



NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*First Regular Session* )

23 JAN 19 P5 35

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**SENATE**

S.B. No. 1716

Introduced by **SENATOR IMEE R. MARCOS**

**AN ACT**  
**SAFEGUARDING THE TRADITIONAL PROPERTY RIGHTS OF INDIGENOUS**  
**PEOPLES, AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

The Philippines is a culturally diverse country with an estimated 14 to 17 million indigenous peoples belonging to the 112 ethno-linguistic groups in the country. With their unique traditions, cultures and practices, indigenous people have been set apart from the conventional world and as a result have become alienated from the mainstream societies. According to a report of World Mission, a Catholic-based missionary group, "they lag behind in terms of social and economic development, being the most impoverished groups in their countries. They are poor, illiterate and unemployed, making up 15% of the world's poor."

One of the many struggles of the indigenous peoples is protecting their cultural heritage. To address this, the national government has enacted several laws, such as Republic Act No. 837, or the Indigenous Peoples Rights Act, and Republic Act No. 8293 or the Intellectual Property Code of the Philippines, to recognize and protect the indigenous peoples' cultural heritage. However, the provisions of these laws are inadequate to protect the traditional cultural heritage and properties of the country's indigenous peoples and communities.

It should be kept in mind that the indigenous peoples' rich culture and vibrant traditions contribute to the formation of a national identity that must be preserved across generations and treated with respect and honor. Thus, the immediate passage of this bill is earnestly sought.

  
**IMEE R. MARCOS**

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**AN ACT**  
**SAFEGUARDING THE TRADITIONAL PROPERTY RIGHTS OF INDIGENOUS**  
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*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

1       **SECTION 1. Short Title.** - This Act shall be known as the "*Traditional Property*  
2 *Rights of Indigenous Peoples Act*".  
3

4       **SEC. 2. Declaration of Policy.** - It is hereby declared the policy of the State to  
5 protect the traditional cultural heritage of the indigenous peoples of the Philippines and  
6 safeguard the intrinsic values, whether tangible or intangible, and support the  
7 traditional artists and artisans in their contribution to their respective ethnic culture and  
8 national heritage by ensuring that their rights are protected.  
9

10       **SEC. 3. Definition of Terms.** - For purposes of this Act, the following terms shall  
11 be defined as follows:  
12

- 13       a. *Commission* refers to the National Commission for Culture and the Arts;  
14       b. *Community* refers to the congregation of people with social cohesion and  
15       identity organized among common values interacting with intimacy and  
16       reciprocity in a shared circumscribed location in units larger than a household  
17       and has more similarities in the types and forms of their material goods;  
18       c. *Communal ownership* refers to common ownership within a community;  
19       d. *Craft* refers to the description of the family of artistic practices within the  
20       decorative arts, traditionally, which is defined by their relationship to  
21       functional or utilitarian products such as sculptural forms in the vessel  
22       tradition or by their use of such natural media as wood, clay, glass, textiles  
23       and metal;

- 1 e. *Cultural agencies* refer to the following national government agencies with  
2 their specific areas of responsibility:  
3  
4 b.1. National Museum (cultural property);  
5 b.2. National Library (books);  
6 b.3. National Historical Institute (Philippine history);  
7 b.4. National Archives (documents);  
8 b.5. Cultural Center of the Philippines (culture and arts); and  
9 b.6. Komisyon sa Wikang Filipino (language).  
10  
11 f. *Cultural heritage* refers to the totality of cultural property preserved and  
12 developed through time and passed on to posterity;  
13 g. *Cultural property* refers to all products of human creativity by which the  
14 people and nation reveal their identity, including churches, mosques and  
15 other places of religious worship, schools and natural history specimens and  
16 sites, whether publicly or privately owned, movable or immovable, and  
17 tangible or intangible;  
18 h. *Culture* refers to the set of distinctive spiritual, material, intellectual and  
19 emotional features of society or a social group, that encompasses, not only  
20 art and literature but lifestyles, ways of living together, value systems,  
21 traditions and beliefs;  
22 i. *Derivative work* refers to a new work provided that they do not violate any  
23 subsisting copyright upon the original work employed or any part thereof, or  
24 to imply any right to such use of the original works, or to secure or extend  
25 copyright in such original works. Derivative works may include:  
26 dramatizations, translations, adaptations, abridgements, arrangements, and  
27 other alterations of literary music work; collections of literary, scholarly or  
28 artistic works, and compilations of data and other materials which are original  
29 by reason of the selection or coordination or arrangement of their contents;  
30 j. *Indigenous peoples* refer group of people or homogenous societies identified  
31 by self-ascription and ascription by others, who have continuously lived as  
32 organized community on communally bounded and defined territory, and who  
33 have, under claims of ownership since time immemorial, occupied, possessed  
34 customs, tradition and other distinctive cultural traits, or who have, through  
35 resistance to political, social and cultural inroads of colonization, non-  
36 indigenous religions and culture, become historically differentiated from the  
37 majority of Filipinos;  
38 k. *Intangible cultural heritage* refers to the practices, representations,  
39 expressions, knowledge, skills as well as the instruments, objects, and  
40 artifacts associated therewith, that the communities, groups and individuals  
41 recognize as part of their cultural heritage, such as (1) oral traditions,  
42 languages, expressions; (2) performing arts; (3) social practices, rituals and  
43 festive events; (4) knowledge and practices concerning nature and the

