

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**20<sup>TH</sup> CONGRESS**

First Regular Session

**HOUSE BILL NO. 5216**



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INTRODUCED BY REP. MAURICIO G. DOMOGAN

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**EXPLANATORY NOTE**

Article XIV, Section 17 of the 1987 Constitution states:

“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 these rights in the formulation of national plans and policies.”

Pursuant to this mandate, Congress passed Republic Act No. 8371, otherwise known as the “Indigenous Peoples Rights Act” (IPRA). However, said law does not have a specific provision for the protection of indigenous knowledge or creative intellectual activity and their manifestations.

As a consequence, when counterfeit Cordillera-woven blankets, garments and cloth associated with Indigenous Cultural Communities (ICCs) of some ethno-linguistic groups in the Cordillera Administrative Region flooded the local markets, local weavers despite their protests were helpless with the absence of a law protecting their community intellectual rights.

The bill thus seeks to prevent further abuses and exploitation and provide the needed legal protection that the present IPRA has not been able to deliver to members of the ICCs/IPs as regards their indigenous knowledge or creative activity and their manifestations.

Towards this end, the immediate consideration and approval of this proposed measure is earnestly sought.

  
MAURICIO G. DOMOGAN

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

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

1        **SECTION 1. *Short Title.*** This Act shall be known as the "*Community Intellectual*  
2        *Rights of Indigenous Cultural Communities/Indigenous Peoples Act*".

3        **SEC. 2. *Declaration of Principles and Policy.*** It shall be a declared policy of the  
4        State to recognize, respect, protect, and safeguard the traditional cultural heritage of  
5        indigenous cultural communities/indigenous peoples (ICCs/IPs), both tangible and intangible;  
6        preserve and protect their culture, traditions and institutions; and to recognize and support  
7        traditional knowledge (TK), traditional arts and artisans for their contribution to their  
8        cultures, national heritage, and social and economic development.

9        Towards this end, the state shall take measures to protect and guarantee respect for the  
10       cultural integrity of ICCs/IPs, and their right to practice and revitalize their own cultural  
11       traditions and customs. The state shall preserve, protect, and develop the past, present, and  
12       future manifestations of their cultures as well as the right to the restitution of cultural,  
13       intellectual, religious, and spiritual property taken without their free, prior and informed  
14       consent (FPIC) or in violation of their laws, traditions, and customs.

15       **SEC. 3. *Definition of Terms.*** For purposes of this Act, the following terms shall be  
16       defined as follows:

- 17       a) "***Commission***" shall refer to the National Commission on Indigenous Peoples  
18       (NCIP);

- 1       b) **"Community Intellectual Rights"** shall refer to the rights of indigenous cultural  
2       communities/indigenous peoples (ICCs/IPs) to own, control, develop, protect, and  
3       enjoy their indigenous knowledge or creative intellectual activity and their  
4       manifestations, such as but not limited to:
- 5       1. archeological and historical sites, artifacts, ceremonies, oral traditions, visual and  
6       performing arts and literature, as well as religious and spiritual properties;
  - 7       2. science, technologies, human and other genetic resources, including derivatives of  
8       these resources, seeds, medicines, health practices, medicinal plants, animals and  
9       minerals, resource management systems, agricultural technologies, knowledge of  
10      the properties of fauna and flora, scientific discoveries; and
  - 11     3. language, script, histories, and teaching and learning systems;  
12     which are associated with, and integral to, the cultural and social identity of the  
13     ICCs/IPs or groups of ICCs/IPs generated, preserved, and transmitted from one  
14     generation to another either orally or by practice, and are constantly evolving,  
15     developing, and being recreated within the community, and such other new  
16     indigenous knowledge or creative intellectual activity which are identifiable and  
17     adopted as community owned;
- 18     c) **"Cultural agencies"** shall refer to the following national government agencies with  
19     their specific areas of responsibility: National Commission for Culture and the Arts  
20     (registry of cultural property); National Museum of the Philippines (inventory);  
21     National Library of the Philippines (books); National Historical Commission of the  
22     Philippines (Philippine history); National Archives of the Philippines (documents);  
23     Cultural Center of the Philippines (culture and arts); and Komisyon sa Wikang  
24     Filipino (language);
- 25     d) **"Cultural property"** shall refer to all products of human creativity by which a people  
26     and a nation reveal their identity, including churches, mosques and other places of  
27     religious worship, schools and natural history specimens and sites, whether public or  
28     privately-owned, movable or immovable, and tangible or intangible;
- 29     e) **"Derivative"** shall refer to any naturally occurring biochemical compound resulting  
30     from the genetic resources or metabolism of biological or genetic resources even if it  
31     does not contain functional units of heredity;
- 32     f) **"Derivative work"** shall refer to the infusion or incorporation of variations on a  
33     community intellectual right that would result in a derivative work or craft, which is  
34     one that is primarily a new work, but incorporates preexisting works or previously

