

I . Safeguarding system & policy

1. National Law/Act

A. Definition of intangible cultural heritage

The Philippines is using the UNESCO definition: Refers to the practices, representation, expressions, knowledge, skills – as well as the instruments, objects, and artifacts associated therewith, that communities, groups and individuals recognize as part of their cultural heritage, such as (1) oral traditions, languages, and expressions; (2) performing arts; (3) social practices, rituals, and festive events; (4) knowledge and practices concerning nature and the universe, and (5) traditional craftsmanship.

B. Title of Law

The latest and the only legislation that mentions intangible cultural heritage specifically for the first time in Philippine legislation is Republic Act 10066: *An Act Providing for the Protection and Conservation of the National Cultural Heritage Strengthening the National Commission for Culture and the Arts (NCCA) and its Affiliated Cultural Agencies, and for other Purposes*. This Act shall be known as the “National Cultural Heritage Act of 2009.” (attached)

Republic Act 10066 (RA 10066) is the most specific. There are some other pieces of legislation that pertain to national cultural heritage in a more generic manner as specified below copies of which are attached to this document:

- 1) PD 15 -Presidential Decree creating the Cultural Center of the Philippines
- 2) RA 7355 - Creating the National Living Treasures program
- 3) RA 7356-Creating the National Commission for Culture and the Arts
- 4) RA7586 - Establishing the National Integrated Protected Areas System
- 5) RA 8293 - Establishing the Copyright Laws of the Philippines
- 6) RA 8492 - Creating the National Museum System
- 7) RA 8438 - Creating the Cordillera Autonomous Region

- 8) RA 1569 -Amending RA 597, an Act to declare Fort Santiago, a National Shrine and to provide for the preservation of historical monument in the walled city of Manila
- 9) RA4368 -Establishing the National Historical Commission of the Philippines
- 10) PD208-Granting certain privileges and honors to National Artists and creating a special fund thereof
- 11) PD260-Declaring a specific number of sites as national shrines, monuments and landmarks defining the implementing agencies and providing funds thereof
- 12) PD374 -Amending provisions of RA 4846, otherwise known as the “Cultural Properties Preservation and Protection Act”
- 13) PP1001-Presidential Proclamation establishing the National Artists Award to honor Filipinos who have distinguished themselves and made outstanding contributions to Philippine Arts and Letters.

C. Section/Division in charge

At present it is the Intangible Cultural Heritage Committee of the National Commission for Culture and the Arts (ICHC/NCCA) that is in charge of this, until such time as the Implementing Rules and Regulations (IRR) of RA 10066 is approved and implemented, in which case an Intangible Cultural Heritage Office is to be established within the structure of the NCCA.

The organization of an Intangible Heritage Office within the NCCA will take some time to be done. There are technicalities and procedures to be done before this can be achieved: e.g. the appointment of a staff and the allocation of annual budget to be incorporated in the General Appropriations Act (GAA) and/or National Endowment for Culture and the Arts (NEFCA) which can only be included in the annual budget of the NCCA for 2012, unless special provisions are made to provide the office with funding prior to its inclusion in the GAA and/or NEFCA.

D. Year of Establishment

- 1) For the ICHC/NCCA - 2001
- 2) For the ICH Office/NCCA- 2011/2013 (estimated)

E. Amendments

There are no amendments at present. The Implementing Rules and Regulations (IRR) of RA 10066 is at present being formulated.

F. Particular article(s) related to ICH

1) Article I Sections 2

SECTION 2.

2) Article II, Sections (a) to (i)

DEFINITION OF TERMS

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

- (a) **“Adaptive Re-use”** shall refer to the utilization of buildings, other built-structures, and sites of value for purposes other than that for which they were intended originally, in order to conserve the site, their engineering integrity and authenticity of design;
- (b) **“Anthropological Area”** shall refer to any place where studies of specific ethno-linguistic groups are undertaken, the properties of which are of value to our cultural heritage;
- (c) **“Antique”** refers to a cultural property found locally which is one hundred (100) years in age, more or less, the production of which has ceased;
- (d) **“Archaeological Area”** shall refer to any place, whether above or under ground, underwater or at sea level, containing fossils, artifacts, and other cultural, geological, botanical, zoological materials which depict and document culturally relevant paleontological, prehistoric and/or historic events;
- (e) **“Archives”** shall refer to public and private records in any format which have been selected for permanent preservation because of their evidential, historical informational value; otherwise known as archival materials collections or archival holdings; the place (building/room/storage area) where archival materials are kept and preserved; and an organization or agency or part thereof whose main responsibility is to appraise, arrange, describe, conserve, promote and make archival materials available for reference and research, also known as archival agency;
- (f) **“Built Heritage”** shall refer to architectural and engineering structures, such as but not limited to bridges, government buildings, houses of ancestry, traditional dwellings, quarters, train stations, lighthouses, small ports, educational technological and

industrial complexes, and their settings, and landscapes with notable historical and cultural significance;

