HOUSE BILL 4294** – “AN ACT PROVIDING FOR A FREE AND CULTURE-SENSITIVE SYSTEM OF REGISTRATION CONCERNING THE CIVIL STATUS OF INDIGENOUS PEOPLES AND FOR OTHER PURPOSES” Introduced by Reps. Arlene D. Brosas, France L. Castro, and Raoul Dannel A. Manuel;

- **House Bill No. 6641** – “AN ACT PROVIDING FOR A FREE AND CULTURE-SENSITIVE CIVIL REGISTRATION FOR INDIGENOUS PEOPLES”
Introduced by Rep. Rufus B. Rodriguez; and
- **House Bill No. 3340** – “AN ACT ESTABLISHING A SYSTEM PROTECTING THE COMMUNITY INTELLECTUAL RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLES” Introduced by Rep. Maximo. Y. Dalog, Jr.

In this regard, may we respectfully request for **comments/recommendations on the abovementioned bills in anticipation of the Committee meeting**, as requested by the Committee. Kindly send them on or before **31 August 2023, at 5 PM** via email at denrlo@denr.gov.ph. Further, kindly inform us of the name/s of the representative/s from your office who will participate in the TWG meeting so we may include him/her/them as resource person/s.

Attached herewith are the Letter Invitation, Matrix of Position Paper, and the House bills for your reference.


ROMIROSE B. PADIN

cc: Undersecretary for Special Concerns and Legislative Affairs

MEMO NO. 2023-727



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila
NINETEENTH CONGRESS
Second Regular Session

Committee on Indigenous Cultural Communities and Indigenous Peoples

August 23, 2023

THE HONORABLE SECRETARY
MARIA ANTONIA. YULO LOYZAGA
Department of Environment and Natural Resources
Visayas Ave., Diliman, Quezon City

Dear Secretary Loyzaga,

The Committee on Indigenous Cultural Communities and Indigenous Peoples is privileged to invite Your Honor to its **TECHNICAL WORKING GROUP (TWG) MEETING** with the following details:

Date: Wednesday, September 6, 2023
Time: 9:00 AM
Modality: Face-to-Face
Venue: Room 5, Ramon V. Mitra Building, House of Representatives

In this meeting, the Committee will convene three (3) TWGs in order to expedite the deliberations and approval of the following House Bills:

1. **House Bill No. 1064**

"AN ACT TO ENSURE EQUAL EMPLOYMENT OPPORTUNITIES TO MEMBERS OF INDIGENOUS CULTURAL COMMUNITIES AND PREFERENCE IN CERTAIN CASES AND FOR OTHER PURPOSES"

Introduced by Rep. Luisa Lloren Cuaresma;

2. **House Bill No. 4294**

"AN ACT PROVIDING FOR A FREE AND CULTURE-SENSITIVE SYSTEM OF REGISTRATION CONCERNING THE CIVIL STATUS OF INDIGENOUS PEOPLES AND FOR OTHER PURPOSES"

Introduced by Reps. Arlene D. Brosas, France L. Castro, and Raoul Dannel A. Manuel; and

House Bill No. 6641

"AN ACT PROVIDING FOR A FREE AND CULTURE-SENSITIVE CIVIL REGISTRATION FOR INDIGENOUS PEOPLES"

Introduced by Rep. Rufus B. Rodriguez; and

3. **House Bill No. 3340**

"AN ACT ESTABLISHING A SYSTEM PROTECTING THE COMMUNITY INTELLECTUAL RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLES"

Introduced by Rep. Maximo. Y. Dalog, Jr.

As one of the main stakeholders of HB 3340, the DENR's presence in the meeting will be instrumental to the ensuing discussions.

Finally, in light of current ingress protocols being implemented by the House of Representatives, **the Committee further requests Your Honor to submit to the Committee Secretariat a list of confirmed participants on or before Monday, September 4, 2023.**

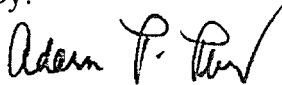
Please carefully refer to the Agenda attached hereto for the details of the program flow for the said meeting. The position papers of other stakeholder agencies are likewise provided herewith for Your Honor's reference.

Thank you and warm regards.

Respectfully yours,

For the TWG Chairperson
REP. MAXIMO Y. DALOG, JR.