- 1 published material. A derivative work must be different enough from the original to  
2 be regarded as a “new work,” or must contain a substantial amount of new material.  
3 Making minor changes or additions of little substance to a pre-existing work will not  
4 qualify the work as a new version;
- 5 g) ***“Genetic material”*** shall refer to any material of plant, animal, microbial, or other  
6 origin that carries genetic information of an organism and passes it from one  
7 generation to the next;
- 8 h) ***“Genetic resources”*** shall refer to any genetic and/or biological material that contains  
9 genes and/or metabolic material that may be derived from genes, which have actual or  
10 potential value;
- 11 i) ***“Misappropriation”*** shall refer to any access or use of community intellectual rights  
12 of the indigenous peoples or indigenous cultural communities without their free, prior  
13 and informed consent or approval and involvement and, where applicable, without  
14 mutual agreed terms, for whatever purpose, be it commercial, research, academic, and  
15 technology transfer, in violation of customary law and established practices governing  
16 the access or use of such community intellectual rights;
- 17 j) ***“Misuse”*** shall refer to any act wherein the user had secured prior consent from the  
18 ICCs/IPs or obtained the same through deceit, intimidation or scheme for the use of  
19 the community intellectual rights, however, the same is used in a manner violative of  
20 customary laws and established practices, or those contrary to or beyond what was  
21 agreed upon;
- 22 k) ***“Registry”*** shall refer to the registry of community intellectual rights to be established  
23 and managed by the Commission;
- 24 l) ***“Royalty”*** shall refer to the equitable compensation or payment to the registered  
25 owner of a cultural property and other benefits as stipulated in the mutually agreed  
26 terms within the memorandum of agreement (MOA);
- 27 m) ***“Traditional Knowledge”*** shall refer to knowledge originating from ICCs/IPs that  
28 may be dynamic and evolving and is the result of intellectual activity, experiences,  
29 spiritual means, or insights in or from a traditional context, which may be connected  
30 to land and environment, including know-how, skills, innovations, practices, teaching  
31 or learning; and
- 32 n) ***“Traditional Cultural Expressions”*** shall refer to any form in which traditional  
33 culture practices and knowledge are expressed by ICCs/IPs, in or from a traditional  
34 context, and may be dynamic and evolving and comprise verbal forms, musical forms,

1 expressions by movement, tangible or intangible forms of expression, or combinations  
2 thereof.

3 **SEC. 4. Coverage of Protection.** This law shall cover the rights of ICCs ICCs/IPs to  
4 have full ownership, control, protection from misappropriation, misuse, and false designation  
5 of origin of their community intellectual rights, as well as their economic and moral interests  
6 thereon. The protected rights of ICCs/IPs shall not include:

7 a) Publicly available TK and traditional cultural expressions (TCEs) that have lost their  
8 association with their respective ICCs/IPs which have become generic or stock  
9 knowledge, notwithstanding that its historic origin may be known to the public.  
10 *Provided:* That in case of misappropriated or stolen TK and TCEs, the ICCs/IPs shall  
11 have the right to the restitution of cultural, intellectual, religious, and spiritual  
12 property taken without their free, prior and informed consent or in violation of their  
13 laws, traditions, and customs. *Provided further:* That the claim for restitution shall be  
14 made prior to the lapse of fifty (50) years from the last known practitioner of the TK  
15 and TCEs.