- (g) **“Collector”** shall refer to any person or institution that acquires cultural property for purposes other than sale;
- (h) **“Commission”** shall refer to the National Commission for Culture and the Arts (NCCA);
- (i) **“Conservation”** shall refer to all the processes and measures of maintaining the cultural significance of a cultural property, including but not limited to, preservation, restoration, reconstruction, protection, adaptation or any combination thereof;

3) Article III, Sections 4, to 11

CULTURAL PROPERTY

SECTION 4. *Categories.* - The Cultural Property of the country shall be categorized as follows:

- (a) National Cultural Treasures;
- (b) Important Cultural Property;
- (c) World Heritage Sites;
- (d) National Historical Shrine;
- (e) National Historical Monument; and,
- (f) National Historical Landmark;

SECTION 5. *Cultural Property Considered Important Cultural Property.* - For purposes of protecting a cultural property against exportation, modification or demolition, the following works shall be considered Important Cultural Property, unless declared otherwise by the pertinent cultural agency:

Unless declared by the Commission,

- (a) Works by a *Manlilikha ng Bayan*;
- (b) Works by a National Artist;

Unless declared by the National Museum,

- (c) Archaeological and traditional ethnographic materials;

Unless declared by the National Historical Institute,

- (d) Works of national heroes;
- (e) Marked structure;
- (f) Structures dating at least fifty (50) years old; and

Unless declared by the National Archives,

(g) Archival material/document dating at least fifty (50) years old.

The property owner may petition the appropriate cultural agency to remove the presumption of important cultural property which shall not be unreasonably withheld.

SECTION 6. *World Heritage Sites (WHS)*. - The appropriate cultural agency shall closely collaborate with United Nations Educational Scientific and Cultural Organization (UNESCO) National Commission of the Philippines in ensuring the conservation and management of world heritage sites of cultural and mixed sites category, in the Philippines.

SECTION 7. *Privileges for Cultural Property*. - All cultural properties declared as National Cultural Treasures and national historical landmarks shall be entitled to the following privileges:

- (a) Priority government funding for protection, conservation and restoration;
- (b) Incentive for private support of conservation and restoration through the Commission's Conservation Incentive Program for National Cultural treasures;
- (c) An official Heritage Marker placed by the cultural agency concerned indicating that the immovable cultural property has been identified as national cultural treasures; and/or national historical landmarks, sites or monuments; and,
- (d) In times of armed conflict, natural disasters, and other exceptional events that endanger the cultural heritage of the country, all National Cultural Treasures or national historical landmarks, sites or monuments shall be given priority protection by the Government.

All cultural properties declared as Important Cultural Property may also receive government funding for its protection, conservation, and restoration. An official Heritage Marker shall likewise be placed on an immovable cultural property to identify the same as important cultural property.

SECTION 8. *Procedure for Declaration, or De-Listing of National Cultural Treasures or Important Cultural Property*. - The procedure in declaring as well as in delisting a National Cultural Property or an Important Cultural Property shall be as follows:

- (a) A declaration or a delisting of a cultural property as a National Cultural Treasure or an Important Cultural Property shall commence upon the filing of a petition by the owner, stakeholder or any interested person, with the Commission, which shall refer the matter to the appropriate cultural agency;
- (b) Upon verification of the suitability of the property as a national

cultural treasure or an important cultural property, the cultural agency concerned shall send notice of hearing to the owner and stakeholders. Stakeholders, including but not limited to local government units, local culture and arts council, local tourism councils, non-government conservation organizations, and schools, may be allowed to file their support or opposition to the petition;

- (c) The owner and/or other stakeholders shall file their position paper within fifteen (15) days from receipt of the notice of hearing, furnishing all the parties, including the appropriate cultural agency, with such position paper. Extensions may be allowed, but in no case shall it exceed more than thirty (30) days; and
- (d) The petitioner/stakeholder shall give their answer within fifteen (15) days upon receipt of any position paper. Thereafter, no further submissions shall be allowed.
- (e) The appropriate cultural agency shall have a maximum of ninety (90) days from the deadline of the submission of all the answers within which to submit its resolutions and render its decision on the application.

