

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



Seventeenth Congress
First Regular Session
HOUSE BILL NO. **4612**

Introduced by Representative Manuel Antonio F. Zubiri

EXPLANATORY NOTE

The passage of Republic Act No. 8371, otherwise known as the “The Indigenous Peoples’ Rights Act of 1997”, represents a landmark in Philippine legislation in that it breathed life and meaning to the Constitutional mandate for the recognition and promotion of the rights of Indigenous Cultural Communities and Indigenous Peoples. In this regard, Section 2 of R.A. 8371 provides thus:

SECTION 2. Declaration of State Policies. — The State shall recognize and promote all the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) hereunder enumerated within the framework of the Constitution:

a) The State shall recognize and promote the rights of ICCs/IPs within the framework of national unity and development;

b) The State shall protect the rights of ICCs/IPs to their ancestral domains to ensure their economic, social and cultural well being and shall recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain;

c) The State shall recognize, respect and protect the rights of ICCs/IPs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national laws and policies;

d) The State shall guarantee that members of the ICCs/IPs regardless of sex, shall equally enjoy the full measure of human rights and freedoms without distinction or discrimination;

e) The State shall take measures, with the participation of the ICCs/IPs concerned, to protect their rights and guarantee respect for their cultural integrity, and to ensure that members of the ICCs/IPs benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population; and

f) The State recognizes its obligations to respond to the strong expression of the ICCs/IPs for cultural integrity by assuring maximum ICC/IP participation in the direction of education, health, as well as other services of ICCs/IPs, in order to render such services more responsive to the needs and desires of these communities.

Towards these ends, the State shall institute and establish the necessary mechanisms to enforce and guarantee the realization of these rights, taking into consideration their customs, traditions, values, beliefs, interests and institutions, and to adopt and implement measures to protect their rights to their ancestral domains.

While certainly laudable in its legislative purposes and present achievements, R.A. 8371 still falls short in its effecting the full implementation and attainment of the State's above-declared policies. For the same reason that Congress, in its promulgation of Republic Act No. 9997 otherwise known as the "National Commission on Muslim Filipinos Act of 2009", accorded greater importance and urgency in addressing the needs and welfare of our brother Muslim Filipinos through the creation of a new Department under the Office of the President, this bill seeks to accord the same level of importance and urgency to the needs and welfare of Indigenous Cultural Communities and Indigenous Peoples as well. This bill sweeps away the old National Commission on Indigenous Peoples ("NCIP") created under R.A. 8371 in favor of the creation of the Department of Indigenous Cultural Communities and Indigenous Peoples. Among other innovations, this bill mandates that the Department shall take over from the NCIP and be headed by a Cabinet Secretary. The former offices under the NCIP have likewise been reorganized into bureaus of the Department.

With the changes sought to be effected by this bill, it is sincerely hoped that the estimable goals of the Indigenous Peoples' Rights Act of 1997 would be given the priority and attention it deserves from the highest levels of Government.

In view of the foregoing, the earliest passage of this bill is earnestly sought.

MANUEL ANTONIO F. ZUBIRI
Representative
3rd District, Bukidnon

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AN ACT
CREATING THE DEPARTMENT OF INDIGENOUS CULTURAL COMMUNITIES
AND INDIGENOUS PEOPLES DEFINING ITS POWERS, FUNCTIONS AND
RESPONSIBILITIES AND APPROPRIATING FUNDS THEREFOR AND FOR
OTHER PURPOSES

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

SECTION 1. Short Title. – This Act shall be known as the “*Department of
Indigenous Cultural Communities and Indigenous Peoples Act of 2016*.”

SECTION 2. Declaration of Policy. – It is henceforth the policy of the State to
ensure the rights and well-being of Indigenous Cultural Communities and Indigenous
Peoples (ICCs/IPs) with due regard to their beliefs, customs, traditions and institutions, as
well as to further ensure their contribution to national goals and aspirations and to make
them active participants in nation-building.

