

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
Second Regular Session

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5184
HOUSE BILL NO. _____

Introduced by:

Gabriela Women's Partylist Reps. LUZVIMINDA C. ILAGAN and EMMI A. DE JESUS,
TEDDY BRAWNER BAGUILAT, JR (LP) and MEL SENEN S. SARMIENTO (LP)

EXPLANATORY NOTE

According to the Kalipunan ng mga Katutubong Mamamayan ng Pilipinas (KAMP), there are about 8 million indigenous peoples divided into more or less 100 ethnic groups in the country. Of this number, however, more than a majority can be considered as "undocumented" as their vital events (birth, marriage and death) have been largely unrecorded in the local civil registry.¹ This is affirmed by various studies which reported that "levels of birth registration among the marginalized sectors [including IPs] have been very low".²

Given the legal effects of non-registration, official attempts were made in the past to encourage IPs to report their vital events. On the assumption that the payment of fees had posed some problems for indigent IPs to comply with civil registration, some reforms were instituted to the effect that government waived its collection of fees if the IPs reported their vital events early. But the problem of low registration compliance among IPs has remained.

¹ This is exacerbated by the fact that the government's periodic national census surveys do not include ethnicity such that even the National Statistics Office does not have statistics as to the total IP population of the country. This has given way to estimates that go as high as 18 million (based on 171 ethnolinguistic groupings) to as low as 5 million. The NCIP estimate is 13.5 million which even some IP advocates consider as too high.

² Please see for instance, the PPT presentation of Hufana, Lourdes, Birth Registration System of the Philippines (A Situation Report), National Statistics Office (undated). The study mentioned only "low levels of birth registration". It does not mention of the level of registration among IPs as to their marriage and death. Further, the study does not give figures on the number of "undocumented" IPs but supplies a figure, 23 %, for Moslem (ARMM) compliance in birth civil registration. Assuming that the IPs are more or less similarly situated with the Moslems and using the Moslem level of birth civil registration compliance as watermark, the number of "undocumented" IPs can be safely reckoned to be as high as 75 %.

This goes to show that the problem is not merely a question of inability of the IPs to pay the requisite registration fees. According to KAMP, its causes go beyond the payment of registration fees and have deeper roots.

The extant civil registration system in the country was instituted, via the passage of Act No. 3753 in 1930, when the Philippine government was still under American colonial tutelage. Although this system had undergone several administrative revisions to fit into changing times and conditions, it has retained much of its basically colonial framework. Above the purpose of keeping a record of the inhabitants of the country, it was also geared as a mechanism for "the integration of national cultural communities" into the predominantly Christianized Philippine society. This had unfortunately produced a civil registration system that is not "user-friendly" (to borrow the language of the present electronic age) to IPs.

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To state it in sociological terms, the extant civil registration system in the country is not "sensitive" to the distinct cultural practices, beliefs and traditions of IPs, including their unique identification system.

To illustrate, most IPs do not use clocks. They also do not use the calendar and their territorial boundaries are largely un-delineated. Many of them still reckon time and space in accordance with an oral tradition based on the geologic motions and landmarks of nature. But the civil registration form uses the Western method of reckoning time and dates which causes for the IPs no-small difficulties, if not confusion, in narrating the factual background of their birth, marriage or death. To illustrate further, a number of IPs, such as the Tasadays of Southern Mindanao³, still go around on a "one-name" basis. But the civil registration form, on its face, is patently culturally-biased to a population with Christianized nomenclature, replete with first name, surname and middle name. Moreover, while the form has a space for "Religion" which only admits for answer the mainstream denominations of faith, it has no space for "Ethnicity".

The hidden evil of such bias is that it somehow operates as a pressure on IPs to submit to proselytization. But where cultural affiliation is strong and the IPs refuse to be proselytized, it acts as a cultural fetter to register the vital events and statistics of their lives. As is often the case, they will just move on believing that they can live without having their biographic milestones officially recorded until they run smack into legal corners that demand documented proofs of their existence and status.

The end result of all this is that discrimination is multiplied several times over as to the IPs. Since they do not exist in the contemplation of both domestic and international laws, they cannot access the privileges and protection reserved only to registered citizens of the land or exercise the rights accorded to nationals of a country.⁴ It must be noted that such discrimination

³ The Tasadays, a branch of the Manobo tribe in Southern Mindanao, is a real tribal grouping. They truly exist as a cultural community. What is false, a hoax, was the claim that they still lived in isolation as Stone Age-cave dwellers.