SECTION 9. *Right of First Refusal on the Sale of National Cultural Treasures (NCT).* –

The appropriate cultural agency shall be given the right of first refusal in the purchase of cultural properties declared as national cultural treasures. Prior to the finality of the sale, the appropriate cultural agency may likewise match any offer made for the purchase of national cultural property.

SECTION 10. *Licensing of Dealers of Cultural Property.* - All dealers of cultural property shall secure a license to operate as such from the appropriate cultural agency concerned. They shall submit a quarterly inventory of items carried, which shall include a history of each item. Failure to submit two (2) consecutive inventories shall be a ground for cancellation of the license. All dealers of Cultural Property shall be subject to inspection of the concerned cultural agencies.

The cultural agencies may charge and collect fees for registration as well as for licenses, inspections, certifications, authorizations and permits that they issue and undertake in connection with the implementation of this Act. Funds generated from these collections by cultural agencies shall be retained by the cultural agency concerned for its operations.

SECTION 11. *Dealings of Cultural Property.* - No cultural property shall be sold, resold, or taken out of the country without first securing a clearance from the cultural agency concerned. In case the property shall be taken out of the country, it shall solely be for the purpose of scientific scrutiny or exhibit.

4) Article V Sections 14 to 22

REGISTRATION AND CONSERVATION OF CULTURAL PROPERTY

SECTION 14. *Establishment of a Philippine Registry of Cultural Property (PRECUP).* - All cultural property of the country deemed important to cultural heritage shall be registered in the Philippine Registry of Cultural Property.

The Commission, through the appropriate cultural agencies and local government units, shall establish and maintain this Registry within three (3) years from the effectivity of this Act. The guidelines in the registration of cultural property are as follows:

- (a) All cultural agencies concerned shall individually maintain an inventory, evaluation and documentation of all cultural properties it has declared according to their category and shall submit the same to the Commission. For cultural property declared as Immovable Cultural Property, the appropriate cultural agency shall, after registration, give due notice to the Registry of Deeds having jurisdiction for annotation on the land titles pertaining to the same;
- (b) Local government units, through their cultural offices, shall likewise maintain an inventory of cultural property under its jurisdiction and shall furnish the Commission a copy of the same;
- (c) Both cultural agencies concerned and local government units shall continuously coordinate in making entries and in monitoring the various cultural properties in their respective inventory;
- (d) All government agencies and instrumentalities, government-owned and/or controlled corporations and their subsidiaries, including public and private educational institutions, shall report their ownership and/or possession of such items to the pertinent cultural agency and shall register such properties within three (3) years from the effectivity of this Act;
- (e) Private collectors and owners of cultural property shall register such properties, within three (3) years from the effectivity of this Act. The private collectors and owners of cultural property shall not be divested of their possession and ownership thereof even after registration of said property as herein required.

Information on registered cultural properties owned by private individuals shall remain confidential and may be given only upon prior consent of the private owner. The Commission shall operate the Registry in the NCCA portal cultural databank.

SECTION 15. *Conservation of Cultural Property.* - All intervention works and measures on conservation of National Cultural Treasures, Important Cultural Property, as well as national historical landmarks, sites or

monuments, and structures previously marked by the National Museum and/or National Historical Institute before the implementation of this Act shall be undertaken only upon prior approval of the Commission through the appropriate cultural agency which shall supervise the same.

The Commission shall approve only those methods and materials that strictly adhere to the accepted international standards of conservation.

SECTION 16. *Documentation and Preservation of Traditional and Contemporary Arts.* - Local government units shall document traditional and contemporary arts and crafts, including their processes and makers, and sustain the sources of their raw materials. The local government units shall encourage and sustain traditional arts and crafts as active and viable sources of income for the community.

The Commission, the Department of Trade and Industry, the Department of Tourism and other government agencies involved directly or indirectly in the production of goods shall assist the local government units in protecting their traditional and contemporary arts and crafts making them viable for current and future markets, with a view to encouraging and promoting the unique heritage and identities of the said communities.

The local government unit concerned shall submit an annual inventory of these documentations to the Commission, which will be included in the Philippine Registry of Cultural Property, as established in Section 14 of this Act.