16 b) Works registered and protected under the Intellectual Property system regardless of  
17 the fact of the subsistence or expiration of such registration or protection. *Provided:*  
18 That the protection of the source TK and TCEs shall not be affected by the  
19 registration of contemporary expressions thereof under the Intellectual Property  
20 system.

21 **SEC. 5. Implementing Body.** The National Commission on Indigenous Peoples  
22 (NCIP) shall implement the provisions of this Act.

23 **SEC. 6. Promotion of Community Intellectual Rights.** The Commission shall  
24 undertake activities to promote intellectual rights of ICCs/IPs, including facilitating the  
25 inventory and documentation of the community resources and building the capacity of  
26 ICCs/IPs to enhance the protection and management of their rights. For such purposes,  
27 assistance from the Department of Environment and Natural Resources (DENR), Department  
28 of Agriculture (DA), Department of Trade and Industry (DTI), Department of the Interior and  
29 Local and Government (DILG), local governments and other relevant government agencies  
30 may be sought by the Commission.

31 **SEC. 7. Registry.** The Commission shall establish and maintain a registry in which  
32 IKSPs shall be registered for the purpose of this Act and which shall be recorded in the order  
33 of their registration.

1 The registration of community intellectual rights shall be filed before the nearest  
2 NCIP Office. The application for registration shall contain the pertinent information  
3 necessary for examination of the community intellectual rights which shall include, but not be  
4 limited to, the following information:

- 5 a) Identity of ICCs/IPs community intellectual right holder;
- 6 b) Location;
- 7 c) Detailed description of the community intellectual right registered;
- 8 d) Disclosure of agreements/partnerships with private or public individuals/entities for  
9 the use of their community intellectual rights, if any.

10 Enrollment of community intellectual rights in the Registry shall be *prima facie*  
11 evidence of community intellectual rights of the ICCs/IPs.

12 The State recognizes the existence of community intellectual rights of ICCs/IPs  
13 without need of prior approval from any licensing agency or other undertaking, including  
14 registration.

15 An initial registry shall be available to the public within one (1) year from the  
16 effectivity of this law.

17 **SEC. 8. Coordination by the NCIP with government agencies on the Registry of**  
18 **Community Intellectual Rights, Cultural Property, and Intellectual Property Rights.** The  
19 Commission, together with the National Commission for Culture and the Arts (NCCA),  
20 Intellectual Property Office of the Philippines (IPOPHL), DENR, DA, DTI, DILG, local  
21 governments and other relevant government agencies shall establish a system of coordination  
22 that will be consistent with the policy of this Act, including the streamlining of the  
23 procedures for the registration of community intellectual rights. They may jointly or  
24 individually promulgate the appropriate mechanisms to ensure the effective implementation  
25 of the policies and objectives of this Act, and they shall undertake activities geared toward  
26 building the capacity of ICCs/IPs to enhance the protection and management of their  
27 community intellectual property rights.

28 **SEC. 9. Period of Ownership.** The community intellectual rights of ICCs/IPs shall  
29 continue indefinitely to be their exclusive intellectual right and shall not expire: *Provided,*  
30 That the ICCs/IPs indefinite exclusive right is conditioned on their active link with the TK  
31 and TCEs: *Provided, further,* That when the link is lost for more than fifty (50) years, the TK  
32 and TCEs shall be considered publicly available: *Provided, finally,* That the classification of  
33 TK and TCEs as publicly available shall only affect the economic interests of the ICCs/IPs  
34 and not their moral interests which shall remain in perpetuity.

1       **SEC. 10. *Original Rights of Ownership.*** Though the State recognizes the dynamic  
2 evolution of community intellectual rights, the ICCs/IPs shall retain these intellectual rights  
3 as well as derivative works. If an outsider makes derivative works upon Free, Prior and  
4 Informed Consent (FPIC), the outsider will own the copyright over the work subject to the  
5 payment of remuneration to the ICC/IP.