⁴ Under international law, the "undocumented" IPs of the country can fall into the category of "stateless persons".

has its worst effects on the children of IPs: without civil registration documents, they are denied admission to, among others, primary education and child health care programs.⁵

Not all of the problems attending the low civil registration compliance among IPs can be resolved in their favor since the extant civil registration system has to observe certain international standards, such as the international standards on time and dates. Besides, as many of those problems involve a cultural dimension, it will take more than legislative action to address them. But legislation must do its part in doing something to remove those cultural curtains that have caused the IPs to shy away from reporting their birth, marriage and death. It is to this that this bill seeks to address the low civil registration compliance of IPs.

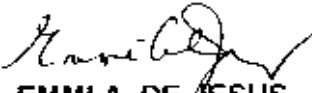
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Thus, this bill will not only provide for free civil registration for the IPs. It also seeks to make the civil registration system of the country *culture-sensitive* to IPs in order to open its doors wider for the most marginalized sector of Philippine society. Apart from these, it serves as the country's compliance (please see Section 16 of the bill) to its international obligations and commitments under the United Nations Convention on the Rights of a Child.

In view of the foregoing, the authors of this bill earnestly seek for its urgent and early approval


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⁵ Article 7 of the UN Convention on the Rights of a Child states that "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents."

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AN ACT
PROVIDING FOR A FREE AND CULTURE-SENSITIVE
CIVIL REGISTRATION SYSTEM FOR INDIGENOUS PEOPLES
AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives in Congress of the Philippines assembled, that:

Section 1. This Act shall be known as the *Free Civil Registration for Indigenous Peoples Act*.

Section 2. Definition of indigenous peoples – This Act adopts the definition of "indigenous peoples" used in Republic Act 8371, also known as the Indigenous Peoples' Rights Act, and reproduces herein its paragraph h, Section 3:

"Indigenous Cultural Communities/Indigenous Peoples - refer to a group of people or homogenous societies identified by self-ascription and ascription by other, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed customs, tradition and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains."

Section 3. *Culturally-sensitive civil registration system* – Within a month upon the effectivity of this Act, the National Statistics Office in collaboration with the National Commission for Indigenous Peoples and in consultation with distinguished anthropologists and selected elders/leaders of indigenous peoples, shall develop a civil registration system that should be sensitive and appropriate to the unique cultural practices and identification system of indigenous peoples; *provided*, that such a civil registration system for indigenous peoples shall be harmonized with existing laws and systems on civil registry. Page: 5

Section 4. *Ethnicity* – The system as mentioned in the immediately preceding Section, including the necessary forms, shall take into account the various ethnic affiliation of indigenous Filipinos.

Section 5. *Preparation and printing of necessary forms* – The Administrator of National Statistics Office, in his/her capacity as the Civil Registrar-General, shall cause the preparation and printing of the forms necessary for the implementation of the civil registration system for indigenous peoples as mentioned in the preceding paragraph.

Section 6. *Free civil registration for indigenous peoples* – Indigenous peoples shall be exempted from the payment of all fees connected with recording their birth, marriage, and death in the Local Civil Registrar. Such exemption extends to late registration and no member of indigenous peoples shall be charged with fines or any fees that correspond to fines for late registration.

Section 7. In the same manner, indigenous peoples shall be exempted from the payment of notarial and documentary fees in cases where recording the birth and marriage of a member of indigenous peoples requires the execution of affidavits or sworn statements and such similar documents.

Section 8. *Report of birth by parents or tribal doctor/midwife conclusive upon the Local Civil Registrar* – In recording the birth of an indigenous child delivered in the traditional ways of indigenous peoples, the report as to the circumstances of the birth by any of the parents or by the tribal doctor/midwife who attended to the delivery shall be conclusive upon the Local Civil Registrar without need of further proof. Section 5 of Republic Act 3753, or the Civil Registry Law, shall apply only in cases where the indigenous child was delivered in a hospital and attended to by a physician or midwife.