ARTICLE I
CREATION OF THE DEPARTMENT

**SECTION 3. Creation of the Department of Indigenous Cultural Communities
and Indigenous Peoples (DEPARTMENT).** - In pursuance of the abovementioned policy,
the Department of Indigenous Communities and Indigenous Peoples is hereby created.

The Department shall be an independent department under the Office of the President. Its coverage shall be both local and national affairs involving ICCs/IPs that include the implementation of economic, educational, cultural, and infrastructure programs for Indigenous Filipino communities. It shall be the primary government body 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 the rights thereto.

SECTION 4. Composition. — The Department shall be headed by a Secretary belonging to ICCs/IPs. The Department shall have seven (7) undersecretaries, all of whom shall be appointed by the President of the Philippines from a list of recommendees submitted by authentic ICCs/IPs: Provided, That the seven (7) undersecretaries shall be appointed specifically from each of the following ethnographic areas: Region I and the Cordilleras; Region II; the rest of Luzon; Island Groups including Mindoro, Palawan, Romblon, Panay and the rest of the Visayas; Northern and Western Mindanao; Southern and Eastern Mindanao; and Central Mindanao: Provided further, That at least two (2) of the seven (7) undersecretaries shall be women. They shall be individuals who possess the highest degree of integrity and have the endorsement of their respective tribes or sectors.

The Department may create a Council of Advisers to be composed of cultural, religious, traditional, and tribal leaders. The Council shall advise the Department on matters pursuant to the Department's mandate.

SECTION 5. Qualifications, Tenure, Compensation.

The Secretary shall attend the Cabinet-level meetings, be appointed by the President, and shall serve at the pleasure of the President.

The Secretary and the seven (7) undersecretaries must be natural born Filipino citizens, bona fide members of the ICCs/IPs as certified by his/her tribe, experienced in ethnic affairs and who have worked for at least ten (10) years with an ICC/IP community and/or any government agency involved in ICC/IP, at least 35 years of age at the time of appointment, and must be of proven honesty and integrity: Provided, That at least two (2) of the seven (7) undersecretaries shall be members of the Philippine Bar: Provided, further, That the undersecretaries shall serve at the pleasure of the President.

The Secretary and the undersecretaries shall have the same rank, salary, and privileges as those of any other Cabinet Secretary and Cabinet undersecretaries, respectively.

SECTION 6. Removal from Office. — The President may, on his own initiative or upon recommendation by any indigenous community, remove the Secretary or any or all undersecretaries at any time and with or without cause.

SECTION 7. Appointment of Undersecretaries. — The President shall appoint the seven (7) undersecretaries of the Department within ninety (90) days from the effectivity of this Act.

ARTICLE II

POWERS AND FUNCTIONS

SECTION 8. Powers and Functions. — To accomplish its mandate, the Department, through the Secretary, shall have the following powers, jurisdiction and function:

- a) Provide advice and assistance to the President in the formulation, coordination, implementation and monitoring of policies, plans, programs and projects affecting ICCs/IPs; when so authorized, represent the President on matters concerning ICCs/IPs; serve as a link between the President and public or private agencies, internal or external, that are involved in such programs and projects; and recommend such affirmative actions as may be necessary for their efficient and effective implementation;
- (b) Undertake and coordinate development programs and projects for the advancement of ICCs/IPs, including designing, implementing and maintaining settlements for ICCs/IPs: Provided, That the Department shall not take jurisdiction or ownership over lands, and bodies of water traditionally and actually occupied by Muslim Filipino communities and within the identified ancestral domains of the National Commission on Muslim Filipinos: Provided, further, That lands may be identified by the Department for the purpose of settling the homeless and displaced ICCs/IPs to improve the conditions of the members of the ICCs/IPs;
- (c) Act as the primary government officer through which ICCs/IPs can seek government assistance and redress; serve as the medium through which such assistance may be extended to ICCs/IPs; for this purpose, the Department is hereby authorized, subject to existing auditing rules and regulations, to give grants-in-aid out of its appropriations or other appropriate funds to cooperating government agencies for such programs or projects for the development of ICCs/IPs; provide services including legal assistance, medical aid, relief, rehabilitation and other forms of assistance for socioeconomic upliftment of ICCs/IPs;
- (d) Enter, subject to existing laws, policies and guidelines, into contracts, agreements or arrangements with government or private agencies/entities as may be necessary to attain the objectives of the Department;