SECTION 17. *Systematic Research in Natural History.* - The National Museum shall have the authority to collect, maintain and develop the national reference collections of Philippine flora and fauna, rocks and minerals through research and field collection of specimens including Important Cultural Property within the territorial jurisdiction of the Philippines. It shall be exempt from any and all permit systems regulating the same.

The National Museum shall inform the Department of Environment and Natural Resources and the Department of Agriculture of such collection. All type of specimens collected in the Philippine territory shall be deposited in the National Museum.

SECTION 18. *Heritage Agreements.* - The Commission, upon advice of the concerned cultural agency, may enter into agreements with private owners of cultural properties with regard to the preservation of said properties.

Such agreement shall be in the form of a contract, and may include such terms and conditions including, but not limited to:

- (a) Public access to the property;
- (b) Value of the encumbrance;
- (c) Duration of the servitude of the property;
- (d) Restriction of the right of the owner or occupant to perform acts on or near the place;
- (e) Maintenance and management of the property;
- (f) Provision of financial assistance for the conservation of the property;
- (g) Procedure for the resolution of any dispute arising out of the agreement.

Such agreement should be annotated in the land title to bind future owners and/or occupants of the immovable cultural property.

SECTION 19. *National Inventory of Intangible Cultural Heritage.* - The appropriate cultural agency shall closely collaborate with the UNESCO National Commission of the Philippines in safeguarding intangible cultural heritage in the Philippines. The Philippine Intangible Cultural Heritage Committee established by the UNESCO National Commission of the Philippines shall continue to take lead role in implementing the provisions of the UNESCO Convention for the Safeguarding of the Intangible Cultural heritage with particular attention to Article 11 to 15 of the said Convention.

SECTION 20. *Immovable National Cultural Treasures.* - Immovable National Cultural Treasures shall not be relocated, rebuilt, defaced or otherwise changed in a manner, which would destroy the property's dignity and authenticity, except to save such property from destruction due to natural causes.

The site referred to in this provision may only be moved after securing a permit from the Commission or the appropriate cultural agency.

SECTION 21. *Indigenous properties.* - The appropriate cultural agency in consultation with the National Commission on Indigenous Peoples shall establish a program and promulgate regulations to assist indigenous people in preserving their particular cultural and historical properties.

SECTION 22. *Renaming of Historical Streets, Buildings Designated as Cultural Treasure or Important Cultural Property.* - The names of historical streets, parks, buildings, shrines, landmarks, monuments and sites designated as National Cultural Treasures or Important Cultural Property shall not be allowed to be re-named by a local or national legislation, unless approved by the National Historical Institute, and only after due hearing on the matter. Furthermore, for changes of names done to historical streets, parks, buildings, shrines, landmarks, monuments, and sites prior to the effectivity of this act, the National Historical Institute may direct the local government units to restore their original names, also after

due hearing.

5) Article VI Sections 23 to 24

**REGULATING THE EXPORT, TRANSIT, IMPORT
AND REPATRIATION OF CULTURAL PROPERTY**

SECTION 23. *Export of Cultural Property.* – Whoever desires to export cultural property registered in the Philippine Registry of Cultural Property shall adhere to the following requirements:

- (a) Authorization from the Commission through the appropriate cultural agencies;
- (b) Application for export permit shall be submitted thirty (30) days before the intended export from the Philippines; and
- (c) Application for export permit must include the following: (1) the purpose of the temporary export; (2) the export date of the cultural property; (3) the repatriation date of the cultural property; (4) a description of the cultural property; and, (5) the inventory of the cultural property in the Philippine Registry of Cultural Property.

The grant of export permit shall be based on the following conditions: (i) the cultural property is exported on a temporary basis; and (ii) export of cultural property is necessary for scientific scrutiny or exhibit.

SECTION 24. *Repatriation Claims and Agreements.* – Should the cultural property registered in the Philippine Registry of Cultural Property be illicitly exported from the country, the Department of Foreign Affairs shall, upon the recommendation of the appropriate cultural agency, claim the right of repatriation *vis-à-vis* all other contracting States. Any compensation and costs shall be carried by the Philippine government.

For the protection of cultural and foreign affairs interests and to secure cultural heritage, the Philippines may conclude international treaties with contracting States on the import and repatriation of cultural property subject to the following conditions:

- (a) The scope of the agreement must be cultural property of significant importance to the cultural heritage of the contracting States;
- (b) The cultural property must be subject to the existing export policies for the purpose of protecting cultural heritage; and
- (c) The contracting States shall grant reciprocal rights.