6       **SEC. 11. *Royalties.*** The concerned ICCs/IPs are entitled to royalties and other  
7 benefits as may be negotiated by the parties. When the community intellectual rights are used  
8 commercially, the royalty payment due the concerned ICCs/IPs shall, in no case, be less than  
9 five percent (5%) of the gross proceeds of the sale. The rules and regulations in determining  
10 the amount, process of collecting and distributing this royalty, and other pertinent details such  
11 as remuneration and restitution in cases of violations, will be determined by the Commission,  
12 in consultation with the ICCs/IPs.

13       **SEC. 12. *Free, Prior and Informed Consent (FPIC).*** The use of ICCs/IPs  
14 community intellectual rights shall be governed by the provisions of Republic Act No. 8371  
15 or the Indigenous Peoples Rights Act of 1997, its Implementing Rules and Regulations, and  
16 guidelines on Free, Prior and Informed Consent.

17       **SEC. 13. *Role of Government Agencies and Local Government Units.*** All  
18 government agencies, government-owned and controlled corporations, public educational  
19 institutions, local government units (LGUs) and other entities shall endeavor to promote  
20 ICCs/IPs community intellectual rights. They shall endeavor to develop, produce and publish  
21 information education campaign materials on community intellectual rights, the importance  
22 of registration, and the prohibited acts under this Act.

23       For this purpose, all national government agencies and LGUs shall allocate funds for  
24 the implementation of programs, projects and activities that will recognize, respect, promote  
25 and protect the rights of the ICCs/IPs, including the protection and promotion of their  
26 community intellectual rights pursuant to the IPRA and this Act.

27       **SEC. 14. *Prohibited Acts.*** Under this Act, the following are prohibited:

- 28       a) Misappropriation – any access, infringement, copying, or use of community  
29 intellectual rights of the indigenous cultural communities/indigenous peoples without  
30 their free, prior and informed consent or approval and involvement and, where  
31 applicable, without mutually agreed terms, for whatever purpose, be it commercial,  
32 research, academic, or technology transfer.
- 33       b) Misuse – any act wherein the user had secured prior consent from the ICCs/IPs for the  
34 use of the community intellectual rights, however, the same is used in a manner

1 violative of national laws or customary laws known to the user, and established  
2 practices, or those contrary to or beyond what was agreed upon during the FPIC  
3 process.

4 c) False Designations of Origin – any act which will likely cause confusion or mistake,  
5 or cause deception as to the affiliation, connection, or association of such ICCs/IPs'  
6 IKSPs, including, but not limited, to the following:

- 7 1. false designation of an origin, false or misleading description of fact, or false or  
8 misleading representation of fact; and
- 9 2. Misrepresentation of the nature, characteristics, qualities, or geographic origin of  
10 an ICCs/IPs' IKSP.

11 **SEC. 15. *Limitations on Community Intellectual Rights.*** Notwithstanding the protection  
12 given to the community intellectual right of ICCs/IPs, the following shall not be considered a  
13 violation thereof:

14 **A. Specific Exceptions**

- 15 a) A Government agency or third person authorized by the Government may exploit  
16 the CIR even without agreement where the public interest, in particular, national  
17 security, nutrition, health or the development of other sectors, as determined by  
18 the National Economic and Development Authority (NEDA), so requires; or in  
19 the case of medicines, there is a national emergency or other circumstance of  
20 extreme urgency requiring the use of the CIR; or
- 21 b) Use of a protected TK and TCEs for teaching, criticism, review, and research  
22 purposes except when such teaching, criticism, review, or research is intended for  
23 commercial purposes or results in profit-making;
- 24 c) Use of a protected TK and TCEs for personal or private use, in the reporting of  
25 current events, or in the course of legal proceedings;
- 26 d) Use of a protected TK and TCEs legally derived from sources other than the  
27 ICCs/IPs registered as owners thereof;
- 28 e) Making of recordings and reproductions of traditional knowledge or cultural  
29 expressions for inclusion in an archive or inventory exclusively for the purposes  
30 of safeguarding knowledge or cultural heritage, and incidental uses.