- (e) In accordance with existing laws, rules and regulations and subject to guidelines provided by the Office of the President, promote and enhance the development of domestic trade and commerce among the members of the ICCs/IPs; promote or facilitate the establishment by members of the ICCs/IPs joint venture and investments in cooperation or coordination with existing public enterprises, corporations or private entities; initiate and/ or organize, in accordance with pertinent laws, rules and regulations, enterprises based on the principles of indigenous business and finance for the benefit and welfare of the ICCs/IPs;
- (f) Recommend to the Department of Budget and Management (DBM) the proposed expenditure for the development of all ICCs/IPs;
- (g) Develop criteria for allocating additional resources for education, economic and cultural development programs;
- (h) Monitor and evaluate the performance of all existing policies and development programs of the government that seek to strengthen and uplift the socioeconomic conditions of ICCs/IPs and identify areas that need government intervention and support;
- (i) Acquire, lease or own property or assets in whatever form as may be necessary, and sell or otherwise dispose of the same, and serve as the custodian or administrator of such lands or areas and other properties or assets the President may reserve for the benefit of ICCs/IPs;
- (j) Solicit and accept grants, donations and gifts, in cash or in kind, in whatever source, in coordination with the appropriate agency for the benefit of the ICCs/IPs, and administer the same in accordance with the terms thereof, or in the absence of any condition, in such manner consistent with the interest of ICCS/IPs as well as existing laws;
- (k) Undertake studies, establish and maintain ethnographic research centers and museums on the cultures and institutions of ICCs/IPs for policy formulation and program implementation and for the purpose of preserving their historical heritage;
- (l) Certify, whenever appropriate, membership of persons in ICCs/IPs for purposes of establishing qualifications for specific requirements of government and private agencies or for benefits as may be provided by law;
- (m) Issue certificates of ancestral land/domain title;
- (n) Provide legal and technical services for the survey, adjudication, titling, and development of identified ancestral domains and settlements proclaimed by the government for the ICCs/IPs;

- (o) Assist the National Statistics Office (NSO) in conducting census on the actual population of ICCs/IPs in the country;
- (p) Formulate and adopt continuing programs and activities to strengthen and preserve the cultural heritage of ICCs/IPs, in coordination with appropriate agencies of the government;
- (q) Promote and supervise, in coordination with appropriate agencies of the government, the implementation of indigenous learning systems among the ICCs/IPs; and provide assistance in the expeditious accreditation of indigenous learning institutions with the appropriate agencies of the government;
- (r) Ensure that the curriculum of the indigenous learning system shall conform with the basic curriculum of the national formal education system which shall include, among others, the subjects on Filipino and English Grammar and Usage, Philippine History and Geography, Science and Technology, Mathematics, Physical Education and Sports Development, and Vocational Education to secure the local and international competitiveness of ICC/IP graduates from the indigenous learning institutions;
- (s) Ensure the continuous transfer of technology to ICCs/IPs to uplift the quality of life of ICCs/IPs;
- (t) To convene periodic conventions or assemblies of ICCs/IPs to review, assess as well as propose policies or plans;
- (u) To issue appropriate certification as a pre-condition to the grant of permit, lease, grant, or any other similar authority for the disposition, utilization, management and appropriation by any private individual, corporate entity or any government agency, corporation or subdivision thereof on any part or portion of the ancestral domain taking into consideration the consensus approval of the ICCs/IPs concerned;
- (v) To decide all appeals from the decisions and acts of all the various offices within the Department;
- (w) To represent the Philippine ICCs/IPs in all international conferences and conventions dealing with indigenous peoples and other related concerns;
- (x) To exercise such other powers and functions as may be directed by the President of the Republic of the Philippines;
- (y) Promulgate such rules and regulations and exercise such powers and functions as may be necessary to carry out the purposes and objectives outlined in this Act; and

(z) Perform such other functions as may be necessary for its effective operations and continued enhancement as a government entity.