6) Article VII, Sections 25 to 30

POWERS OF THE COMMISSION/CULTURAL AGENCIES

SECTION 25. *Power to Issue a Cease and Desist Order.* - When the physical integrity of the national cultural treasures or important cultural properties are found to be in danger of destruction or significant alteration from its original state, the appropriate cultural agency, shall immediately issue a Cease and Desist Order suspending all activities that will affect the cultural property. The local government unit which has the jurisdiction over the site where the immovable cultural property is located shall report the same to the appropriate cultural agency immediately upon discovery and shall promptly adopt measures to secure the integrity of such immovable cultural property. Thereafter, the appropriate cultural agency shall give notice to the owner or occupant of the cultural property and conduct hearing on the propriety of the issuance of the Cease and Desist Order. The suspension of the activities shall be lifted only upon the written authority of the appropriate cultural agency after due notice and hearing involving interested parties and stakeholders.

SECTION 26. *Power to Issue Compulsory Repair Order.* - When a privately-owned heritage site cannot be maintained by the owner or has fallen into disrepair thru neglect to such an extent that it will lose its potential for conservation, the Commission, through the appropriate cultural agency, may serve on the owner or occupant of such property, an order to repair or maintain such site. If the owner fails to comply with said order within thirty (30) to forty-five (45) days, repairs may be undertaken by the appropriate cultural agency for the account of the owner.

SECTION 27. *Visitorial Powers.* - The cultural agencies concerned, through the Commission, are hereby given the power to inspect National Cultural Treasures and Important Cultural Properties, and national historical landmarks, sites or monuments at any time to ensure the protection and integrity of such. They may also inspect public or private collections or objects that may be categorized as cultural property; Provided, That in the case of private collections or objects, the prior written consent of the owner shall be obtained.

SECTION 28. *Power to Deputize Other Government Agencies.* - The cultural agencies concerned, as well as the Commission, shall have the power to deputize the Philippine National Police, the National Bureau of Investigation, the Armed Forces of the Philippines, the Philippine Coast Guard, and other local or national law enforcement agencies, including the Bureau of Fisheries' agents, the Department of the Environment and Natural Resources' rangers, the Bureau of Customs and Immigrations

agents, members of the Office of the Special Envoy on Transnational Crimes and other such agencies and their successors in interest, to enforce the provisions of this Act and its implementing rules and regulations. The said agencies shall immediately detail their respective personnel to protect the cultural items under the National Registry.

Failure to follow deputization order of the concerned cultural agency as well as the Commission shall be penalized in accordance with Section 49 herein.

SECTION 29. *Power to Recover Cultural Properties.* – The Commission is empowered to recover or retrieve cultural properties which are under the custody of foreign nationals or entities and to bring these properties back to Philippine custody.

SECTION 30. *Anthropological Research and Archaeological Exploration/Excavation.* –

a. The National Museum with respect to cultural/ archaeological/ anthropological matters, and the National historical Institute, with respect to historical anthropological matters, shall regulate and control all anthropological research conducted by foreigners; and all archaeological excavation or exploration. Pursuant to the foregoing, the National Museums or the National Historical Institute shall deputize other agencies to protect archaeological and anthropological sites. It shall be guided by the following rules:

- (1) All cultural property found in terrestrial and / or underwater archaeological sites belong to the State.
- (2) No terrestrial and/or underwater archaeological explorations and excavations for the purposes of obtaining materials and data of cultural value shall be undertaken without written authority and direct site supervision by archaeologists and/or representatives of the National Museum;
- (3) All anthropological researches, for the purpose of obtaining materials and data of cultural value and where the principal proponent is a foreign national shall be undertaken only with the authority, and under the supervision of the National Museum or the National Historical Institute. Anthropological research by Philippine nationals, especially members of the indigenous communities shall be encouraged;
- (4) Archaeological or anthropological materials presumed as important cultural property shall be allowed to leave the country only upon proper evaluation and written permission of the National Museum or the National Historical Institute;
- (5) All explorations and excavations undertaken wherein the caves, rock shelters and their vicinities may have been used in the prehistoric past by man either for habitation, religious and/or