- 1 universe; and (5) traditional craftsmanship such as handloom weavings, wood  
2 carvings and pottery, among others;
- 3 l. *Intangible cultural property* refers to the people's learned processes along  
4 with the knowledge, skills and creativity that inform and are developed by  
5 them, the products they create and the resources, spaces and other aspects  
6 of social and natural context necessary for their sustainability;
- 7 m. *Oral expression* refers to the expression uttered by the mouth; spoken; oral  
8 testimony or transmitted by speech;
- 9 n. *Ownership* refers to the legal right of possession or proprietorship; the state,  
10 relation , or fact of being an owner; the rights or interests of an owner,  
11 ownership especially by a single person that is free of any encumbrances or  
12 limitations other than statutory;
- 13 o. *Performance* refers to the acting out of a ceremony, play, piece of music,  
14 etc., the execution or accomplishment of works, acts, feats etc., a particular  
15 action, deed or proceeding the manner in which or the efficiency with which  
16 something reacts or fulfills its intended purpose, and not necessarily as part  
17 of the social process;
- 18 p. *Registry* refers to the Philippine Registry of Cultural Property which is the  
19 registry of all cultural property of the country deemed of significant  
20 importance to our cultural heritage as defined in Republic Act No. 10066;
- 21 q. *Rites* refer to the formal or ceremonial acts or procedures prescribed or  
22 customary in religious or other solemn use, or a particular form of system of  
23 religious or other ceremony;
- 24 r. *Rituals* refers to an established or prescribed procedure for a religious or other  
25 rite, a system or collection of religious or other rites; observance of set of  
26 forms in public worship; a prescribed or established or ceremonial acts of  
27 features collectively, as in religious services; any practice or pattern of  
28 behavior regulating social conduct;
- 29 s. *Royalty* refers to the payment to the holder of a patent or copyright or  
30 resource for the right to use their property;
- 31 t. *Social process* refers to the means by which culture and social organization  
32 change or are preserved due to process or practice;'
- 33 u. *Tangible cultural property* refers to a cultural property with historical,  
34 archival, anthropological, archaeological, artistic and architectural value, and  
35 with exceptional or traditional production, whether of Philippine origin or not,  
36 including antiques and natural history specimens with significant value; and
- 37 v. *Tradition* refers to the beliefs, customs, practices, industries, expressions,  
38 whether tangible or intangible, maintained and shared differentially by  
39 society, and handed down from generation to generation. Tradition, in this  
40 respect, is a continuum that change and may arise in time and shall not  
41 therefore be subject to time limitation.
- 42



1           **SEC. 4. *National Commission for Culture and the Arts.*** – The National  
2 Commission for Culture and the Arts, hereinafter referred to as the Commission, shall  
3 implement the provisions of this Act.  
4

5           **SEC. 5. Powers and Functions of the Commission.** The Commission shall exercise  
6 the following powers and functions:

- 7           a. Create an office, within its structure, to coordinate all efforts of the  
8 government and private agencies that have forms of tangible and intangible  
9 cultural heritage in making the Philippine Registry of Cultural Property and  
10 undertake to safeguard the viable national cultural heritage stipulated in the  
11 said registry;
- 12           b. With the approval of the Board, the Commission shall have the authority to  
13 reorganize its structure and staffing pattern in order to carry out its functions.  
14 The incumbent leaders of the existing Commission shall automatically be  
15 upgraded to analogous positions, with respect to the rest of the personnel;
- 16           c. Assist in identifying works and attributing authorship and shall be further  
17 responsible for maintaining and populating the registry;
- 18           d. Assist the claimants and relevant government agencies in resolving conflicts  
19 of ownership and attribution who will give permission to the people who wish  
20 to use the work upon discovery of the same in the database; and
- 21           e. Assist relevant government agencies in the prosecution of unauthorized use  
22 of intellectual property of indigenous peoples.  
23