SECTION 9. Accessibility and Transparency. — Subject to such limitations as may be provided by law or by rules and regulations promulgated pursuant thereto, all official records, documents and papers pertaining to official acts, transactions or decisions, as well as research data used as basis for policy development of the Department shall be made accessible to the public.

SECTION 10. Administrative Supervision and Control. - The administrative supervision and control over the personnel, excepting the undersecretaries, and the properties of the Department shall be vested in the Secretary. Except for presidential appointees, the appointment of and imposition of disciplinary measures on the same personnel shall likewise be vested in the Secretary who shall accomplish the same in consultation with the undersecretaries, except that when the administrative charge entails, considering the circumstances alleged in the complaint, the penalty of dismissal from the service, the decision thereon shall be by the Secretary. The Secretary shall exercise administrative supervision over the undersecretaries. The undersecretaries shall assist the Secretary in the performance of his/her functions, who may assign or delegate specific, substantive or administrative responsibilities to any of them.

SECTION 11. Organizational Structure. - The Department shall be composed of the offices of the Secretary, the undersecretaries, the Executive Director and the Deputy Executive Director and their immediate staff, the Bureaus, Services, Regional Offices, Field Offices and Sub-offices.

SECTION 12. Bureaus. — The Bureaus of the Department shall consist of the Bureau of Ancestral Domains, Bureau on Policy, Planning and Research, Bureau of Education, Culture and Health, Bureau on Socio-Economic Services and Special Concerns, Bureau on Empowerment and Human Rights, Administration, and Bureau of Legal Affairs. Each of these Bureaus shall be headed by a Director who shall hold the same rank, salary, and privileges of a Staff Bureau Director. The Bureau Director shall be appointed by the President from among the names or nominees submitted by the Secretary to the President.

a) Bureau of Ancestral Domains — The Bureau of Ancestral Domains shall take over the functions of the Office of Ancestral Domains of the National Commission on Indigenous Peoples (“NCIP”) and be responsible for the identification, delineation and recognition of ancestral lands/domains. It shall also be responsible for the management of ancestral lands/domains in accordance with a master plan as well as the implementation of the ancestral domain rights of the ICCs/IPs as provided in Chapter III of Republic Act No. 8371. It shall also issue, upon the free and prior informed consent of the ICCs/IPs concerned,

certification prior to the grant of any license, lease or permit for the exploitation of natural resources affecting the interests of ICCs/IPs or their ancestral domains and to assist the ICCs/IPs in protecting the territorial integrity of all ancestral domains. It shall likewise perform such other functions as the Secretary may deem appropriate and necessary;

b) Bureau of Policy, Planning and Research — The Bureau of Policy, Planning and Research shall take over the functions of the Office of Policy, Planning and Research of the NCIP and be responsible for the formulation of appropriate policies and programs for ICCs/IPs such as, but not limited to, the development of a Five-Year Master Plan for the ICCs/IPs. Such plan shall undergo a process such that every five years, the Secretary shall endeavor to assess the plan and make ramifications in accordance with the changing situations. The Bureau shall also undertake the documentation of customary law and shall establish and maintain a Research Center that would serve as a depository of ethnographic information for monitoring, evaluation and policy formulation. It shall assist the legislative branch of the national government in the formulation of appropriate legislation benefiting ICCs/IPs;

c) Bureau of Education, Culture and Health — The Bureau of Culture, Education and Health shall take over the functions of the Office of Education, Culture and Health of the NCIP and be responsible for the effective implementation of the education, cultural and related rights as provided in this Act. It shall assist, promote and support community schools, both formal and non-formal, for the benefit of the local indigenous community, especially in areas where existing educational facilities are not accessible to members of the indigenous group. It shall administer all scholarship programs and other educational rights intended for ICC/IP beneficiaries in coordination with the Department of Education, Culture and Sports and the Commission on Higher Education. It shall undertake, within the limits of available appropriation, a special program which includes language and vocational training, public health and family assistance program and related subjects.

