

# AUTONOMY & PEACE REVIEW

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## Upholding the Indigenous Peoples' Rights to Self-Determination



## *About the Institute for Autonomy and Governance*



**The Institute for Autonomy and Governance (IAG) is an independent and non-partisan think tank founded in 2001 to generate ideas on making autonomy an effective vehicle for peace and development in the Southern Philippines.**

**IAG views autonomy as a broad and evolving concept that encompasses any political structure that is less than an independent state. It provides the country's minority Muslim and Indigenous Peoples platforms to evolve self governance structures whether federal, autonomous or associative.**

**IAG continues to conduct research, fora, roundtable discussions, and conferences on the issues of autonomy, good governance and political settlements between the GRP and the Rebel Fronts (MNLF and MILF). It has published policy papers and journals on political, economic, and security issues that define the much needed measures to be undertaken for meaningful self-governance in the region.**

**IAG also provides support to the ARMM Executive and the Iranon Development Council (Buldon, Barira, Matanog, Parang and Datu Blah Sinsuat), specifically in capacity-building with focus on the processes of policy formulation and legislation.**

**IAG is an institutional partner of the Konrad Adenauer Stiftung in the Philippines.**

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# Autonomy and Peace Review



INSTITUTE FOR AUTONOMY AND GOVERNANCE



KONRAD ADENAUER-STIFTUNG

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# Editorial

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## EDITORIAL

*ELISEO “JUN” MERCADO, OMI*

The issue focuses on the Indigenous Peoples (IPs) who continue to struggle over the rights already recognized by law. It is rather tragic that the law that was ten years in the making and enacted on the 29<sup>th</sup> of October 1997 remains mainly in letters and spirit.

It is equally sad to note that the main instrument created by law, the National Commission on the Indigenous Peoples (NCIP), to protect and enhance these rights has been very much wanting. In many instances, the NCIP has been accused by the IPs themselves as instrument of spurious consultations that require the IPs' free and prior informed consent (FPIC), especially on issues that involved ancestral domain.

The first article retrieves the long forgotten narrative between the brothers Tabunay and Mamalo that divides the land between the lowland and upland. The Islamized IPs (the Tabunaway's children) have been given the coastlands and the lowlands as their legacy while the non-Islamized IPs (the Mamalo's children), by agreement, have the uplands as their patrimony.

The IPRA or RA 8371 is national in scope. Yet, the law itself provides that the Autonomous Region in Muslim Mindanao shall provide for its own Act governing the rights of the IPs within the ARMM.

The article by Ms. Damaso cites the Muslim Mindanao Act 241 (Tribal Peoples Rights Act) as the

ARMM equivalent of the IPRA. However, the MMA 241 is only a policy declaration and it has NO implementing rules and regulations to become operational. In fact, the ARMM law does not contain tacit provision for the delineation and titling of ancestral domain.

The second article is the synthesis of the discussion of the two series of Round Table Discussions (RTD) sponsored by IAG on the continuing struggle of the IPs over the rights already recognized by law. The participation of leading policy makers in the said RTDs has brought to the fore the need for greater advocacy and lobby for the full implementation of the IPRA and the appointment of NCIP Commissioners whose integrity and passion for the IPs rights are beyond question.

The third article is a baseline research and advocacy for Lumad women's rights among the Teduray-Lambangian in the Province of Maguindanao. The study gives relevant data for policy makers on the real picture of the realities on the ground. In many instances, the advocacy for Lumad's rights is marginalized in a wider struggle of the Bangsamoro for ancestral domain and self-determination.

The focus on the IPs is a concrete manifestation of IAG's continuing attempt to mainstream the IPs' struggle within the wider and broader context of ethnic minorities' rights over their land and self-governance in their local affairs.



**Honoring Mamalo:**  
**Turning A Paradox Into A Paradigm Shift**  
*Recognition of Non-Islamized Indigenous Peoples'*  
*Rights in the ARMM*

Elena Joaquin Damaso MPS

## **Honoring Mamalo: Turning A Paradox Into A Paradigm Shift**

*Recognition of Non-Islamized Indigenous Peoples'*

*Rights in the ARMM*

*Elena Joaquin Damaso MPS*

### **A. THE DANCE OF HISTORICO-LEGAL PARADOX**

It is 4:00 in the morning, a gong strikes on top of Tawantawan, Cotabato City's highest point. Slowly a couple of dozen figures dissociate themselves from the darkness and with outstretched arms they move, feet pulsating to the rhythm of thanksgiving that Land is Life. This annual tableau started 13 years ago when the Indigenous Peoples' Rights Act (IPRA) became state law. On that day, October 29, 1997, the concept of ancestral domain rights was recognized as the fundamental right of indigenous peoples in the Philippines. Native Title ceased to be regarded as legal fiction and became the operational term to claim traditional homelands by the country's 110 ethnic groups who were not colonized by Spain and America.