31 **B. General Exceptions**

32 In determining the acceptability of the above exceptions and unless otherwise  
33 provided herein, the use by the Government, or third person authorized by the  
34 Government, shall be subject, where applicable, to the following provisions:

- 1 a) The relevant ICC/IPs shall be acknowledged as the source of the TK or TCE;
- 2 b) The use of the TK or TCEs is not offensive or derogatory to the relevant
- 3 ICCs/IPs;
- 4 c) The relevant community's customary laws, protocols, and practices will be
- 5 considered;
- 6 d) That free, prior and informed consent were obtained from the relevant ICCs/IPs;
- 7 e) In situations of national emergency or other circumstances of extreme urgency as
- 8 provided under Section 15 A. (a), the right holder shall be notified as soon as
- 9 reasonably practicable;
- 10 f) In the case of public non-commercial use of the CIR as provided under Section 15
- 11 A. (b), the right holder shall be informed promptly;
- 12 g) The scope and duration of such use shall be limited to the purpose for which it
- 13 was authorized;
- 14 h) Such use shall be non-exclusive;
- 15 i) The right holder shall be paid adequate remuneration in the circumstances of each
- 16 case, taking into account the economic value of the authorization; and
- 17 j) The existence of a national emergency or other circumstances of extreme
- 18 urgency, referred to under Section 15 A. (a), shall be subject to the determination
- 19 of the President of the Philippines for the purpose of determining the need for
- 20 such use or other exploitation, which shall be immediately executory.

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

23 No court, except the Supreme Court of the Philippines, shall issue any temporary  
24 restraining order or preliminary injunction or such other provisional remedies that will  
25 prevent its immediate execution. The NCIP, in consultation with the appropriate government  
26 agencies, shall issue the appropriate implementing rules and regulations (IRR) for the use or  
27 exploitation of CIRs as contemplated in this section within one hundred twenty (120) days  
28 after the effectivity of this law.

29 **SEC. 16. Penalties.**

30 **A. For Administrative Penalties.** - After the conduct of a formal investigation and  
31 following due process, the Commission may impose one (1) or more of the following  
32 administrative penalties:

- 1 a) The issuance of a cease-and-desist order which shall specify the acts that the  
2 respondent shall cease and desist from and shall require him to submit a  
3 compliance report within a reasonable time which shall be fixed in the Order;
- 4 b) The acceptance of a voluntary undertaking of compliance or discontinuance as  
5 may be imposed;
- 6 c) The condemnation or seizure of products which are subject of the offense. The  
7 goods seized hereunder shall be disposed of in such manner as may be provided in  
8 the IRR;
- 9 d) The forfeiture of paraphernalia and all real and personal properties which have  
10 been used in the commission of the offense;
- 11 e) The imposition of administrative fines in such amount as may be provided in the  
12 IRR;
- 13 f) The cancellation of any permit, license, authority, or registration which may have  
14 been granted by the Commission, or the suspension of the validity thereof for such  
15 period of time as the Commission may deem reasonable;
- 16 g) The withholding of any permit, license, authority or registration which is being  
17 secured by the respondent from the Commission;
- 18 h) The assessment and award of damages;
- 19 i) Censure;
- 20 j) Other analogous penalties or sanctions.
- 21 **B. For criminal penalties.** -Independent of the civil and administrative sanctions  
22 imposed by law, any person found guilty in a criminal action for violating any  
23 provisions of this Act, shall be imprisoned for not less than nine (9) months but not  
24 more than nine (9) years or a fine of not less than One hundred thousand pesos  
25 (P100,000) nor more than Five hundred thousand pesos (P500,000), or both such fine  
26 and imprisonment upon the discretion of the court.
- 27 **SEC. 17. *Administrative Adjudication of Cases in Violation of This Act.*** The  
28 Commission, in addition to the jurisdiction and enforcement powers given to it under  
29 Republic Act No. 8371 or the Indigenous Peoples Rights Act of 1997, shall have the  
30 following functions and powers to adjudicate administrative cases in violation of this Act:
- 31 a) Exercise original jurisdiction over complaints for violations of the community  
32 intellectual rights of the ICCs/IPs;

- 1           b) Issue a cease-and-desist order which shall specify the acts that the respondent  
2           shall cease and desist from and shall require the respondent to submit a  
3           compliance report within a reasonable time which shall be fixed in the order;  
4           c) Issue such other provisional remedies as provided under the Rules of Court;  
5           d) After a formal investigation and following due process, issue appropriate  
6           sanctions and penalties for the violation of community intellectual rights, which  
7           includes annulling any agreement/MOU between the ICC/IPs and other Parties if  
8           such is deemed as disadvantageous/exploitive to the ICC/IPs.