By:



ADORA P. PUEBLOS
Committee Secretary



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila
NINETEENTH CONGRESS
Second Regular Session

Committee on Indigenous Cultural Communities and Indigenous Peoples

TECHNICAL WORKING GROUP MEETING

Wednesday, September 6, 2023

9:00 AM – 2:00 PM

Room 5, Ramon V. Mitra Building, House of Representatives

A G E N D A

I. CALL TO ORDER

II. ACKNOWLEDGEMENT OF MEMBERS AND RESOURCE PERSONS

III. OPENING REMARKS BY THE TWG CHAIRPERSON

Rep. Maximo Y. Dalog, Jr.
Representative, Lone District, Mountain Province

IV. DELIBERATIONS ON THE FOLLOWING HOUSE BILLS:

PART I: 9:00 AM – 10:30 AM*

- 1. House Bill No. 1064**
"An Act To Ensure Equal Employment Opportunities To Members Of Indigenous Cultural Communities And Preference In Certain Cases And For Other Purposes"
Introduced by Rep. Luisa Lloren Cuaresma

PART II: 10:30 AM – 12:00 NN*

- 1. House Bill No. 4294**
"An Act Providing For A Free And Culture-Sensitive System Of Registration Concerning The Civil Status Of Indigenous Peoples And For Other Purposes"
Introduced by Reps. Arlene D. Brosas, France L. Castro, Raoul Danniell A. Manuel;
and
- 2. House Bill No. 6641**
"An Act Providing For A Free And Culture-Sensitive Civil Registration For Indigenous Peoples"
Introduced by Rep. Rufus B. Rodriguez

PART III: 12:00NN – 2:00 PM*

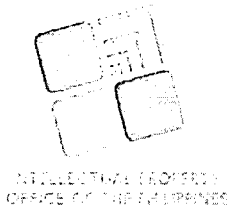
1. House Bill No. 3340

*“An Act Establishing A System Protecting The Community Intellectual Rights Of
Indigenous Cultural Communities/Indigenous Peoples”*

Introduced by Rep. Maximo, Jr. Y. Dalog

**Resource persons for each House Bill may leave the meeting after their respective part/s,
unless they are also resource persons for the subsequent House Bills under deliberation.*

V. ADJOURNMENT



14 October 2022

HON. ALLEN JESSE C. MANGAOANG

Chairperson

Committee on Indigenous Cultural Communities and Indigenous Peoples

House of Representatives

Quezon City, Metro Manila

Dear **Rep. Mangaoang**:

This has reference to your letter dated 04 October 2022 regarding your request for inputs on the House Bill No. (HBN) 3340 entitled "An Act Establishing A System Protecting the Community Intellectual Rights of Indigenous Cultural Communities/Indigenous Peoples".

As in the previous Congress, the Intellectual Property Office of the Philippines (IPOPHL) remains supportive for a *sui generis* protection for community intellectual rights of the indigenous cultural communities and indigenous people. We would like to reiterate, however, the specific comments we submitted during the 18th Congress, which are in the attached matrix, for the Committee's consideration.

Should you have queries regarding our submission, please do not hesitate to contact our Policy Research and International Affairs Division through email address: PIAcore@ipophil.gov.ph.

Thank you!

Very truly yours,

ROWEL S. BARBA
Director General

www.ipophil.gov.ph
ma@ipophil.gov.ph
+632-2386300
+632-5539480

Intellectual Property Center
#28 Upper McKinley Road
McKinley Hill Town Center
Fort Bonifacio, Taguig City
1634 Philippines

**COMMUNITY INTELLECTUAL RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES /
INDIGENOUS PEOPLES PROTECTION ACT (HB No. 3340)**

IPOPHL Comments

As of 11 October 2022

Below are IPOPHL's comments on the specific provisions on HBN 3340. The comments took into consideration the agency's mandate as provided under Republic Act No. 8293 or the Intellectual Property Code of the Philippines and the Joint Administrative Order (JAO) No. 01-2016 or the Rules and Regulations on Intellectual Property (IP) Rights Application and Registration Protecting the Indigenous Knowledge System and Practices of the Indigenous Peoples and Indigenous Cultural Communities.