- sacred and burial purposes all over the country, shall be under the direct jurisdiction and supervision of archaeologists and/or other experts of the National Museum;
- (6) All mining activities inside caves, rock shelters and any such other areas shall require a written permit and clearance from the National Museum. An appropriate prior inspection by representatives of the National Museum, funded by the company applying for a mining right, shall be required to ensure that no archaeological materials are present and, possibly, destroyed;
 - (7) Excavations in caves, rock shelters and other areas by laymen are prohibited by this Act. All earth-moving activities in these areas must have the proper permit and clearance from the National Museum and monitored by their representatives;
 - (8) All treasure hunting permits and licenses shall be issued by the National Museum, which shall formulate the rules and regulations to adequately control, regulate and monitor all applicants for such undertakings; and
 - (9) The provisions of this Act on explorations and excavations of terrestrial and underwater archaeological sites shall supersede all local, municipal, regional and autonomous regional governments' resolutions and ordinances.
- b. When the presence of any cultural or historical property is discovered, the National Museum or the National Historical Institute shall immediately suspend all activities that will affect the site and shall immediately notify the local government unit having jurisdiction of the place where the discovery was made. The local government shall promptly adopt measures to protect and safeguard the integrity of the cultural property so discovered and within five (5) days from the discovery shall report the same to the appropriate agency. The suspension of these activities shall be lifted only upon the written authority of the National Museum or the National Historical Institute and only after the systematic recovery of the archaeological materials.
 - c. The Commission, upon the recommendation of the appropriate cultural agency, shall provide incentives for persons who discover and report heretofore unknown archaeological sites, in accordance with its rules and regulations implementing the provisions of this Act.
 - d. Any government or non-government infrastructure project or architectural site development shall include anthropological, archaeological, and historical and heritage site conservation concerns in their Environmental Impact Assessment System.

7) Article VIII

POWERS OF THE COMMISSION/CULTURAL AGENCIES

SECTION 25. *Power to Issue a Cease and Desist Order.* - When the physical integrity of the national cultural treasures or important cultural properties are found to be in danger of destruction or significant alteration from its original state, the appropriate cultural agency, shall immediately issue a Cease and Desist Order suspending all activities that will affect the cultural property. The local government unit which has the jurisdiction over the site where the immovable cultural property is located shall report the same to the appropriate cultural agency immediately upon discovery and shall promptly adopt measures to secure the integrity of such immovable cultural property. Thereafter, the appropriate cultural agency shall give notice to the owner or occupant of the cultural property and conduct hearing on the propriety of the issuance of the Cease and Desist Order. The suspension of the activities shall be lifted only upon the written authority of the appropriate cultural agency after due notice and hearing involving interested parties and stakeholders.

SECTION 26. *Power to Issue Compulsory Repair Order.* - When a privately-owned heritage site cannot be maintained by the owner or has fallen into disrepair thru neglect to such an extent that it will lose its potential for conservation, the Commission, through the appropriate cultural agency, may serve on the owner or occupant of such property, an order to repair or maintain such site. If the owner fails to comply with said order within thirty (30) to forty-five (45) days, repairs may be undertaken by the appropriate cultural agency for the account of the owner.

SECTION 27. *Visitorial Powers.* - The cultural agencies concerned, through the Commission, are hereby given the power to inspect National Cultural Treasures and Important Cultural Properties, and national historical landmarks, sites or monuments at any time to ensure the protection and integrity of such. They may also inspect public or private collections or objects that may be categorized as cultural property; Provided, That in the case of private collections or objects, the prior written consent of the owner shall be obtained.

SECTION 28. *Power to Deputize Other Government Agencies.* - The cultural agencies concerned, as well as the Commission, shall have the power to deputize the Philippine National Police, the National Bureau of Investigation, the Armed Forces of the Philippines, the Philippine Coast Guard, and other local or national law enforcement agencies, including the Bureau of Fisheries' agents, the Department of the Environment and Natural Resources' rangers, the Bureau of Customs and Immigrations agents, members of the Office of the Special Envoy on Transnational Crimes

and other such agencies and their successors in interest, to enforce the provisions of this Act and its implementing rules and regulations. The said agencies shall immediately detail their respective personnel to protect the cultural items under the National Registry.

Failure to follow deputization order of the concerned cultural agency as well as the Commission shall be penalized in accordance with Section 49 herein.

SECTION 29. *Power to Recover Cultural Properties.* – The Commission is empowered to recover or retrieve cultural properties which are under the custody of foreign nationals or entities and to bring these properties back to Philippine custody.