This is the cause for celebration of the Baglalan traditional leadership composed of the Timuay, Kefeduan, and Fintailan of the Teduray, Lambangian and Dulangan Manobo ethnic groups inhabiting the southwestern Cotabato-Sultan Kudarat (Daguma) ranges spanning Maguindanao and Sultan Kudarat Provinces. They are

the descendants of Mamalo, a pre-Islamic ruler who together with his brother Tabunaway (the Magindanaon ancestor who converted to Islam), ruled the Pulangi delta and surrounding mountains until the arrival of Sharif Kabungsuan circa 1462. At the mouth of the great river, the brothers agreed that the dominion of the hill country, referring to Tawantawan (presentday PC Hill) and beyond, would belong to Mamalo and his descendants. Tabunaway and his followers (the Dumatu social class) would inhabit the delta settlements and provide strong support to the Maguindanao Sultanate with the royal descendants of Sharif Kabungsuan from his marriage with Fintailan Salabanon the brothers' princess sibling.

Mamalo's hereditary leadership system is practiced to this day. Evidence of this is the persistence of the Timuay form of governance among them. If there is any group that feels intensely the liberating impact of IPRA, it would be the Teduray, who continue to negotiate their participation in democratic governance and reenact history in the 21<sup>st</sup> century political arena known as the Autonomous Region in Muslim Mindanao. They are still in the margins of decision-making, having yet to fully exercise and enjoy the bundles of rights promised by the United Nations Conventions, the Constitution, IPRA and other landmark statutes. The Baglalan perform a ritual dance honoring Mamalo to turn the vagaries of the historical-legal paradox into a paradigm shift defining their survival as first peoples in the coastal and western highlands of South-Central Mindanao.

The focus of this paper is to assess the status of the IPs in the ARMM, particularly the Teduray-Lambangian struggle, to arrive at a durable solution that would mainstream their rights as part of the IPRA and ARMM constituencies, given the second decade of implementation of the IPRA and the third decade of operation of the Organic Act for the Autonomous Region in Muslim Mindanao. This paper adopts the usage of the OTLAC (Organization of Teduray-Lambangian Conference) referring to themselves and including the Dulangan Manobo, B'laan of Maguindanao, Higaonon Manobo in Lanao del Sur, and Badjao of Basilan, Tawi Tawi and Sulu, *as non-Islamized ethnic groups* within the scope of the ARMM.

Dance as a traditional performing art uses the rhythm of bodily movements to create an intelligible design, a motif embedded in the racial memory, recalling cycles of life, agriculture, and historical ties in a designated social space, oftentimes sacred, which might be perceived as mere empty space by the uninitiated. The accompanying music reflects the synchronicity of times past, present and future that beats according to the proper order of the lived worlds on earth, sky, water that exist in the psyche of the individual member and community of selves of the tribe. The dance honoring Mamalo far from being an ephemeral exercise of remembrance is a renewal of faith that the framers of IPRA intended the benefits and gains of the law, like the veritable sunrise

would shine on everyone in the indigenous world, especially among the non-Islamized groups in the ARMM.

## **B. THE SITUATION: A SOCIO-LEGAL BLIND SPOT**

The problem is that there is a blind spot in the socio-legal sense where the protection and promotion of rights of non-Islamized indigenous peoples in the ARMM are concerned. The situation renders the nearly half a million IP population, comprising 20% of the ARMM constituency (total of 2.5 Million) at a disadvantage and unequal before the law, specifically the landmark legislation, the Indigenous Peoples' Rights Act (IPRA) of 1997. The situation is ironical because the seat of the ARMM is located on a portion of the Teduray ancestral domain in Cotabato City, known as Datar Selongon.

To this day, the bundle of rights promised by IPRA, notably, rights to: ancestral domains/lands, cultural integrity, self-governance and empowerment, and, social justice and human rights, have not been fully enjoyed and exercised by the marginalized ethnic groups in the autonomous region. The problem stems from the absence of an enabling law that is supposed to be enacted by the ARMM Regional Legislative Assembly (ARLA) to render IPRA's applicability in the region. This state of inequality is illustrated in the case of the Teduray

and Lambangian who have self-delineated 289,268 hectares of their homeland but are ineligible to obtain a certificate of ancestral domain title (CADT) because this power resides in the National Commission on Indigenous Peoples (NCIP). Under the law, it is the NCIP that is the competent authority to issue the CADT. Other instruments of empowerment such as Free and Prior Informed Consent (FPIC), and Ancestral Domain Sustainable Development and Protection Plan (ADSDPP) are also facilitated by the Commission.

Previous to the 1997 enactment of IPRA, the office that looked after the welfare of IPs was the Office of Southern Cultural Communities (OSCC) in Visayas and Mindanao as well as the Office of Northern Cultural Communities (ONCC) in Luzon. IPRA merged these two offices, created a collegial body, the Commission composed of seven ethnographic commissioners, and formed 13 regional offices pursuant to the country's administrative regions with the exception of ARMM. The net result is that the only existing remnant of the old structure is the Office of Southern Cultural Communities-ARMM which was devolved in 1989 by Republic Act 6734, the first Organic Act. Thus, the recognition of IP rights in the present context of the ARMM is inchoate.

Still another law which was adopted by the ARMM is the Local Government Code of 1991 when the ARLA passed the regional version during the first

five years of its existence. Both Codes uphold the right of IPs to create tribal barangays which has not yet been realized while the ARMM has repeatedly redrawn the internal political boundaries of Maguindanao Province to accommodate influential political clans such as the Ampatuan and Sinsuat clans. These towns were also given commemorative names like Sharif Aguak, Datu Unsay, Datu Saudi, etc., derived from the family lineage, thus, causing recall of Teduray tribal toponyms into a fadeout.

One can imagine the consequences of the fragile socio-legal status of the IPs in the ARMM as the politico-administrative structure itself is flawed and can be a potential source of discrimination, unpeace, poverty and vulnerability of 20% of the population. The IPs in the ARMM are clearly in a situation of comparative disadvantage with reference to the dominant Islamized ethnic groups like the Maguindanaon, Maranao, Tausug and Yakan, who belong to the power and economic elite. In Maguindanao, the downside is that the years of waiting for policy reform has created social displacement and loss of cultural integrity due to the government's anti-MILF insurgency campaign and the reduction of tribal territory to form the new towns ruled by the clans. However, rather than being immobilized by the stark social realities they are facing, the IPs in the ARMM have increased their resolve for affirmative action as seen in the efforts of the Teduray to revitalize their Timuay Justice and Governance systems, the Higaonon strides

in agricultural productivity, and the Badjao achievements in managing their alternative learning systems

### **C. RIGHTS-BASED POLICY FRAMEWORK**

The context of public policy with respect to the IPs in the ARMM indicates that there are three major interacting spheres of decision-making that impact on effective and accountable governance relevant to the pivotal issue of the genuine recognition of their right to self-determination. These three systems directly impact on the lives of indigenous non-Islamized population, cited by the ARMM Organic Act as “minorities” and “tribal peoples”. The problem at hand is the operation of a patronage/spoils system that favors the Bangsamoro ruling elite that is supported by the central government anxious to establish a working sub-national autonomy in the conflicted areas of Mindanao. President Benigno Simeon Aquino III has articulated in his Social Contract that the key to peace in Mindanao is the settlement of the Moro insurgency. On the ground, a new alarm is raised because social disequilibrium from decades of neglect have spawned a new type of armed struggle in the non-Islamized homelands of IPs the ARMM, that of tribal insurgency.

To be sure, the IPs in the ARMM have participated and were actively consulted in the 10-year lobby that led to the enactment of the Indigenous Peoples’ Rights Act from 1987-1997. The founding



Organic Act (Republic Act 6734) that created the ARMM was passed in 1989 which anticipated the enactment of a law to uphold ancestral domain rights of IPs within its jurisdiction. There was no express provision as to the substance and shape of the government instrumentality that would recognize and implement these rights. When Republic Act 9054 amended the first organic Act in 2001 there was no clear provision on the NCIP devolution. It was only the Commission on Human Rights that was expressly devolved. The Baglalan, proceeded to work for the attainment of a rights-based policy framework bolstered no doubt by the advocacy in the international arena by the United Nations Decade of Indigenous Peoples (1994–2004).

While the IPRA lobby was being advanced by the Catholic Bishops' Conference of the Philippines, it was set into high gear through the Social Reform Agenda of the Ramos administration. By fortunate coincidence, the International Labor Organization embarked on a nationwide awareness campaign of ILO Convention 169 which widened the understanding of IP Rights Advocates on the international trends of the struggle for self-determination. The major issue that Teduray advocates raised then and now is whether or not they have the right to practice tribal autonomy within the autonomous region; if so, under what modality of governance?

The obvious answer to this impasse is in the formulation and implementation of a Rights-Based Policy

Framework in an arena that speaks loudly of social inequity. Recent developments in this respect signal that with a robust political will, there is sufficient democratic space to craft a culture-sensitive political solution to this socio-legal blind spot.

In 2008, the ARMM Regional Legislative Assembly enacted Muslim Mindanao Act No. 241 which “reaffirms the policies” embodied in the 1987 Constitution, IPRA, Organic Act, and international treaties such as ILO Convention I69 and the United Nations Declaration on the Rights of Indigenous Peoples. There are some advocates who believe that MMA 241 needs a set of Implementing Rules and Regulations to become operational. However, there are a few lobbyists who lament over the fact that the carefully worded regional law did not contain tacit provisions for the delineation and titling of ancestral domains. The single reference to ancestral domains is found in:

“Section 3. Declaration of Policy.-xxx

5. To protect the rights of the ICCs/IPs/TPs to their ancestral domain 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.”

Whether or not this provision would be adequate to address the policy gap, the law does not specifically mandate the creation of an NCIP-ARMM or the transformation of the OSCC as the implementer of MMA 241 and other right-based policies. The ARLA and other advocates now look to the formulation of the Regional Administrative Code as the venue to realize the much-needed reform perforce the Organic Act.

The situation could be analyzed from another perspective – that of the interface of three legal systems to ensure that the four basic rights, along with the major responsibilities of the IPs in the ARMM, can be invoked, exercised, and enjoyed according to this categorization:

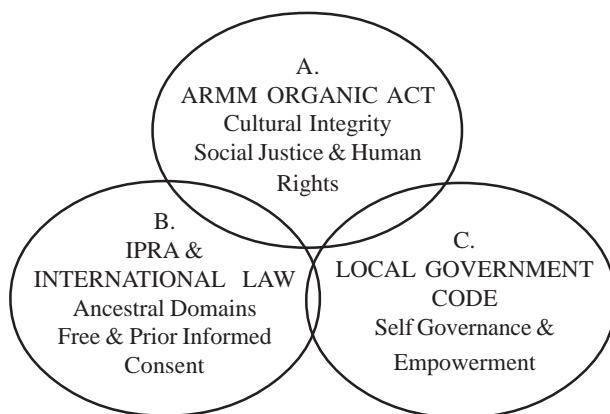
Each of these laws has a mandate for the implementation of social safeguards the results of which can be made measurable using the RBAP framework.

INTERACTIVE LEGAL SYSTEMS	GROUP OF RIGHTS TO BE ENJOYED BY IPS IN THE ARMM
ARMM Organic Act and Muslim Mindanao Act 241	<ul style="list-style-type: none"><li>• Cultural Integrity</li><li>• Social Justice and Human Rights including Basic Social Services</li><li>• Devolution of Commission on Human Rights (per RA 9054)</li></ul>
IPRA thru MOU and NCIP en Banc Resolution 119	<ul style="list-style-type: none"><li>• Ancestral Domains delineation and titling (CADT/CALT)</li></ul>

International Conventions on IP Rights World Bank and Asian Development Bank Social Safeguards	<ul style="list-style-type: none"> <li>• Devolution of NCIP-ARMM (transformation of OSCC, transfer of jurisdiction of Basilan NCIP Provincial Office from NCIP Region IX to OSCC/ NCIP- ARMM)</li> <li>• Free and Prior Informed Consent (FPIC)</li> <li>• Prior Informed Consent</li> </ul>
Local Government Code thru the ARMM	<ul style="list-style-type: none"> <li>• Self-Governance, Empowerment/ People's Participation</li> </ul>
Regional Government Code DILG Administrative Order 119 s. 2010	<ul style="list-style-type: none"> <li>• Creation of tribal barangays and recognition of tribal justice system based on customary law</li> <li>• Mandatory Representation of ICCs/IPs in Policy-Making Bodies and other Legislative Councils</li> <li>• Accreditation of Tribal Councils</li> <li>• Formation of Consultative Bodies per IPRA</li> </ul>

For heuristic purposes, the four basic IP rights, including the exercise of the right to Free and Prior Informed Consent may be grouped according to how the laws interact and reinforce this policy framework. There is an overlap in the mandates and consequently, in the implementation of these laws as these operate in the same social space within the autonomous governance.