HB No. 3340	Proposed Revisions	Comments / Recommendation
<p>Sec. 3. b) 3. language, script, histories, and teaching and learning systems;</p> <p>which are distinctively associated with and integral to the cultural and social identity of the ICCs/IPs or groups of ICCs/IPs generated, preserved, and transmitted from one generation to another either orally or by practice, and are constantly evolving, developing, and being recreated within the community, and such other new indigenous knowledge or creative intellectual activity which are identifiable and adopted as community owned.</p>	<p>Sec. 3. b) 3. language, script, histories, and teaching and learning systems;</p> <p>which are distinctively associated with and integral to the cultural and social identity of the ICCs/IPs or groups of ICCs/IPs generated, preserved, and transmitted from one generation to another either orally or by practice, and are constantly evolving, developing, and being recreated within the community, and such other new indigenous knowledge or creative intellectual activity which are identifiable and adopted as community owned.</p>	<p>The word "distinctively" is deleted as this term may open a legal question if the subject matter is claimed by several ICCs/IPs.</p>
<p>Sec. 3. e) Derivative work shall refer to the infusion or incorporation of variations on a community intellectual right that would result in a derivative work or craft, which is one that is primarily a new work, but incorporates preexisting works or previously published material. A derivative work must be different enough from the original to be regarded as a "new work," or must contain a substantial amount of new material. Making minor</p>	<p>Sec. 3. e) Derivative work shall refer to the infusion or incorporation of variations on a community intellectual right that would result in a derivative work or craft, which is one that is primarily a new work, but incorporates preexisting works or previously published material. A derivative work must be different enough from the original to be regarded as a "new work," or must contain a substantial amount of new material. Making minor</p>	<p>For clarity, we propose to indicate that "new work" shall not affect the force of any subsisting copyright upon the original works employed or any part thereof, or be construed to imply any right to such use of the original works, or to secure or extend copyright in such original works.</p>

<p>changes or additions of little substance to a pre-existing work will not qualify the work as a new version;</p>	<p>changes or additions of little substance to a pre-existing work will not qualify the work as a new version.</p> <p>Further, such "new work" shall not affect the force of any subsisting copyright upon the original works employed, or any part thereof, or be construed to imply any right to such use of the original works, or to secure or extend copyright in such original works.</p>	
<p>Sec. 6. Promotion of Community Intellectual Rights. – The Commission shall undertake activities to promote intellectual rights of ICCs/IPs, including building the capacity of ICCs/IPs to enhance the protection and management of their rights.</p>	<p>SEC. 6. Promotion of Community Intellectual Rights. – The Commission, shall undertake activities to promote intellectual rights of ICCs/IPs, including building the capacity of ICCs/IPs to enhance the protection and management of their rights. For such purpose, assistance from relevant government agencies may be sought by the Commission.</p>	<p>We propose the addition of the sentence regarding the possible assistance from relevant government agencies such as IPOPHL in the promotion efforts of the Commission.</p>
<p>Sec. 7. Registry. – The Commission shall establish and maintain a registry in which IKSPs shall be registered for the purpose of this Act and which shall be recorded in the order of their registration.</p> <p>The registration of community intellectual rights shall be filed before the nearest NCIP Office. The application for registration shall contain the pertinent information necessary for examination of the intellectual rights which shall include but not limited to the following information:</p> <p>a) Identity of ICCs/IPs community intellectual right holder;</p>	<p>Sec. 7. Registry. – The Commission shall establish and maintain a registry in which IKSPs shall be registered for the purpose of this Act and which shall be recorded in the order of their registration.</p> <p>The registration of community intellectual rights shall be filed before the nearest NCIP Office. The application for registration shall contain the pertinent information necessary for examination of the intellectual rights which shall include but not limited to the following information:</p> <p>a) Identity of ICCs/IPs community intellectual right holder;</p>	<p>We propose that the law indicates a specific timeline for the development of the Registry given that it is one of the bases of ICCs/IPs in enforcing their right under the proposed bill.</p> <p>We also propose that the Registry be made available to the public to serve as the primary information of protected CIRs.</p> <p>Such publication will also ensure due process by notifying third parties of the existence of CIRs.</p>