It shall also identify ICCs/IPs with potential training in the health profession and encourage and assist them to enroll in schools of medicine, nursing, physical therapy and other allied courses pertaining to the health profession.

Towards this end, the Secretary shall deploy a representative in each of the said offices who shall personally perform the foregoing task and who shall receive complaints from the ICCs/IPs and compel action from appropriate agency. It shall also monitor the activities of the National Museum and other similar government agencies generally intended to manage and preserve historical and archeological artifacts of the ICCs/IPs and shall be responsible for the implementation of such other functions as the Secretary may deem appropriate and necessary;

d) Bureau on Socio-Economic Services and Special Concerns — The Bureau on Socio-Economic Services and Special Concerns shall take over the functions of the Office on Socio-Economic Services and Special Concerns of the NCIP and serve as the Bureau through which the Secretary shall coordinate with pertinent government agencies specially charged with the implementation of various basic socio-economic services, policies, plans and programs affecting the ICCs/IPs to ensure that the same are properly and directly enjoyed by them. It shall also be responsible for such other functions as the Secretary may deem appropriate and necessary;

e) Bureau of Empowerment and Human Rights — The Bureau of Empowerment and Human Rights shall take over the functions of the Office of Empowerment and Human Rights of the NCIP and ensure that indigenous socio-political, cultural and economic rights are respected and recognized. It shall ensure that capacity building mechanisms are instituted and ICCs/IPs are afforded every opportunity, if they so choose, to participate in all levels of decision-making. It shall likewise ensure that the basic human rights, and such other rights as the Secretary may determine, subject to existing laws, rules and regulations, are protected and promoted;

f) Administration — The Administration shall take over the functions of the Office of Administration of the NCIP and provide the Secretary with economical, efficient and effective services pertaining to personnel, finance, records, equipment, security, supplies and related services. It shall also administer the Ancestral Domains Fund; and

g) Bureau of Legal Affairs— The Bureau of Legal Affairs shall take over the functions of the Office of Legal Affairs of the NCIP and advise the Secretary on all legal matters concerning ICCs/IPs and which shall be responsible for providing ICCs/IPs with legal assistance in litigation involving community interest. It shall conduct preliminary investigation on the basis of complaints filed by the ICCs/IPs against a natural or juridical person believed to have violated ICCs/IPs rights. On the basis of its findings, it shall initiate the filing of appropriate legal or administrative action to the Secretary.

SECTION 13. Other Offices. — The Department, through the Secretary, shall have the power to create additional bureaus or offices as it may deem necessary subject to existing rules and regulations.

SECTION 14. Regional and Field Offices. — Existing regional and field offices shall remain to function under the strengthened organizational structure of the Department. Other field offices shall be created wherever appropriate and the staffing pattern thereof shall be determined by the Secretary; Provided, That in provinces where there are ICCs/IPs but without field offices, the Secretary shall establish field offices in said provinces.

SECTION 15. The Secretariat. - The Department, through the Secretary, shall organize a Secretariat that shall assist the Secretary in the performance of his/her functions and shall serve as the technical arm of the Secretary. The Secretariat shall be headed by an Executive Director who shall be appointed by the President. The Executive Director shall execute the policies and programs of the Department and shall be responsible for the efficient and effective day-to-day management of the operations of the Department.

The Executive Director shall recommend to the Secretary the budget of the Secretariat, its staffing pattern, position classification and compensation scheme, and the appointment of its personnel subject to existing laws, rules and regulations.

The Executive Director shall be appointed by the President and shall enjoy security of tenure and may only be removed for cause in accordance with law.

SECTION 16. Consultative Body. — A body consisting of the traditional leaders, elders and representatives from the women and youth sectors of the different ICCs/IPs shall be constituted by the Secretary from time to time to advise the Secretary on matters relating to the problems, aspirations and interests of the ICCs/IPs.