SECTION 30. *Anthropological Research and Archaeological Exploration/Excavation.* –

a. The National Museum with respect to cultural/ archaeological/ anthropological matters, and the National Historical Institute, with respect to historical anthropological matters, shall regulate and control all anthropological research conducted by foreigners; and all archaeological excavation or exploration. Pursuant to the foregoing, the National Museums or the National Historical Institute shall deputize other agencies to protect archaeological and anthropological sites. It shall be guided by the following rules:

- (1) All cultural property found in terrestrial and / or underwater archaeological sites belong to the State.
- (2) No terrestrial and/or underwater archaeological explorations and excavations for the purposes of obtaining materials and data of cultural value shall be undertaken without written authority and direct site supervision by archaeologists and/or representatives of the National Museum;
- (3) All anthropological researches, for the purpose of obtaining materials and data of cultural value and where the principal proponent is a foreign national shall be undertaken only with the authority, and under the supervision of the National Museum or the National Historical Institute. Anthropological research by Philippine nationals, especially members of the indigenous communities shall be encouraged;
- (4) Archaeological or anthropological materials presumed as important cultural property shall be allowed to leave the country only upon proper evaluation and written permission of the National Museum or the National Historical Institute;
- (5) All explorations and excavations undertaken wherein the caves, rock shelters and their vicinities may have been used in the prehistoric past by man either for habitation, religious and/or sacred and burial purposes all over the country, shall be under the direct jurisdiction and supervision of archaeologists and/or

- other experts of the National Museum;
- (6) All mining activities inside caves, rock shelters and any such other areas shall require a written permit and clearance from the National Museum. An appropriate prior inspection by representatives of the National Museum, funded by the company applying for a mining right, shall be required to ensure that no archaeological materials are present and, possibly, destroyed;
 - (7) Excavations in caves, rock shelters and other areas by laymen are prohibited by this Act. All earth-moving activities in these areas must have the proper permit and clearance from the National Museum and monitored by their representatives;
 - (8) All treasure hunting permits and licenses shall be issued by the National Museum, which shall formulate the rules and regulations to adequately control, regulate and monitor all applicants for such undertakings; and
 - (9) The provisions of this Act on explorations and excavations of terrestrial and underwater archaeological sites shall supersede all local, municipal, regional and autonomous regional governments' resolutions and ordinances.
- b. When the presence of any cultural or historical property is discovered, the National Museum or the National Historical Institute shall immediately suspend all activities that will affect the site and shall immediately notify the local government unit having jurisdiction of the place where the discovery was made. The local government shall promptly adopt measures to protect and safeguard the integrity of the cultural property so discovered and within five (5) days from the discovery shall report the same to the appropriate agency. The suspension of these activities shall be lifted only upon the written authority of the National Museum or the National Historical Institute and only after the systematic recovery of the archaeological materials.
 - c. The Commission, upon the recommendation of the appropriate cultural agency, shall provide incentives for persons who discover and report heretofore unknown archaeological sites, in accordance with its rules and regulations implementing the provisions of this Act.
 - d. Any government or non-government infrastructure project or architectural site development shall include anthropological, archaeological, and historical and heritage site conservation concerns in their Environmental Impact Assessment System.

8) Article IX

CULTURAL PROPERTY INCENTIVES PROGRAM

SECTION 35. *Tax Exemption on Donations.* – All donations in any form to the Commission and its affiliated cultural agencies shall be exempt from the donor’s tax and the same shall be considered as allowable deduction from the gross income in the computation of the income tax of the donor, in accordance with the provisions of the National Internal Revenue Code of 1997, as amended.

SECTION 36. *National Heritage Resource Assistance Program.* - The Commission may provide financial assistance in the form of a grant to historic, archaeological, architectural, artistic organizations for conservation or research on cultural property. No grant made pursuant to this Act shall be treated as taxable income.

SECTION 37. *Awards and Citations.* - To encourage preservation of the national heritage, the Commission shall establish an annual conservation recognition program under which monetary prizes, awards and citations will be given by the President of the Philippines, upon the recommendation of the Commission, for special achievements and important contributions and services in the area of heritage preservation and conservation efforts.

9) Article XIV

ENDOWMENT

SECTION 50. *National Endowment for Culture and the Arts.* – The sum of Five hundred million pesos (P500,000,000.00) shall be contributed by the Philippine Amusement and Gaming Corporation (PAGCOR) and/or General Appropriations at the minimum rate of One hundred million pesos (P100,000,000.00) per year for five years, towards the establishment of a National Endowment for Culture and the Arts. Said amount shall be kept separate and deposited in a special account in the Bureau of Treasury specifically earmarked for culture and the arts.

