

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 577

HOUSE OF REPRESENTATIVES

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Introduced by **REP. JOSE T. PANGANIBAN, JR.**
of ANAC-IP Partylist

EXPLANATORY NOTE

Article II, Section 22 of the 1987 Constitution provides that "(T)he State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development." Hence, the promotion of a society recognizing and promoting the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) within the framework of the 1987 Constitution and Republic Act 8371, otherwise known as the Indigenous Peoples Rights Act of 1997.

The National Commission on Indigenous Peoples (NCIP) was created when RA 8371 was enacted in 1997. Attached under the Office of the President, it is presently the primary Government agency mandated in the formulation and implementation of policies, plans and programs to recognize, protect, and promote the rights of ICCs/IPS in accordance with the provisions of the 1987 Constitution and RA 8371. However, there is now an urgent need to create a specific Department of Indigenous Peoples (DIP) in order to strengthen the formulation and implementation of the salient provisions of RA 8371. Toward this end, the DIP shall engage the ICCs/IPs in all levels of Government to improve service delivery and facilitate the development of policy and programs which carry out sustainable economic, environmental, and social benefits to ICCs/IPs.

This measure seeks to create a Department of Indigenous People (DIP), which shall become the primary Government agency tasked to formulate and implement national policies, plans, and programs relating to the rights of ICCs/IPs.

In view of the foregoing, urgent approval of this bill is earnestly sought.


JOSE T. PANGANIBAN, JR.
Representative, ANAC-IP Partylist

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Introduced by REP. JOSE T. PANGANIBAN, JR.
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AN ACT
CREATING THE DEPARTMENT OF INDIGENOUS PEOPLES
DEFINING ITS POWERS AND FUNCTIONS,
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 Peoples Act of 2016.”

SECTION 2. *Declaration of Policies.* It is hereby declared the policy of the State:

(a) To recognize and promote the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) within the framework of national unity and development;

(b) To 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) To recognize, respect and protect the rights of the ICCs/IPs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national law and policies;

(d) To 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) To 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) To recognize 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 realizations of these rights, taking into consideration their customs, traditions, values, beliefs, interest and institutions, and to adopt and implement measures to protect their rights to their ancestral domains.

SECTION 3. Definition of Terms. As used in this Act, the following terms are defined as follows:

(a) **Ancestral Domain** – Subject to section 56 of RA 8371, shall refer to all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social, and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators;

(b) **Ancestral Lands.** - Subject to section 56 of RA 8371, shall refer to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claim of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, including but not limited, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots;

(c) **Customary Laws.** - refer to a body of written and/or unwritten rules, usage, customs and practices traditionally and continually recognized, accepted and observed by respective ICCs/IPs;

(d) **Certificate of Ancestral Domain Title** – refers to a title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with the provisions of Republic Act 8371;

(e) **Certificate of Ancestral Land Title** - refers to a title formally recognizing the rights of ICCs/IPs over their ancestral lands;

(f) **Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs).** – refer to a group of people or homogenous societies identified by self-ascription by others, 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 and

utilized such territories, sharing common bonds of language, 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;

(g) **Indigenous Political Structure** – refer to organizational and cultural leadership systems, institutions, relationships, patterns and process for decision-making and participation, identified by ICCs/IPs such as, but not limited to, Council of Elders, Council of Timuays, Bodong Holders, or any other tribunal or body of similar nature;

(h) **National Commission on Indigenous Peoples (NCIP)** - refers to the office, attached under the Office of the President and created under RA 8371. It is currently the primary government agency responsible for the formulation and implementation of policies, plans and programs, to recognize, protect and promote the rights of the ICCs/IPs;

(i) **Non-Government Organization (NGO)** – refers to a private, non-profit voluntary organization that has been organized primarily for the delivery of various services to the ICCs/IPs and has an established track record for effectiveness and acceptability in the community where it serves;

(j) **Peoples' Organization (PO)** – refers to a private, nonprofit voluntary organization of members of an ICC/IP which is accepted as representative of such ICCs/IPs;

(k) **Republic Act 8371** – refers to the Indigenous Peoples Rights Act of 1997;

(l) **Time Immemorial** – refers to a period of time when as far back as memory can go, certain ICCs/IPs are known to have occupied, possessed in the concept of owner, and utilized a defined territory devolved to them, by operation of customary law or inherited from their ancestors, in accordance with their customs and traditions.