Section 9. *Report of marriages performed in accordance with customary indigenous laws and practices* – The report of marriage among and between indigenous peoples performed in accordance with customary indigenous laws and practices by the person authorized to solemnize marriage or by the parties to the marriage shall be conclusive upon the Local Civil Registrar without need of further proof. Also, the dissolution of marriage among indigenous peoples made pursuant to customary indigenous laws and practices can be directly recorded with the Local Civil Registrar without need of court intervention.

Section 10. *Report of death by any member of the family or tribal doctor* – The report as to the circumstances of death by any member of the family of the deceased member of indigenous peoples or by the tribal doctor in attendance during his/her death shall likewise be conclusive on the Local Civil Registrar without need of further proof. Section 6 of Republic Act 3753 or the Civil Registry Law, shall apply only where the deceased member of indigenous peoples died in a hospital and was attended by a physician.

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Section 11. *Exemption from prescribed period for reporting* - All rules and regulations, orders and circulars issued with the effect of prescribing a period for reporting the birth, marriage and death of any person to the Local Civil Registrar shall not apply to indigenous peoples.

Section 12. *Establishing the membership of a person in an indigenous community* – In the absence of any identifying documents, the self-ascription by a member of indigenous peoples or by his/her parents and by his/her tribal leader/elder shall be enough for establishing the identity of an indigenous person when applying for recording the birth, marriage or death in the Local Civil Registry.

Section 13. *Establishing facts and information about the personal circumstances of members of indigenous peoples in late registration* – The narration of facts and information made by a member of indigenous peoples regarding his/her personal circumstances, such as, in particular, his/her name, the names of his/her father and mother, date of birth, and place of birth, shall be conclusive upon the Local Civil Registrar without need of execution of an affidavit, provided, that such narration of facts and information have been confirmed by any of his/her parents or tribal leader/elder. The confirmation may be oral or written.

Section 14. *Roster of tribal leaders/elders and medicine men and women* - To facilitate the verification of reports of birth, marriage and death made or filed by indigenous peoples, the Local Civil Registrar shall keep a roster of tribal leaders, elders and medicine men or women of the indigenous peoples in their area of jurisdiction.

Section 15. *Prohibition of compulsion to register under Christianized names* - If a member of indigenous peoples is Christianized but decides to record in the Local Civil Register his/her birth in his/her tribal name, the Local Civil Registrar shall record his/her tribal name. The recorded tribal name shall serve as his/her official name; provided, that the LCR shall indicate in the official registration form his/her Christian name which shall serve as the "also-known-as" name of the indigenous person concerned.

Section 16. *Registration campaign for IP children* – Within two years upon the effectivity of this Act, in compliance with our obligations under the United Nations Convention on the Rights of Children and such other international protocols, convention and treaties to which the country is a party, Local Civil Registrars in collaboration with their local government units shall conduct within their areas of jurisdiction periodic out-reach civil registration campaigns that will specially have the children of indigenous peoples as target beneficiaries.

Section 17. *Information campaign* - Local government units shall conduct periodic information campaigns to encourage indigenous peoples to avail of the government program of free civil registration particularly designed to be sensitive to their cultural practices and identification system

Section 18. *Punishable Acts* – The following acts and omissions are prohibited and punishable under this Act Page 11

1. The collection by any government employee or official or by any person of fees or any payment, in cash or in kind, connected with the civil registration of birth, marriage or death of indigenous peoples;
2. Inducing indigenous peoples to pay in cash or in kind in order to be able to register a birth, marriage or death;
3. Misrepresentation by any person that he/she is a tribal leader, elder or tribal doctor/midwife.
4. Misrepresentation by any person that he is a member of indigenous peoples

Section 19. *Penalties* – The acts and omissions mentioned in the preceding paragraph shall be punished in the following manner:

1. For the prohibited act mentioned in par. 1, a fine of five thousand pesos and an imprisonment of six months.
2. For the prohibited act mentioned in par. 2, a fine of two thousand pesos and an imprisonment of three months
3. For the prohibited acts mentioned in pars. 3 and 4, an imprisonment of one year

Section 20. *Repealing clause* – All laws, orders, issuances, rules and regulations which are inconsistent with this Act are hereby repeated or modified accordingly.

Section 21. *Separability clause* – If any portion of this Act would be declared unconstitutional, the remaining portion shall continue to have force and effect.

Section 22. *Effectivity clause* – This Act shall take effect fifteen (15) days after publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved