

Summary

The National Commission for Culture and the Arts (NCCA) is the leading institute of ICHCAP IP Field survey 2011 in the State of Philippines. NNCA is the policy making body in the country, in charge of the preservation, promotion and development of Arts and Culture. There are five national cultural agencies attached to the institute:

- The Cultural Center of the Philippines, responsible for cultural property pertaining to the performing arts.
- The National Library, premier repository of printed and recorded materials which reflect the intellectual, literary and cultural heritage of the Philippines.
- The National Archives of the Philippines, official repository of the nation's permanent records and records of archival and historical value.
- The National Historical Commission of the Philippines, responsible for movable and immovable cultural property that pertains to Philippine history.
- The National Museum, responsible for significant movable and immovable cultural and natural property.

1. Institute Activities and Projects

In terms of activities, NNCA focuses on many aspects:

- Cultural artistic growth and development.
- Conservation and promotion of the Nation's historical and cultural heritage.
- Dissemination of artistic cultural products.
- Preservation and integration of traditional culture.
- Living human treasures through the school for living translation.

The Institute entertains many projects in the field of ICH among which:

The School for Living Tradition (SLT)

SLT is the NCCA's program for the conservation of cultural heritage. It focuses on the preservation and protection of intangible heritage. The project generally aims to provide a venue where a culture specialist/master, who embodies the skills and techniques of a particular traditional art form, imparts to a group of interested youth the skills and techniques of such form.

Fieldwork and documentation

It consists of two parts: firstly, the databases personally maintained by Dr. Jesus T. Peralta at the NCCA; secondly, NCCA Portal Cultural Databank, which serves as the centralized electronic repository of all cultural information, statistics and indicators needed.

2. Information Building and Sharing

The activities of the NCCA in the field of information building and sharing are:

- Cultural policy making
- Identification
- Documentation
- Inventory making
- Database/Archive Building
- Publications and distribution
- Utilizing digital contents
- International relations
- Cultural net-working
- Cultural education
- Cultural surveys
- Heritage conservation
- Cultural advocacies
- Intellectual property protection
- Cultural enhancement development
- Ethnic cultural protection/safeguarding
- Funding agency
- Schools for Living Tradition (SLT)

There are two main stages in activities:

Preliminary Enumeration

Primary Research: The primary research could be activated by information acquired through secondary research, from informants/practitioners, actual encounters, etc. A field research documentation team composed of researcher, writer, a videographer and photographer is sent to document the ICH event.

Secondary Research: Carried out by carefully scanning and searching through all available ethnographic literature and similar sources for ICH bits of information.

Summary Inventory

The bits of information accumulated in the preliminary enumeration are then evaluated, prioritized and the data is entered into a Summary Inventory Form, which is compiled in a database that constitutes the Inventory of Philippines intangible cultural heritage.

Technically, all aspects of Philippines culture are under the umbrella of the NCCA. NCCA mandate as cultural institution is supported by a rigorous administration. Three sub-commissions are operative:

- The Sub-Commission on the Arts encourages the development of a pluralistic culture by the people themselves.
- The Sub-Commission on Cultural Heritage, responsible for the conservation and promotion of the nation's historical and cultural heritage.
- The Sub-Commission on Dissemination. To ensure the widest dissemination of artistic and cultural products among the greatest number across the country and overseas.

Three committees supersede the entire activities:

- Central Cultural Communities
- Northern Cultural Communities
- Southern Cultural Communities

3. IP Issues in Activities

In terms of IP issues, the main problem in the field of ICH, and according to the report, emanates from an administrative and legal point of view. Intangible cultural heritage in Philippines is being carried out only by a Committee. There is a lack of formal organizational structure to implement the provisions of the UNESCO 2003 Convention. IP issues related to ICH at NCCA will not therefore be official until the ICH office is formally organized. Some among the problems to be addressed under IP law are:

- The issue of recognition and protection of IP rights of indigenous people, and also their rights over creations of the mind, both artistic and commercial.
- The issue of elements of Philippines ICH which have been used and adopted without proper authorization. Also, those elements have been at times misrepresented, without financial reward to the ICH community owners.

- The issue of protection of communities ICH owners neglected.
- The issue of protection of IP-ICH as a national interest, organized in a defined structure.

Institute Experiences and Project in the Field of IP

The NCCA has been involved in many projects related to IP among which:

Expertise related to the recognition and protection of ASEAN Communal Intellectual Property Rights, in October 2009, in Roxas City, Philippines.

The project was implemented by the International Desk of the NCCA on the occasion of the celebration of the Dayaw Festival. It has been implemented by the Sub-Commission for Culture and Traditional Arts (SCCTA), also of NCCA.

The project goal's was mainly the recognition and protection of indigenous IP rights, and also, their cultural heritage in South-East Asian Nations (ASEAN). Specifically, rights over creations of the mind, both artistic and commercial. Cultural heritage, on the other hand as referring to traditions, practices, and customs; these include stories, community events and gatherings, languages, songs, and crafts, healing traditions, foods, holidays, beliefs' and cultural practices.

Principle for protecting IP aspects of ICH

The Philippines Government has laid out some IP principles for ICH protection through the Intellectual Property Office (IPO). The report refers us to two titles in this sense: "An IP System that Protects & Nurtures Traditional Knowledge - An IP Philippine Challenge", and "Briefing Paper on the Protection of Traditional Knowledge in the Philippines".

Aside from these principles, the NCCA has initiated a more definitive action with the drafting by Dr. Peralta of a legislative bill now adopted as Senate Bill 2831, "An Act Safeguarding the Traditional Property Rights of Indigenous Peoples".

The main issues treated by the bill are related to the problem of copyright laws in Philippines.

Firstly, all forms of creation, including intellectual property, lapses into public domain after 50 years, in the case of the Philippines, after the death of the creator. Since all forms of traditional cultural heritage are more than 50 years old, these are all now in public domain, which can be exploited by anyone. This creates a ridiculous situation where even ethno-linguistic groups cannot

legally claim that their cultural heritage constitutes their own property. They cannot demonstrate that they inherited their culture since even the original owner/creator cannot be established. Copyright laws actually created this ambiguous situation. The bill seeks to remove from public domain all forms of traditional cultural heritage, including intellectual property. In effect, this law when approved will prevent the exploitation of cultural heritage, including intellectual property.

Secondly, the issue related to the free, prior and informed consent of the indigenous to the use of their ICH. It must always be accompanied by a memorandum agreement in order to define the rights of the indigenous peoples. Further, the defined authority that is empowered to give the consent should be the elected municipal/provincial officials who represent the concerned ethnic group.

The National Commission for Culture and the Arts has supported this bill crafted by Dr. Peralta.

In summary, with the legal system for the protection of cultural heritage being addressed as stated in the foregoing statements, Philippines has made a fundamental step towards the protection of IP aspects of ICH.