

PHILIPPINES

Response to Question 1 : None.

Response to Question 2 :

1. Republic Act No. 8371 (The Indigenous Peoples' Rights Act of 1997)

AN ACT TO RECOGNIZE, PROTECT AND PROMOTE THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES/INDIGENOUS PEOPLES, CREATING A NATIONAL COMMISSION ON INDIGENOUS PEOPLES, ESTABLISHING IMPLEMENTING MECHANISMS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

2. NCIP Administrative Order No. 01 -98

RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 8371, OTHERWISE KNOWN AS "THE INDIGENOUS PEOPLES RIGHTS ACT OF 1997"

3. Senate Bill No. 101

Draft Only: AN ACT PROVIDING FOR THE ESTABLISHMENT OF A SYSTEM OF COMMUNITY INTELLECTUAL RIGHTS PROTECTION

Response to Question 3 :

1. Republic Act No. 8371 (The Indigenous Peoples' Rights Act of 1997) took effect on November 23, 1997.
2. NCIP Administrative Order No. 01 -98 (Rules and Regulations Implementing Republic Act No. 8371) took effect on June 30, 1998.
3. Senate Bill No. 101 - The draft bill is in the initial stage only, thus the scope, complexion and contents of the bill may change in the future.

Response to Question 4 :

1. Republic Act No. 8371 (The Indigenous Peoples' Rights Act of 1997)
 - 1.1 To recognize, respect and protect the rights of indigenous cultural communities and indigenous peoples;¹
 - 1.2 To guarantee respect for their cultural integrity and to ensure that members of the indigenous cultural communities and indigenous peoples benefit on equal footing from the rights and opportunities which national laws and regulations grant to other members of the population.²
2. NCIP Administrative Order No. 01 -98 (Rules and Regulations Implementing Republic Act No. 8371).
 - 2.1 To prescribe the procedures and guidelines for the implementation of Republic Act No. 8371 to facilitate compliance therewith and compliance thereof.³

¹Rep. Act No. 8371, Sec. 2(c).

²Rep. Act No. 8371, Sec. 2(e).

³NCIP Administrative Order No. 01 -98(1998), Rule 1, Sec. 2.

2.2 To recognize and promote all individual and collective rights of indigenous cultural communities and indigenous peoples within the framework of national unity and development.⁴

Response to Question 5 : It is the policy of the State to foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.⁵

The State shall also 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.⁶

Response to Question 6 : Cultural Integrity.⁷

Response to Question 7 : Cultural integrity shall refer to the holistic and integrated adherence of a particular indigenous cultural communities/indigenous peoples community to their customs, religious beliefs, traditions, indigenous knowledge systems and practices, and their rights to assert their character and identity as peoples.⁸

Response to Question 8 : The rights of indigenous peoples to cultural integrity shall include community intellectual property rights.⁹

The protection of community intellectual property shall include science and technology including but not limited to, human and other genetic resources, seeds, medicines, health practices, vital medicinal plants, animals, minerals, indigenous knowledge systems and practices, resource management systems, agricultural technologies, knowledge of the properties of flora and fauna, and scientific discoveries.¹⁰

Indigenous knowledge systems and practices (IKSP) are systems, institutions, mechanisms, technologies comprising a unique body of knowledge evolved through time embodying patterns and relationships between and among peoples and between peoples, their lands and resource environment, including such spheres of relationships which may include social, political, cultural, economic, religious, and which are the direct outcome of the indigenous peoples' responses to certain needs consisting of adaptive mechanisms which have allowed indigenous peoples to survive and thrive within their given socio-cultural and biophysical conditions.¹¹

Response to Question 9 : None.

Response to Question 10 and 11 : Indigenous peoples/indigenous communities (IP's/IC's) are entitled to the recognition of the full ownership and control and protection of their cultural and intellectual rights. They shall have the right to specify measures to control, develop and

⁴ NCIP Administrative Order No. 01 -98(1998), Rule 1, Sec. 3.

⁵ Constitution (1987), Art. XIV, Sec. 14.

⁶ Constitution (1987), Art. XIV, Sec. 17.

⁷ Rep. Act No. 8371, Chapter VI, Sec. 29 & NCIP Administrative Order No. 01 -98, Rule I, Sec. 4(c).

⁸ NCIP Administrative Order No. 01 -98, Rule VI, Sec. 2.

⁹ NCIP Administrative Order No. 01 -98, Rule VI, Sec. 3(e).

¹⁰ NCIP Administrative Order No. 01 -98, Rule VI, Sec. 10(b).

¹¹ NCIP Administrative Order No. 01 -98, Rule VI, Sec. 14.

protect their sciences, technologies and cultural manifestations, including indigenous knowledge systems and practices.¹²

The IP's/IC's shall, within their communities, determine for themselves policies, development programs, projects and plans to meet their identified priority needs and concerns. The IP's/IC's shall have the right to accept or reject a certain development intervention in their particular communities.¹³

Policies, programs, projects, plans and activities subject to Free and Prior Informed Consents shall include but not be limited to the research in indigenous knowledge, systems and practices related to agriculture, forestry, watershed and resource management systems and technologies, medical and scientific concerns.¹⁴

The IP's/IC's shall have the right to regulate the entry of researchers into their ancestral domains/lands or territories. A written agreement shall be entered into with the IP's/IC's concerned. All data provided by the indigenous peoples shall be acknowledged in whatever writings, publications, or journals authored or produced as a result of such research. The indigenous peoples will be definitively named as sources in all such papers and shall be provided copies of the outputs.

shall be entitled to royalty from the income derived from any of the researches conducted and resulting publications.¹⁵

Response to Question 12 : Yes.