9           The Commission shall promulgate the rules and procedures to govern the adjudication  
10          of violations of community intellectual rights of ICCs/IPs.

11          The final decision or order of the Commission shall be immediately executory even  
12          pending appeal. The process of appeal in the Commission in the adjudication of  
13          administrative complaints involving CIRs shall be provided in the rules of procedure.

14          **SEC. 18. *Criminal Action for Community Intellectual Rights Violation.*** If the  
15          prohibited acts are repeated by the violator or by anyone in connivance with him, the  
16          offenders shall, without prejudice to the institution of a civil and administrative action for  
17          damages, be criminally liable therefor. However, if the act committed is done with malice,  
18          the element of repetition is not required to institute the criminal action.

19          The criminal action shall be filed with the proper court. The offense shall prescribe in  
20          five (5) years from the date of the commission thereof.

21          **SEC. 19. *Correction of Mistakes of the Commission.*** The Commission shall have the  
22          power to correct, without fee, any mistake in the entry of data during the community  
23          intellectual rights processing of registration incurred through the fault of the Commission  
24          when clearly disclosed in the records thereof, to make the community intellectual rights  
25          application and registration conform to the records.

26          **SEC. 20. *Correction of Mistake in the Application.*** On request of any interested  
27          person and payment of the prescribed fee, the Commission is authorized to correct any  
28          mistake in the community intellectual rights application of a formal and clerical nature, not  
29          incurred through the fault of the Commission.

30          **SEC. 21. *Creation of Offices and Plantilla Positions.*** The Commission shall create  
31          offices and corresponding *plantilla* positions necessary for the implementation of the  
32          provisions of this Act.

1           **SEC. 22. Appropriations.** For the initial implementation of this Act, the necessary  
2 funding shall be sourced from the President's Contingent Fund. Funds for the succeeding  
3 years shall be included in the General Appropriations Act.

4           **SEC. 23. Implementing Rules and Regulations (IRR).** The Commission, in  
5 consultation with the National Commission for Culture and the Arts and other cultural  
6 agencies, IPOPHL, the Palawan Council for Sustainable Development, the Department of  
7 Environment and Natural Resources, the Department of Agriculture, the Philippine Institute  
8 of Traditional and Alternative Health Care (PITAHC), civil society organizations, and other  
9 relevant government agencies, shall promulgate the IRR of this Act, including, but not  
10 limited to CIRs belonging to several ICCs/IPs, mechanisms for the registry, positive and  
11 defensive protection of CIRs, treatment of derivative works, validation, dispute  
12 settlement/resolution, and rules of procedure, within one hundred and twenty (120) days after  
13 the effectivity of this Act.

14           **SEC. 24. Transitory clause.** To ensure due process, acts committed prior to the  
15 issuance of the IRR and before the registry becomes publicly available, where the public has  
16 no information yet on the protected CIRs, will not give rise to administrative, civil, and  
17 criminal liabilities under this Act.

18           **SEC. 25. Repealing clause.** The provisions of existing laws, to the extent that they  
19 are inconsistent with this Act, are hereby repealed or amended accordingly.

20           **SEC. 26. Separability clause.** If, for any reason, any part or provision of this Act is  
21 declared invalid or unconstitutional, the parts or provisions not affected thereby shall remain  
22 in full force and effect.

23           **SEC. 27. Effectivity clause.** This Act shall take effect fifteen (15) days following its  
24 publication in the Official Gazette or in two (2) newspapers of general circulation, whichever  
25 comes first.

26           *Approved,*