24           **SEC. 6. *Intellectual Property Rights of Ethno-Linguistic Groups.*** – Traditional  
25 cultural property, whether tangible or intangible, of all the ethno-linguistic groups that  
26 make up the people of the Philippines shall not lapse into public domain after fifty (50)  
27 years from creation and shall continue indefinitely to be the exclusive property of these  
28 ethno-linguistic groups that communally own them. Traditional heritage, both tangible  
29 and intangible, are to be held in perpetuity in ethnic memory and considered valid as  
30 ethnic intellectual property. However, the rights of an ethno-linguistic group to a  
31 traditional item will lapse into public domain after fifty (50) years, if it is no longer in  
32 production or used in cultural context within the society.  
33

34           While recognizing that traditions change through time, the ethno-linguistic  
35 groups shall retain original rights to their intellectual property changing in continuum.  
36

37           **SEC. 7. *Registry of Cultural Property.*** – Under the guidance of the Commission  
38 and National Museum, or any other pertinent national cultural agency, the local  
39 government units (LGUs), with the assistance of the National Commission for  
40 Indigenous Peoples, shall organize the inventories of cultural properties of the different  
41 ethno-linguistic groups of the Philippines that are distinctive, characteristics of or  
42 derived from their particular traditional culture, to the exclusion of those of others. The  
43 LGUs shall submit the inventories to the Commission, through the National Museum, to

1 establish communal ownership and to be registered under the concerned group's name  
2 for protection under existing copyright law.

3  
4 Further, the accomplished registries of the tangible and intangible cultural  
5 properties shall be incorporated in the Philippine Registry of Cultural Property as  
6 established by Republic Act No. 10066 and administered by the Commission.

7  
8 **SEC. 8. *Derivative Work.*** – The infusion of personal or individual variations on a  
9 traditional object would result in a derivative work or craft, which is one that is primarily  
10 a new work but incorporates some previously published material. A derivative work  
11 must be different enough from the original to be regarded as a “new work” or must  
12 contain a substantial amount of new materials. Making minor changes or additions of  
13 little substance to a pre-existing work will not qualify the work as a new version for  
14 copyright purposes. The new material must be original and copyrightable in itself.

15  
16 **SEC. 9. *Deposit and Notice.*** – Moral rights would vest upon creation; hence,  
17 authorship would have to be established to avail of moral rights such as the right of  
18 attribution. Moral rights to ownership of newly created items by members of an ethno-  
19 linguistic group should be registered with the Commission for protection under existing  
20 copyright laws. Copyright vests from the moment of creation and registration is one of  
21 the ways to prove authorship, although it is not exclusive.

22  
23 **SEC. 10. *Free, Prior and Informed Consent.*** – Free, prior and informed consent  
24 for the use of the indigenous peoples' intellectual property should be articulated by a  
25 defined authority that is provided with a circumscribed jurisdiction, associated with the  
26 culture of an ethno-linguistic group. The corresponding elected official, as the case may  
27 be, assisted by cultural experts, shall dispense with the required free, prior and informed  
28 consent for the item(s) in questions for the concerned intellectual property owners.

29  
30 **SEC. 11.** Indigenous communal copyright (intellectual property) owners may  
31 designate a society with legal personality to act in their behalf to enforce their economic  
32 and moral rights.

33  
34 **SEC. 12. *Royalties.*** – Indigenous communal copyright (intellectual property)  
35 owners shall be compensated for the use of their work. The amount, process of  
36 collecting and distributing this royalty and other pertinent details will be determined by  
37 the Commission.

38  
39 **SEC. 13. *Appropriations.*** – For the initial implementation of this Act, the amount  
40 of Fifty Million Pesos (Php 50,000,000.00) is hereby appropriated and shall be sourced  
41 from the President's Contingent Fund.

42  
43 **SEC. 14. *Implementing Rules and Regulations.*** – The Commission, in  
44 consultation with other relevant cultural agencies mentioned in this Act, shall

1 promulgate the implementing rules and regulations within ninety (90) days after the  
2 effectivity of this Act.

3  
4 **SEC. 15. Penalties.** – In addition to the penalties under existing laws, any  
5 person found guilty of violating any provisions of this Act shall be imprisoned for a  
6 period not exceeding ten (10) years or imposed a fine not exceeding One Hundred  
7 Thousand Pesos (Php 100,000.00) or both at the discretion of the court.

8 **SEC. 16. Repealing Clause.** - All existing laws, presidential decrees, executive  
9 orders, proclamations, or administrative regulations that are inconsistent with the  
10 provisions of this Act are hereby amended, modified, superseded, or repealed  
11 accordingly.

12  
13 **SEC. 17. Separability Clause.** - If any provision of this Act shall be held  
14 unconstitutional, the remainder of the Act not otherwise affected shall remain in full  
15 force and effect.

16  
17 **SEC. 18. Effectivity Clause.** - This Act shall take effect fifteen (15) days after its  
18 publication in the Official Gazette or in at least two (2) newspapers of general  
19 circulation.

20  
*Approved,*