This diagram shows the interface of the tri-systems where the non-Islamized indigenous cultural communities may be able to attain peace using the RBAP framework in their exercise of self-determination. The ARMM Organic Act (Republic Act 9054) occupies a central position because it is the modality of governance that State law has provided to govern the culturally diverse communities in the five provinces of Maguindanao, Lanao del Sur, Sulu, Tawi Tawi, and Basilan.



## **A. RBA-RELATED LAWS AND ISSUANCES**

The rights-based approach for the development of indigenous peoples stands on solid grounds. There is no lack of legal basis to establish a policy environment that would lead towards a timely and lasting solution to remove structural discrimination in this area of public policy. These laws would include the following:

## 1.0 International Law: (United Nations Conventions)

### 1.1 ILO Convention 169 (September 1991)

- To decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible over their economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.

### 1.2 UN Declaration on the Rights of Indigenous Peoples (UNDRIP, September 2007)

- Articles 1–2, and 5 proclaim the rights of indigenous peoples to equality, freedom from adverse discrimination and nationality.
- Article 3 provides that “Indigenous peoples have the right of self-determination. By virtue of this right they freely determine their political status and freely pursue their economic, social and cultural development.”
- Article 4 recognizes the right of indigenous peoples to maintain and develop their distinct characteristics and legal systems, while participating fully in the life of the State.

## **2.0 National Laws and Issuances:**

### **2.1 The Philippine Constitution of 1987:**

- upholds the primacy of customary law
- recognizes the rights of IPs to their ancestral domains and their power of dominion over their lands and resources
- provides that the rights of IPs to natural resources pertaining to their lands shall be especially safeguarded, notably the rights of IPs to participate in the use, management, and conservation of natural resources
- recognizes and promotes indigenous learning systems

### **2.2 RA 7160, or the Local Government Code of 1991:**

- IPs have the option to establish tribal barangays regardless of the population. (IPRA elaborates further, that they should be residing in “contiguous areas or communities where they form the predominant population but which are located in municipalities, provinces, or cities where they do not constitute the majority of the population”

#### **2.2.1 DILG Memorandum Circular 119, Series of 2010**

- Implements the selection process for the mandatory representatives of ICCs to participate in policy-

making bodies and other local legislative councils as intended by IPRA and IPRA-IRR

### 2.3 Republic Act (RA) 8371, or the Indigenous Peoples Rights Act (IPRA) of 1997:

- Defines Indigenous Peoples
- Enumerates the four basic bundles of rights of IPs: Right to ancestral domains and lands; Right to self-governance and empowerment; Right to social justice and human rights; and, Right to cultural integrity.

#### 2.3.1 IPRA created the National Commission on Indigenous Peoples (NCIP)

- as 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 IPs and the recognition of their ancestral domains as well as their rights thereto (Chapter 7, Section 38). The procedures for delineation of ancestral domains are given in the IPRA-IRR.
- further, NCIP shall protect and promote the interest and wellbeing of the IPs with due regard to their beliefs, customs, traditions and institutions



2.3.2 With respect to NCIP-ARMM relations, the IPRA Implementing Rules and Regulations (IRR-1998) specifically states that:

- **Section 3. Office on Policy, Planning and Research.** The Office on Policy, Planning and Research shall:
  - g) For purposes of policy coordination, the Commission shall create a **Policy Desk** to serve as the organic linkage of the NCIP to the Office of the Regional Governor and Office of the Speaker of the Regional Legislative Assembly. This desk shall provide technical assistance to the ARMM on such policy matters as;
    - (1) Pertaining to the exercise of residual powers of the national government affecting the ICCs/IPs, such as, but not limited to: the protection of community intellectual rights; nationwide ethnographic research projects; census of ICCs/IPs, and the like,
    - (2) Formulation of policies, plans, and programs transcending the geographical boundaries of the ARMM and contiguous ethnographic regions, and
    - (3) Other policy issues as may be the subject of Memorandum of Agreement with the

Office of the Regional Governor and the  
Office of the Speaker of the Regional  
Legislative Assembly;

2.3.3 Memorandum of Understanding between the  
NCIP and ARMM, 30 October 2003

- This MOU recognizes the partnership of the two agencies to set up the mechanism to ensure the application of IPRA to ICCs in ARMM until such time that ARMM shall have formulated its own IPRA as mandated by the Organic Act of ARMM. In order to immediately address the concern of IPs within ARMM, the NCIP and ARMM shall establish the mechanisms through the instrumentality of the OSCC. Therefore IPs in ARMM are within the purview of the OSCC, closely working with NCIP.