<p>b) Location; c) Detailed description of the community intellectual right registered; d) Disclosure of agreements/partnerships with private or public individuals/entities for the use of their community intellectual rights, if any.</p> <p>Enrollment of community intellectual rights in the Registry shall be prima facie evidence of community intellectual rights of the ICCs/IPs.</p> <p>The State recognizes the existence of community intellectual rights of ICCs/IPs without need of prior approval from any licensing agency or other undertaking, including registration.</p>	<p>b) Location; c) Detailed description of the community intellectual right registered; d) Disclosure of agreements/partnerships with private or public individuals/entities for the use of their community intellectual rights, if any.</p> <p>Enrollment of community intellectual rights in the Registry shall be prima facie evidence of community intellectual rights of the ICCs/IPs.</p> <p>The State recognizes the existence of community intellectual rights of ICCs/IPs without need of prior approval from any licensing agency or other undertaking, including registration.</p> <p>An initial registry shall be available to the public within [insert timeline] from the effectivity of this law.</p>	
<p>Sec. 15. Limitations on Community Intellectual Rights. – Notwithstanding the protection given to the community intellectual right of ICCs/IPs, the following shall not be prohibited: a) Government use in cases of national emergencies, national security, health, or the development of vital sectors in the national economy as determined by the National Economic and Development Authority (NEDA); and b) Acts necessary to address the needs of non-commercial use, including teaching and research for educational purposes, personal or private use, criticism or review, reporting</p>	<p>Sec. 15. Limitations on Community Intellectual Rights. Notwithstanding the protection given to the community intellectual right of ICCs/IPs, the following shall not be prohibited: A Government agency or third person authorized by the Government may exploit the CIR even without agreement where: a) Government use in cases of national emergencies, The public interest, in particular, national security, nutrition, health or the development of other sectors, as determined by the National Economic and Development Authority (NEDA), so requires; or</p>	<p>We propose that the formulation for Sec. 15 be patterned after Sec. 74 of the IP Code.</p>

<p>of current events, use in the course of legal proceedings, the making of recordings and reproductions of traditional knowledge or cultural expressions for inclusion in an archive or inventory exclusively for the purposes of safeguarding knowledge or cultural heritage, and incidental uses.</p> <p>Provided, That the relevant community's customary laws, protocols, and practices will be considered and the relevant community shall be acknowledged as the source of the traditional knowledge or cultural expressions: Provided further, That in researches affecting the ICCs/IPs, their IKSPs including their community intellectual right and their ancestral domains of which the ICCs/IPs themselves are the primary source of data shall require consultations with the relevant ICCs/IPs, including undertaking acts to obtain the free, prior and informed consent: Provided, finally, That these acts do not conflict with the interests of, or are not derogatory to, the ICCs/IPs and do not unduly prejudice the implementation of the rights of ICCs/IPs.</p>	<p>b) In the case of medicines, there is a national emergency or other circumstance of extreme urgency requiring the use of the CIR; or</p> <p>c) It is necessary to address the needs of non-commercial use, including teaching and research for educational purposes, personal or private use, criticism or review, reporting of current events, use in the course of legal proceedings, the making of recordings and reproductions of traditional knowledge or cultural expressions for inclusion in an archive or inventory exclusively for the purposes of safeguarding knowledge or cultural heritage, and incidental uses.</p> <p>Unless otherwise provided herein, the use by the Government, or third person authorized by the Government shall be subject, where applicable, to the following provisions:</p> <p>a) The relevant community's customary laws, protocols, and practices will be considered and the relevant community shall be acknowledged as the source of the traditional knowledge or cultural expressions;</p> <p>b) In researches affecting the ICCs/IPs, their IKSPs including their community intellectual right and their ancestral domains of which the ICCs/IPs themselves are the primary source of data shall require consultations with the relevant ICCs/IPs, including undertaking acts to obtain the free, prior and informed consent;</p>	
--	---	--

c) These acts do not conflict with the interests of, or are not derogatory to, the ICCs/IPs and do not unduly prejudice the implementation of the rights of ICCs/IPs;

d) In situations of national emergency or other circumstances of extreme urgency as provided under Section 15 (b), the right holder shall be notified as soon as reasonably practicable;

e) In the case of public non-commercial use of the CIR as provided under Section 15 (c), the right holder shall be informed promptly;

f) The scope and duration of such use shall be limited to the purpose for which it was authorized;

h) Such use shall be non-exclusive;

g) The right holder shall be paid adequate remuneration in the circumstances of each case, taking into account the economic value of the authorization; and

h) The existence of a national emergency or other circumstances of extreme urgency, referred to under Section 15 (b), shall be subject to the determination of the President of the Philippines for the purpose of determining the need for such use or other exploitation, which shall be immediately executory.

All cases arising from the implementation of this provision shall be cognizable by courts with appropriate jurisdiction provided by law.