SECTION 4. Creation. There is hereby created the Department of Indigenous Peoples (DIP) hereinafter referred to as the Department. .

SECTION 5. Mandate. The Department shall protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions. It shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto.

SECTION 6. Powers and Functions. The Department shall exercise the following powers, jurisdiction and functions:

(a) To serve as the primary government agency through which ICCs/IPs can seek government assistance and as the medium, through which such assistance may be extended;

- (b) To review and assess the conditions of ICCs/IPs including existing laws and policies pertinent thereto and to propose relevant laws and policies to address their role in national development;
- (c) To formulate and promulgate necessary rules and regulations governing the implementation of the provisions of RA No. 8371 and pertinent laws;
- (d) To develop, administer, and implement policies, plans, programs, and projects for the economic, social and cultural development of the ICCs/IPs;
- (e) To coordinate development programs and projects for the advancement of the ICCs/IPs and to oversee the proper implementation thereof;
- (f) To issue and register certificate of ancestral land or ancestral domain title;
- (g) 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;
- (h) To establish such regional, provincial, city, municipal branches and field offices of the Department whenever and wherever it may expedient or necessary and to supervise such branches;
- (i) To provide social welfare services to ICCs/IPs, including social work assistance, legal assistance, cultural services;
- (j) To coordinate government and voluntary efforts in social welfare work to avoid duplication and overlapping of responsibility in social services;
- (k) To implement relevant provisions of international treaties and agreements;
- (l) To collect and maintain records and facilitate research relating to rights and cultural heritage of ICCs/IPs;
- (m) To promote public awareness and insure proper dissemination of information on understanding of Indigenous rights and cultural heritage;
- (n) To perform quasi-judicial and allied functions and settle conflicts;
- (o) To perform all other functions consistent with RA No. 8371 and as may be provided by law.

SECTION 7. *Quasi-Judicial Powers and Functions.* In cases of conflicting interest, where there are adverse claims within the ancestral domains and which cannot be resolved through customary laws, the Department shall hear and decide, after notice to proper parties, the disputes arising from the delineation of such ancestral domains: Provided, that if the dispute is between and/or among ICCs/IPS regarding the traditional boundaries of their respective ancestral domains, customary processes shall be followed. The Department shall promulgate the necessary rules and regulations to carry out its adjudicatory functions: Provided, further, that any decision, order, award, or ruling of the Department on any ancestral domain dispute or any matter pertaining to the application, implementation, enforcement and interpretation of the pertinent provisions of Republic Act 8371 may be brought for Petition for Review to the Court of Appeals within fifteen (15) days from receipt of copy thereof; Provided, finally, that no inferior courts of the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against the Department or any of its designated offices in any case, dispute, or controversy arising from, necessary to, or interpretation of the provisions of RA 8371 and other pertinent laws relating to ICCs/IPs and ancestral domain.

The Department shall have the power and authority:

(a) To promulgate rules and regulations governing hearing and disposition of cases filed before it as well as those pertaining to its internal functions and such rule and regulations as may be necessary to carry its purposes;

(b) To administer oaths, summon parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, agreements and other document of similar nature as may be material to a just determination of the matter under investigation or hearing conducted in pursuance of this Act;

(c) To hold any person in contempt, directly or indirectly, and impose appropriate penalties therefor, and

(d) To enjoin any and all acts involving or arising from any case pending before it, which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic activity.

SECTION 8. *Composition.* The Department shall be headed by Cabinet Secretary. The Department proper shall be composed of the Office of the Secretary, the Offices of the Undersecretaries and the Assistant Secretaries.

