

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



Senate
Office of the Secretary

SENATE
S. B. No. **2781**

15 MAY 25 P6:10

RECEIVED BY: *J*

Introduced by Senator Maria Lourdes Nancy S. Binay

AN ACT STRENGTHENING THE ENFORCEMENT POWERS OF THE NATIONAL
COMMISSION ON INDIGENOUS PEOPLES BY MODIFYING THE PENALTIES FOR
VIOLATION OF THE INDIGENOUS PEOPLES RIGHTS ACT OF 1997

EXPLANATORY NOTE

Section 72 and 73 of the Republic Act 8371 or Indigenous Peoples Rights Act of 1997 ("IPRA") are crucial in the effective administration and enforcement of the National Commission on Indigenous Peoples ("NCIP") of the said law. Any ambiguous portion of said law should therefore be clarified to ensure effective implementation.

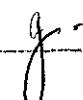
As worded, Section 72 of the IPRA appears to grant plenary authority to the NCIP to impose fines. The only limitation is that the fines are not excessive. Owing to the absence of clearer standards for issuance of said fines, it has come to our attention that this ambiguity has resulted in great differences in the actual imposition of fines by Regional Hearing Officers of the NCIP. These differences can give rise to further litigation as parties will likely contest the fines on grounds of constitutional due process and equal protection. To obviate these issues, there is a need to impose an upper or lower limit for the fines so that some uniformity may be achieved in the imposition of fines.

Section 73 also suffers from an ambiguity in the sense that it is very clear what certificates of registration or licenses will be revoked as a result of the juridical person's violation of the IPRA. As worded, Section 73 can be considered as authority for the revocation of the juridical persons licenses in all agencies other than the Securities Exchange Commission.

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

MARIA LOURDES NANCY S. BINAY
Senator

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3 VIOLATION OF THE INDIGENOUS PEOPLES RIGHTS ACT OF 1997
4

5 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
6 *assembled:*
7

8 **SECTION 1.** Section 72 of Republic Act 8371 or the Indigenous People's Rights Act is
9 hereby amended to read as follows:
10

11 "PENALTIES
12

13 **Section 72. Punishable Acts and Applicable Penalties.** - Any person who
14 commits violation of any of the provisions of this Act, such as, but not
15 limited to, authorized and/or unlawful intrusion upon any ancestral lands or
16 domains as stated in Sec. 10, Chapter III, or shall commit any of the
17 prohibited acts mentioned in Sections 21 and 24, Chapter V, Section 33,
18 Chapter VI hereof, shall be punished in accordance with the customary laws
19 of the ICCs/IPs concerned: Provided, That no such penalty shall be cruel,
20 degrading or inhuman punishment: Provided, further, That neither shall the
21 death penalty or excessive fines be imposed. FOR PURPOSES OF THIS
22 PARAGRAPH, THE NCIP MAY IMPOSE FINES NOT LESS THAN
23 FIVE HUNDRED THOUSAND PESOS (P500,000) NOR MORE THAN
24 ONE MILLION PESOS (P1,000,000) DEPENDING ON THE GRAVITY
25 OF THE OFFENSE. This provision shall be without prejudice to the right
26 of any ICCs/IPs to avail of the protection of existing laws.
27

28 ~~In which case,~~ Any person who violates any provision of this Act shall,
29 upon conviction BY THE APPROPRIATE REGIONAL TRIAL COURT,
30 may be punished by imprisonment of not less than nine (9) months but not
31 more than twelve (12) years or a fine not less than ~~One hundred thousand~~
32 ~~pesos (P100,000) nor more than Five hundred thousand pesos (P500,000)~~
33 FIVE HUNDRED THOUSAND PESOS (P500,000) NOR MORE THAN
34 ONE MILLION PESOS (P1,000,000) or both such fine and imprisonment
35 upon the discretion of the court. In addition, he shall be obliged to pay to the
36 ICCs/IPs concerned whatever damage may have been suffered by the latter
37 as a consequence of the unlawful act."
38
39

1 **SECTION 2.** Section 73 of RA 8371 is hereby amended to read as follows:
2

3 **“Section 73. *Persons Subject to Punishment.*** - If the offender is a juridical
4 person, all officers such as, but not limited to, its president, manager, or
5 head of office responsible for their unlawful act shall be criminally liable
6 therefor. ~~in addition to the cancellation of certificates of their registration~~
7 ~~and/or license:~~

8
9 VIOLATIONS COMMITTED BY JURIDICAL PERSONS SHALL BE A
10 GROUND FOR DISSOLUTION OF SAID JURIDICAL PERSONS
11 UNDER SECTION 121 OF THE CORPORATION CODE AND OR
12 OTHER LAWS APPLICABLE TO PARTNERSHIPS AND
13 ASSOCIATIONS.
14

15 ~~Provided, That-~~ If the offender is a public official, the penalty shall include
16 perpetual disqualification to hold public office.”
17

18
19 **SECTION 3. *Implementing Rules and Regulations.*** The NCIP shall issue the necessary
20 amendments to the implementing rules and regulations of RA 8371 within sixty (60) days
21 from the approval of this Act.
22

23 **SECTION 4. *Separability Clause.*** Should any part or provision of this Act be declared
24 unconstitutional or invalid, other parts or provisions hereof not otherwise affected thereby
25 shall remain in full force and effect.
26

27 **SECTION 5. *Effectivity.*** This Act shall take effect fifteen (15) days after its publication in at
28 least two (2) newspapers of general circulation.
29

30 **Approved,**