	<p>No court, except the Supreme Court of the Philippines, shall issue any temporary restraining order or preliminary injunction or such other provisional remedies that will prevent its immediate execution.</p> <p>The National Commission on Indigenous Peoples (NCIP), in consultation with the appropriate government agencies, shall issue the appropriate implementing rules and regulations for the use or exploitation of CIRs as contemplated in this section within one hundred twenty (120) days after the effectivity of this law.</p>	
<p>Sec. 23. Implementing Rules and Regulations (IRR) – The Commission , in consultation with other cultural agencies, IPO-PHIL, the Palawan Council on Sustainable Development, the Department of Environment and Natural Resources, the Department of Agriculture, the Philippine Institute of Traditional and Alternative Health Care (PITAHC), civil society organizations, and other relevant government agencies, shall promulgate the IRR of this Act, including, but not limited to CIR belonging to several ICCs/IPs, mechanisms for the registry, positive and defensive protection of CIR, treatment of derivative works, validation, dispute settlement/resolution, and rules of procedure, within one hundred and twenty (120) days after the effectivity of this Act.</p>	<p>Sec. 23. Implementing Rules and Regulations (IRR) – The Commission , in consultation with other cultural agencies, IPO-PHIL IPOPHL, the Palawan Council on Sustainable Development, the Department of Environment and Natural Resources, the Department of Agriculture, the Philippine Institute of Traditional and Alternative Health Care (PITAHC), civil society organizations, and other relevant government agencies, shall promulgate the IRR of this Act, including, but not limited to CIR belonging to several ICCs/IPs, mechanisms for the registry, positive and defensive protection of CIR, treatment of derivative works, validation, dispute settlement/resolution, and rules of procedure, within one hundred and twenty (120) days after the effectivity of this Act.</p>	<p>For consistency with Sec. 8.</p>

<p>Sec. 27. Effectivity. – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation, whichever comes first.</p>		<p>We would like to seek clarification whether there could be an administrative, civil, or criminal liability while the Registry is not yet publicly available or while the IRR is not yet issued.</p> <p>To ensure due process, the Committee may wish to consider including a Transitory Provision while the Registry is still being developed to avoid penalizing third parties that have no information yet on the protected CIRs.</p>
--	--	--



RECEIVED
OCT 25 2022
RECORDS SECTION

POSITION PAPER OF THE NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP) ON THE PROPOSED HOUSE BILL BEARING NUMBER 3340, ENTITLED, "AN ACT ESTABLISHING A SYSTEM PROTECTING THE COMMUNITY INTELLECTUAL RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLES"

The 1987 Philippine Constitution recognizes the need to protect the artistic and intellectual creations of every individual when it provides that, "All the country's artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State which may regulate its disposition."¹ It also instructs that, "Arts and letters shall enjoy the patronage of the State. The State shall conserve, promote, and popularize the nation's historical and cultural heritage and resources, as well as artistic creations."² Thus, the State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.³

Same fundamental law further provides for the recognition and respect of the rights of the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) when it explicitly provides, "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 their rights in the formulation of national plans and policies."⁴

In order to implement the abovementioned Constitutional provisions, Republic Act No. 8371 (RA 8371), or the Indigenous Peoples Rights Act (IPRA) of 1997 was passed into law, primarily to correct historical injustices committed against the ICCs/IPs for the past long years. IPRA specifically provides four bundles of rights, namely: rights to ancestral domains, rights to self-governance and empowerment, rights to social justice and human rights, and the rights to cultural integrity. There are thirty-six (36) specific rights afforded to ICCs/IPs in the country under the IPRA.

Accordingly, under IPRA, "The State shall respect, recognize, and protect the right of ICCs/IPs to preserve and protect their culture, traditions and institutions. It shall consider these rights in the formulation and application of national plans and policies."⁵ It further provides that, "ICCs/IPs have the right to practice and revitalize their own cultural traditions and customs. The State shall preserve, protect and develop the past, present and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their free and prior informed consent or in violation of their laws, traditions and customs."⁶

Emphasis should be made that, the ICCs/IPs are entitled to the recognition of the full ownership and control and protection of their cultural and intellectual rights. They shall have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, including derivatives of these

¹ Section 16, Article XIV, 1987 Philippine Constitution

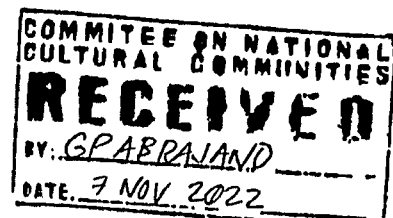
² Section 15, Article XIV, 1987 Philippine Constitution