ARTICLE III APPROPRIATIONS, MANAGEMENT AND ADMINISTRATION

SECTION 17. Appropriations. - The amount necessary for the initial implementation of this Act shall be charged against the current year's appropriations of the NCIP. However, to carry out the additional functions and powers of the Commission as provided in this Act, an additional amount of Five Hundred Million Pesos (Php500,000,000.00) is hereby appropriated. Thereafter, such sums as may be needed for the continued implementation of this Act shall be included in the annual General Appropriations Act.

SECTION 18. Record of Transaction. - The Department shall keep proper accounts and records of all its transactions and affairs, and shall exert all efforts to ensure that all payments made out of its moneys are correctly made and properly authorized, and that adequate control is maintained over the assets of, or in the custody of the Department and the expenditures it may incur. The Department shall be subject to audit by the Commission on Audit.

SECTION 19. Civil Service Law Coverage for Employees. - The hiring, appointment, employment, promotion, disciplinary control, separation, and other terms and conditions of the service of all employees of the Department and such other matters

affecting its employees shall be consistent with the provisions of the Civil Service Law and the Civil Service Commission's rules and regulations.

SECTION 20. Government Service Insurance System (GSIS) Coverage for Employees. - All employees of the Department shall be deemed members of the GSIS and shall enjoy all the benefits of said System.

SECTION 21. Transitory Provisions. - The National Commission on Indigenous Peoples created under Republic Act No. 8371 ("NCIP") is deemed abolished upon the creation of the Department. All the powers, functions, assets, liabilities, capital, accounts, contracts, equipment, and facilities of the NCIP shall be transferred to the Secretary.

During the transition period, which begins upon approval of this Act, the President may appoint the incumbent Chairperson of the NCIP as Acting Secretary of the Department until the regular Secretary of the Department shall have been appointed.

All regular or permanent employees of the NCIP shall be absorbed or transferred to the Department: Provided, That they possess the necessary qualifications, and shall not suffer any loss of seniority or rank or decrease in emoluments.

No officer or employee in the career service shall be removed except for a valid cause and after due notice and hearing. A valid cause for removal exists when, pursuant to a bona fide reorganization, a position has been abolished or rendered redundant or there is a need to merge, divide or consolidate positions in order to meet the exigencies of the service, or other lawful causes allowed by the Civil Service Law.

Employees separated and/or phased-out from the service as a result of the abolition of the NCIP under the provision of this Act shall, within three (3) months from their separation and/or phase-out from the service receive a separation pay in accordance with existing laws, rules and regulations. In addition, those who are qualified to retire shall be allowed to retire and be entitled to all benefits provided under existing retirement laws. The fund of the NCIP may be used to fund this purpose.

Employees separated and/or retired from the NCIP shall not be eligible for reappointment to or employment in the Department whether on a permanent, temporary, casual or contractual status within a period of three (3) years after separation or retirement.

The Secretary shall recommend to the President a work program that shall include the organizational plan and structure, staffing pattern and compensation plan, budget, programs, projects and activities of the Commission within ninety (90) days from the approval of this

Act. Said work program shall be implemented by the Secretary within thirty (30) days after its approval by the President.

SECTION 22. Periodic Performance Evaluation. - The Secretary is hereby required to formulate and enforce a system of measuring and evaluating periodically and objectively the performance of the Department and submit the same annually to the President and to the Congress of the Philippines.

SECTION 23. Implementing Rules and Regulations. - The Department and the Department of Budget and Management shall issue the implementing rules and regulations ninety (90) days after the effectivity of this Act.

SECTION 24. Separability Clause. - If for any reason, any section or provision of this Act is declared unconstitutional or invalid, the other sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 25. Repealing Clause. - Chapter VII of Republic Act No. 8371 is hereby repealed. All other acts, decrees, instructions, rules and regulations or parts thereof inconsistent with the provisions of this Act are also hereby repealed or modified accordingly.

SECTION 26. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Approved,