SECTION 9. *Secretary of Indigenous Peoples.* The Secretary shall be appointed by the President, subject to confirmation by the Commission on Appointments. The Secretary shall have the following functions:

(a) Provide executive direction and supervision over the entire operations of the Department and its attached agencies;

(b) Establish policies and standards for the effective, efficient, and economical operations of the Department, in accordance with the program of the Government;

(c) Review and approve request for financial and manpower resources of all operating offices of the Department;

(d) Exercise disciplinary powers over officers and employees of the Department in accordance with law, including their investigation and the designation of a committee or officer to conduct such investigation;

(e) Coordinate with LGU's, other agencies and public and private interest groups, including non-government organizations (NGOs) and peoples' organization (POs) on Department policies and initiatives;

(f) Prepare and submit to the President through the Department of Budget and Management (DBM) an estimate of the necessary expenditures of the Department during the next fiscal year, on the basis of the reports and estimates submitted by bureaus and offices under him/her;

(g) Serve as a member of the Government Procurement Policy Board (GPPB) as established by Republic Act 9184;

(h) Advise the President on the promulgation of executive and administrative orders and formulation of regulatory and legislative processes on matters pertaining to ICCs/IPs development;

(i) Formulate such rules and regulations and exercise such other powers as may be required to implement the objectives of this Act;

(j) Perform such other tasks as may be provided by law or assigned by the President.

SECTION 10. *Undersecretaries.* The Secretary shall be assisted by four (4) undersecretaries, who shall be appointed by the President upon the recommendation of the

Secretary: Provided, that two (2) undersecretaries shall be career officers or members of the Philippine Bar.

SECTION 11. *Assistant Secretaries.* The Secretary shall be assisted by four (4) assistant secretaries, who shall be appointed by the President upon the recommendation of the Secretary: Provided, that two (2) assistant secretaries are career officers.

SECTION 12. *Qualifications.* No person shall be appointed Secretary, Undersecretary, or Assistant Secretary of the Department unless he or she is a natural-born Filipino citizen and resident of the Philippines, at least 35 years of age, bonafide members of ICCs/IPs as certified by his/her tribe, of good moral character, of proven integrity, and who have experienced and worked for at least ten (10) years with an ICC/IP community and/or any agency, whether public or private, involved in ICC/IP.

SECTION 13. *Abolition of NCIP and Transfer of Personnel.* The National Commission on Indigenous Peoples (NCIP) is hereby abolished and its powers, functions, applicable funds and appropriations, records, equipment, property and personnel are transferred to the Department.

SECTION 14. *Structure and Staffing Pattern.* Subject to the approval of DBM and pertinent provisions of Republic Act 6656, otherwise known as the Reorganization Law, the Department shall determine its organizational structure and create new divisions or units as it may deem necessary, and shall appoint officers and employees of the Department in accordance with the civil service law, rules, and regulations.

SECTION 15. *Separation and Retirement from Service.* Employees who are separated from service within six (6) months from the effectivity of this Act as a result of the abolition of NCIP and/or reorganization under the provisions of this Act shall receive separation benefits to which they may be entitled under Executive Order No. 366, s.2004: Provided, that those who are qualified to retire under existing retirement laws shall be allowed to retire and receive retirement benefits to which they may be entitled under applicable laws and issuances.

SECTION 16. *Transition Period.* The transfer of functions, assets, funds, equipment, properties, transactions, and personnel of NCIP, and the formulation of the internal organic structure, staffing pattern, operating system, and revised budget of the Department, shall be completed within six (6) months from the effectivity of this Act, during which time, the existing personnel shall continue to assume their post in holdover capacities until new appointments are issued: Provided, that after the abolition of NCIP as specified in Section 13 of this Act, the Department, in coordination with the DBM, shall determine and create new positions, the funding requirements of which shall not exceed the equivalent cost of position abolished.

SECTION 17. *Appropriation.* The amount needed for the initial implementation of this Act shall be taken from the current fiscal years appropriation of NCIP, if any. Otherwise, the amount needed for the operations and maintenance of the Department shall be included in the General Appropriations Act of the year following the effectivity of this Act and thereafter.

SECTION 18. *Implementing Rules and Regulations.* The Department, the DBM, the CSC and other government agencies concerned shall issue within sixty (60) days from the effectivity of this Act, the necessary implementing rules and regulations for the effective implementation of this Act.

SECTION 19. *Repealing Clause.* All laws, decrees, executive orders, rules and regulations, and other issuances or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 20. *Separability Clause.* If any provision of this Act shall be declared unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SECTION 21. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,