Response to Question 13 : No.

Response to Question 14 and 15 : No.

Response to Question 16 : The indigenous peoples and indigenous cultural communities

Response to Question 17 : Yes. The indigenous cultural community concerned shall have the right to accept or reject a certain development intervention in their particular community.¹⁶

Response to Question 18 : Yes. The required Free and Prior Informed Consent shall depend upon the impact of the proposed policy, program and plans. When the policy, program or project affects a whole range of territories covering two or more ancestral domains, the consent of all affected indigenous cultural communities and indigenous peoples shall be secured.¹⁷

The consensus building process of each particular indigenous cultural community shall be adhered to in securing their Free and Prior Informed Consent.¹⁸

¹²Rep. Act No. 8371, Sec. 34.

¹³NCIP Administrative Order No. 01 -98, Rule IV, Sec. 3.

¹⁴NCIP Administrative Order No. 01 -98, Rule IV, Sec. 7.

¹⁵NCIP Administrative Order No. 01 -98, Rule VI, Sec. 15.

¹⁶NCIP Administrative Order No. 01 -98, Rule IV, Sec. 3.

¹⁷NCIP Administrative Order No. 01 -98, Rule IV, Sec. 4.

¹⁸NCIP Administrative Order No. 01 -98, Rule IV, Sec. 5.

Response to Question 19 : None.

Response to Question 20 : Appropriate legal actions may be instituted in the National Commission for Indigenous Peoples (NCIP) for any violation of the Indigenous Peoples Rights Act and the Rules and Regulations thereunder.

Response to Question 21 : The NCIP shall have jurisdiction over all claims and disputes involving the rights of indigenous peoples and indigenous cultural communities provided, however, that no such disputes should be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws. The NCIP shall issue a writ of execution requiring the sheriff or proper officer to execute the final decisions.¹⁹

The NCIP shall also have the power to hold any person in contempt, directly or indirectly, and impose appropriate penalties therefore.²⁰

The NCIP shall also enjoin any or 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 affects social or economic activity.²¹

Any person who commits violation of any of the provisions of Republic Act No. 8371 and its Implementing Rules and Regulations shall be punished in accordance with customary laws of the indigenous peoples and indigenous cultural communities concerned without prejudice to the right of the indigenous peoples and indigenous cultural communities concerned to avail of the protection of existing laws, which provide penalties of imprisonment ranging from nine (9) months to twelve (12) years and/or a fine of not less than ONE HUNDRED THOUSAND PESOS (P100,000.00) nor more than FIVE HUNDRED THOUSAND PESOS (P500,000.00).²²

Response to Question 22 : No.

Response to Question 23 : Yes. The NCIP is 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 indigenous peoples and indigenous cultural communities and the recognition of their ancestral domains as well as rights thereto.²³

Response to Question 24 : No.

Response to Question 25 : Yes. When disputes involve indigenous cultural communities and indigenous peoples, customary laws and practices shall be used to resolve the dispute.²⁴

Response to Question 26 : The Office of Empowerment and Human Rights of the NCIP shall 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.

¹⁹Rep. Act No. 8371, Sec. 66.

²⁰Rep. Act No. 8371, Sec. 69(b).

²¹Rep. Act No. 8371, Sec. 69(c).

²²Rep. Act No. 8371, Sec. 72.

²³Republic Act No. 8371, Sec. 38.

²⁴Rep. Act No. 8371, Sec. 65.

It shall likewise ensure that the basic human rights, and such other rights as the NCIP may determine, subject to existing laws, rules and regulations, are protected and promoted.

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The Legal Affairs Office of the NCIP shall provide legal assistance in litigation involving community interest. The NCIP also has field offices in provinces of indigenous peoples and indigenous cultural communities.²⁶

Response to Question 27: The National Commission on Indigenous Peoples (NCIP) is a relatively new office, which is developing and formulating the specific parameters and mechanisms to effectively provide adequate protection to indigenous peoples.

The current IP system recognizes works with identifiable author. We have an experience in which the UNESCO has recognized the Ifugao epic “Hudhud” as a masterpiece of the oral and intangible heritage of humanity. The Hudhud epic is the only Southeast Asian cultural piece selected in the UNESCO list. However, before the epic became an official entry/nomination of the epic, the UNESCO required a certification of a competent authority, which will give permission to the entry or nomination. As our existing laws do not identify a competent authority, a political authority (local executive) was instead identified who endorsed the entry.

²⁵Rep. Act No. 8371, Sec. 46 (e)

²⁶Rep. Act No. 8371, Sec. 46(g).