A. Responsible organization/department

National Commission for Culture and the Arts (NCCA); and the affiliated National Cultural Agencies.

B. Contact details

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C. Information source

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2. Cultural Policy

A. Declaration of Principles and Policies. –

Sections 14, 15, 16, and 17, Article XIV of the 1987 Constitution declare that the State shall foster the preservation, enrichment, and dynamic evolution of a Filipino culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression. The Constitution likewise mandates the State to conserve, develop, promote and popularize the nation's historical and cultural heritage and resources, as well as artistic creations. It further provides that, all the country's artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State, which may regulate its disposition.

In the pursuit of cultural preservation as a strategy for maintaining Filipino identity, this Act (RA 10066) shall pursue the following objectives:

- 1) Protect, preserve, conserve and promote the nation's cultural heritage, its property and histories, and the ethnicity of local communities;
- 2) Establish and strengthen cultural institutions; and
- 3) Protect cultural workers and ensure their professional development and well-being.

The State shall likewise endeavor to create a balanced atmosphere where the historic past co-exists in harmony with modern society. It shall approach the problem of conservation in an integrated and holistic manner, cutting across all relevant disciplines and technologies. The State shall further administer the heritage resources in a spirit of stewardship for the inspiration and benefit of the present and future generations.

Toward this purpose the National Commission for Culture and the Arts was created as an umbrella organization for all the government cultural agencies (National Museum, National Library, Cultural Center of the Philippines, The National Historical Commission, Commission on Filipino Language (Komisyon ng Wikang Filipino), the National Records and Archives, which are affiliated to it, and represented in the Board of Commissioners.

- 1) **Title** : Republic Act 10066 –The Cultural Heritage Act of 2009
- 2) Purpose : (see cultural agency function below)
- 3) Duration : institutional duration

The Implementing Rules and Regulations (IRR) are presently being formulated by a Technical Working Group, with separate specialized sub-groupings to tackle specific issues. The sub-group on the registration /inventory of cultural property, including both tangible and intangible cultural heritage already took place with the recommendation that all the cultural agencies are to re-organize their structure in order to accommodate the issue on intangible heritage inventory; and the authority for the NCCA to organize formally an Intangible Cultural Heritage Office (NCCA/ICHO).

There is yet no formal and approved policy with respect to the need to enhance the process of developing safeguarding policies and systems. When the NCCA/ICHO is finally structured, these methods and means will be articulated. To serve as guidance will be our experience in the completed task of institutionally safeguarding the Ifugao chant, *Hudhud* to be discussed below in Section F (a) below.

Developing methods and means to enhance the process of safeguarding policies and systems at least in the Philippines, will need a structured and organized body that has an institutional character, if continuity is one of the important factors to be aimed at.

Of primary importance in developing methods and means to enhance safeguarding efforts is of course the detailed knowledge of the specific cultures of the various ethno-linguistic groups that compose a country. This is so because where there will be broad methodologies to safeguarding, it is the character of the distinct cultures that will finally dictate the particular approach to be made.

B. Structure

There are several (six) independent cultural organizations involved in different degrees in the field of ICH, each with different charters, and therefore, specific objectives. This is compounded by the fact that initial data will emanate from local government units from eighty (80)

provinces. There are thus four (4) levels of concern: a) municipal, b) provincial, c) national and finally, d) at the level of the NCCA where coordination takes place. At each of these levels coordinating structures will have to be organized.

C. Organization

Competent staff need to be appointed in all the different structural levels, since the concept of ICH as defined by UNESCO is rather novel. Equally of concern is the fact that safeguarding is such a sensitive issue that where methods and systems of safeguarding need to be particularized depending on the culture being addressed.

D. Strategy

At the heart of the matter is intimate knowledge of the different/diverse cultures where safeguarding is to be conducted:

- 1) A generic method/system will have to be generated to establish a policy that will be able to adapt to the different charters of the six cultural agencies and the local government units and the commonalities in the diverse ethno-linguistic cultures to be addressed; subsidiary to this is:
- 2) Specific methods/systems needed will be devised from the differences in cultural features of the target societies.
- 3) The internal capacities of the six cultural agencies will have to be assessed to determine the relative strength/weakness in implementing programs of this kind.
- 4) Feasibility studies will have to be undertaken in order to determine prioritization, and the judicious allocation and use of available funding.