³ Section 14, Article XIV, 1987 Philippine Constitution

⁴ Section 17, Article XIV, 1987 Philippine Constitution

⁵ Section 29, Chapter VI, RA 8371

⁶ Section 32, Chapter VI, RA 8371



resources, traditional medicines and hearth practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, knowledge of the properties of fauna and flora, oral traditions, literature, designs, and visual and performing arts.⁷

As the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto, and with a mandate to protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions, the Commission fully supports this proposed legislation as it will bolster the protection and promotion from the misappropriation, misuse and other violations of the community intellectual rights of the ICCs/IPs.

At this juncture, this Commission submits that the NCIP 8th Commission actively participated in legislative discussions and deliberations before both houses of Congress on proposed legislations affecting ICCs/IPs and their ancestral domains and lands, specifically in the Technical Working Group,⁸ created by the Committee on Indigenous Cultural Communities that drafted the substitute bill to House Bill No. 7811 entitled "AN ACT PROMOTING AND SAFEGUARDING COMMUNITY INTELLECTUAL RIGHTS (CIR) OF INDIGENOUS CULTURAL COMMUNITIES AND INDIGENOUS PEOPLES."

The proposed bill reinforces the provisions of IPRA, particularly Sections 32 and 34 on Community Intellectual Rights, to preserve, protect, and develop the past, present, and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their free, prior and informed consent (FPIC) or in violation of their laws, traditions, and customs. It seeks to address ICCs/IPs issues and concerns on their intellectual rights that are not sufficiently protected under the present mainstream intellectual property regime.

Lastly, the Commission manifests its willingness to participate in further discussions on the proposed measure through a technical working group, should one be created therefor.

Respectfully submitted for consideration.


ALLEN A. CAPUYAN
Chairperson

⁷ Section 34, Chapter VI, RA 8371

⁸ Chaired by Rep. Amihilda J. Sangcopan, Anak Mindanao (AMIN) Partylist

PRELIMINARY COMMENTS ON HB 3340

by the ABS Project, UNDP-GEF-DENR-BMB
Through the Project Manager, Mr. Anthony M. Foronda

1. The ABS Project is a project that is funded by the UNDP-GEF to assist the country in strengthening its national framework for implementing the Nagoya Protocol while also undertaking activities to enhance awareness of the key stakeholders and build their capacity in the importance of the issue of access and benefit-sharing from the utilization of the country's biological resources and associated traditional knowledge and demonstrating how our existing rules and regulations on ABS including those on securing the FPIC of ICCs/IPs are actually implemented.

2. The project is implemented by the UNDP Philippines with the DENR-BMB as the lead agency with the NCIP as a major collaborating agency and other agencies such as the DA, BFAR and the Palawan Council for Sustainable Development and other key agencies and partners.

3. It is also working on developing specific measures that will put into actual implementation the provision of IPRA on section 32 on community intellectual rights as well as sec. 35 on the rights of ICCs/IPs to grant FPIC in accordance with their customary laws as regards access to their biological and genetic resources.

4. The proposed measure, HB 3340, is a step in the right direction that will strengthen the implementation of section 32 of the Indigenous Peoples' Rights Act, that will complement any implementing regulation that the NCIP may develop in furtherance of this sui generis right, which is not actually a species of intellectual property right, but is a unique instrument of its own kind, applicable only to what the ICCs/IPs have as manifestations of their cultural heritage.

5. The proposed section 4 of the Bill which talks about the coverage of protection of the bill is actually a mixed rewording of what's already found in sec. 34 of IPRA on the right to IKSPs and to develop own sciences and technologies, particularly on section 4's opening phrase : "the ICCs/IPs shall have full ownership and control and protection" which sec. 34 of IPRA states as : "the ICCs/IPs are entitled to the recognition of the full ownership and control and protection of their cultural and intellectual rights."

6. But then sec. 4 of the bill adds : "from misappropriation, misuse and false designation of origin" and then links it back to sec. 32 of IPRA on community intellectual rights when sec. 34 of IPRA where the originating phrase of sec. 4 emanates only talks about cultural and intellectual rights. Thus, there is a commingling of what's in sec. 32 and sec. 34 of IPRA and limits it to specific problems of "misappropriation, misuse and false designation of origin" when sec. 32 is much broader as it talks about the duty of the State to "preserve, protect and develop" and sec. 34 talks about "special measures to control, develop and protect".

7. This commingling of concepts and measures from existing provisions of IPRA on sec. 32 and 34 which is what is being done in sec. 4 of the bill will only make difficult the development of specific implementing regulations for these existing provisions of IPRA on sec. 32 and 34. It is best that they are left alone and perhaps the scope of the bill might just be further revised such that it will seek to plug the loopholes that are in sec. 32 and 34 instead of overlapping with them not making clear what will be amended once this bill is adopted.

8. Our preliminary suggestion is to instead focus the scope of the bill to what may be the "misappropriation, misuse and false designation of origin" of what's in sec. 32 and 34 but to make it applicable to what is already transacted online, after all, most of what's being circulated in commerce these days are already done through various online platforms and this is where the provisions on community intellectual rights of IPRA, now in sec. 32, is not really clear as to how it may be applied, on those specific settings. In fact, we already suggested to NCIP MIMAROPA who posted online handicrafts of Mangyans that they make reference to sec. 32 in their website such that the NCIP will

have flexibility to run after those who may misuse or misappropriate including the pictures of these Mangyan handicrafts but there is no clarity how that may be implemented.

9. If sec. 4, the scope of the bill, is for now limited to artifacts of cultural heritage of ICCs/IPs that are posted online, then we preserve what's in sec. 32 and 34 and just let the NCIP work on developing the implementing regulations of these provisions, including also the other provisions found in chapter VI of IPRA on cultural integrity.

10. In fact, once the scope of the bill clarifies that it applies to the "misappropriation, misuse and false designation of origin" of the artifacts or manifestations of the culture of ICCs/IPs to which they have rights under chapter VI of IPRA, especially when they are dealt with or transacted or exchanged online, then it will enable the further development of this sui generis right which is not actually a species of intellectual property right but is distinct and unique therefrom and all the other provisions of the bill will make sense and will not interfere in the work needed to further develop the implementing regulations of what's already found in Chapter VI of IPRA which is a task that the NCIP is mandated to do.

11. In fact, the ABS Project is set to work with the NCIP in the further elaboration of sec. 32 of IPRA as regards to the subject matter of these community intellectual rights on the biological resources and associated traditional knowledge of IPs and also on sec. 35 on the right of ICCs/IPs to issue FPIC in accordance with their customary laws on access to their biological and genetic resources.

12. As regards the further work on simplifying and harmonizing the country's rules on access to genetic resources and associated traditional knowledge, the ABS Project has produced a draft regulation on this and will subject this to further consultation with stakeholders, the first in a series, on 25 November 2022. We extend our invitation to the members of the Committee, especially the Chair or your LegComSec, so we can further explain the details of the ABS Project. In fact, we are ready to ask for an audience with your honors, especially the Honorable Chair of the Committee for a courtesy visit so we can further give a backgrounder on the project.

Thank you Honorable Chair and the members of the Committee.

oOo

PAMBANSANG KOMISYON PARA SA KULTURA AT MGA SINING

By E-Mail / Mobile / Messenger Transmission

14 November 2022

Honorable ALLEN JESSE C. MANGAOANG
Representative, Lone District of Kalinga
Chairperson, Committee on Indigenous Cultural Communities
and Indigenous Peoples
House of Representatives
Quezon City

Subject: House Bill No. 3340 "An Act Establishing a System Protecting the Community Intellectual Rights of Indigenous Cultural Communities and Indigenous Peoples" introduced by Rep. Maximo Y. Dalog, Jr.

Dear Hon. Mangaoang,

Warm Greetings from the National Commission for Culture and the Arts (NCCA)!

We would like to respectfully submit to your good office our official position paper on the abovementioned House Bill, which was initially deliberated by the House Committee on Indigenous Cultural Communities and Indigenous Peoples on 10 November 2022 at 10:00 a.m. via Zoom application.

We would also like to extend our heartfelt gratitude to you for the kind invitation and opportunity given to the Commission to express and provide its stand on the said bill. Dr. Edwin B. Antonio, Head of the NCCA National Committee on Northern Cultural Communities, attended and represented the Commission in the meeting, together with the staff from the Planning and Policy Office (PPO).

For your kind consideration, may we respectfully refer you to the following items comprising our official position.

1. Section 12d of Republic Act No. 7356 ("Law Creating the National Commission for Culture and the Arts") states that *"the Commission is mandated to preserve and integrate traditional culture and its various creative expressions as a dynamic part of the national cultural mainstream."*

Section 2 of Republic Act No. 10066 ("National Cultural Heritage Act of 2009") also provides that the Commission is also tasked to *"protect, preserve, conserve, and promote the nation's cultural heritage, its histories, and the ethnicity of local communities."* Specifically, Section 19. National Inventory of Intangible Cultural Heritage of the same law mentions that *"the appropriate cultural agency shall collaborate with the UNESCO National Commission of the Philippines in safeguarding intangible cultural heritage in the Philippines."*

Hence, we would like to express our support for the passage of the bill into law as its main intentions are aligned with the mentioned mandates and policies of the Commission.



Republic of the Philippines Office of the President

NATIONAL COMMISSION FOR CULTURE AND THE ARTS

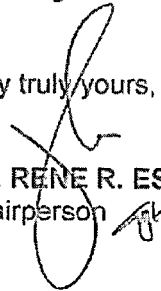
633 General Luna Street, Intramuros, 1002 Manila / Tel. 527-2192 to 98 / Fax 527-2191 & 94 / e-mail: info@ncca.gov.ph / website: www.ncca.gov.ph

PAMBANSANG KOMISYON PARA SA KULTURA AT MGA SINING

2. We would like to recommend that "cultural property" be also defined in Section 3 because apart from the fact that it was used several times in the bill, providing its definition will be helpful in the future implementation of Section 8 whose aim is to establish a system of coordination among the NCIP, NCCA and IPOPHL on the registry which includes not just community intellectual rights and intellectual property rights, but also cultural property. The definition of cultural property should be consistent with the one that is provided in Republic Act No. 10066 which the Commission and its affiliated National Cultural Agencies have been using and implementing since the signing of this law in 2010.
3. Finally, we would also like to suggest that in Section 23. Implementing Rules and Regulations, state "the National Commission for Culture and the Arts" between the words or phrases in consultation with and other cultural agencies.

With assurances of our highest esteem and warmest regards.

Very truly yours,

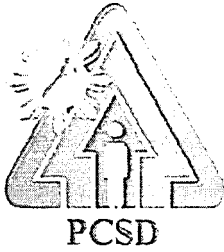

DR. RENE R. ESCALANTE
Chairperson



Republic of the Philippines Office of the President

NATIONAL COMMISSION FOR CULTURE AND THE ARTS

633 General Luna Street, Intramuros, 1002 Manila / Tel. 527-2192 to 98 / Fax 527-2191 / e-mail: info@ncca.gov.ph / website: www.ncca.gov.ph



Republic of the Philippines
(Republic Act No. 7611)

PALAWAN COUNCIL FOR SUSTAINABLE DEVELOPMENT STAFF

August 17, 2023

ADORA P. PUEBLOS

Committee Secretary

Committee on Indigenous Cultural Communities and Indigenous Peoples

House of Representatives

Dear Secretary Pueblos:

This pertains to your letter dated July 27, 2023 requesting a position paper for House Bill No. 3340 entitled "An Act Establishing a System Protecting the Community Intellectual Rights of Indigenous Cultural Communities/Indigenous Peoples."

As an agency that closely deal with ICCs/IPs, their ancestral lands/domains and the natural resources found therein, the Palawan Council for Sustainable Development Staff highly supports this legislative effort which would ensure that community intellectual rights of ICCs/IPs are protected and respected.

On Section 23 of the proposed bill, however, we would like to recommend that the name **Palawan Council on Sustainable Development** be edited to read as **Palawan Council for Sustainable Development**.

Very truly yours,


NIÑO REY C. ESTOYA, MNSA, CESE
Acting Executive Director

Vision: Palawan, an innovative and dynamic global center of sustainable development.

Mission: PCSDS as the driver of environmental conservation and inclusive development in Palawan, a biosphere reserve and science-for-sustainability site, guided by the Strategic Environmental Plan.

HEAD OFFICE:

PCSD Building, Sports Complex Road
Santa Monica Heights, Puerto Princesa City, 5300 Palawan, Philippines
☎ (+6348) 434-4235 Trunkline • (+6348) 434-4234 Telefax
Email: oed@pcsd.gov.ph • Website: www.pcsd.gov.ph | www.plp.pcsd.gov.ph