2.3.4 Commission En Banc Resolution No. 24, Series of  
2004:

- Endorses to then President Arroyo the joint technical working group draft executive order creating the NCIP-ARMM, amending E.O. 462, series of 1991 and for other purposes

2.3.5 Commission En Banc Resolution No. 119, Series  
of 2005

- Approves the implementation of ARMM Regional Legislative Assembly Resolution No. 269 for delineation of ancestral domain/ancestral land claims of non-Moro IPs in the ARMM.

2.3.6 Other Relevant NCIP Issuances: As a quasi-legislative body, NCIP Commission en Banc has issued the following administrative orders:

- Administrative Order No. 2, Series of 2000: Revised Guidelines For The Conversion Of Certificate Of Ancestral Domain/Land Claims To Certificate Of Ancestral Domain/Land Titles Delineated Prior To R.A. 8371
- Administrative Order No. 1, Series of 2004: Guidelines On The Formulation Of The Ancestral Domain Sustainable Development And Protection Plan (ADSDPP)
- Administrative Order No. 1, Series of 2006: or the Free, Prior and Informed Consent (FPIC) Guidelines of 2006, enforcing procedures in conducting field-based investigation to secure a proponent's certification precondition, likewise providing for the validation of projects solicited/initiated by the IPs. (this AO replaced the FPIC Guidelines of 2002).

- Administrative Order No. 1, series of 2009 :  
Guidelines for the Mandatory Representation of  
Indigenous Peoples in Local Legislative Councils

2.4 R.A. 9054, or the Organic Act for the Autonomous  
Region in Muslim Mindanao (Amending R.A. 6734,  
March 31, 2001)

- Affirms the mutual respect for and protection of  
the distinct beliefs, customs, and traditions among  
its inhabitants in the spirit of unity in diversity  
and peaceful co-existence
- protects the ancestral domains/lands, defines  
“indigenous cultural community” as “Filipino  
citizens residing in the Autonomous Region who  
are Tribal peoples as well as Bangsa Moro people  
regarded as indigenous on account of their  
descent from the populations that inhabited the  
country or a distinct geographical area at the time  
of conquest or colonization and who, irrespective  
of their legal status, retain some or all of their  
own socio-economic, cultural and political  
institutions”
- Provides for the devolution of national  
government agencies particularly concerned  
with the delivery of basic services and the creation

of a National Oversight Committee to monitor and evaluate the devolution of these agencies including the Commission of Human Rights

### **3.0 Regional/ Sub-National Laws and Issuances:**

3.1 ARLA (ARMM Regional Legislative Assembly)  
Resolution No. 269, dated August 15, 2003

- Approves IPRA as the legal framework to recognize the rights of the Indigenous Cultural Minority in the ARMM

3.2 Muslim Mindanao Act No. 241, Tribal Peoples Rights Act, passed by the ARLA on May 26, 2008

- An Act to Recognize, Respect, Protect and Promote the Rights, Governance and Justice Systems, and Customary Laws of the Indigenous Peoples/Tribal Peoples of the ARMM

3.3 Between 2002-2006, Various Muslim Mindanao Acts created new municipalities carved out from Teduray ancestral homelands, such as the Mt. Firis sacred mountain complex into the municipalities of Datu Unsay, Datu Saudi, Guindulugan, Sharif Aguak, and Talayan which were inevitably ruled by Maguindanaon Mayors. Recent regional laws also removed 12 coastal barangays of Upi to form the Datu Blah Sinsuat municipality, and renamed the Teduray ancestral domain

portions of Dinaig town into the Datu Odin Sinsuat municipality.

## **B. UNFINISHED BUSINESS: IMPLEMENTATION OF IPRA IN THE ARMM**

Efforts to implement IPRA for the well-being of non-Islamized IPs in the ARMM begun in 2003 when the Third NCIP Commission led by Chairman Reuben Dasay Lingating initiated a dialogue with then ARMM Regional Governor Parouk Hussin for that objective. The Commission was under the supervision of the Office of the Presidential Assistant on Indigenous Peoples' Affairs (OPAIPA) which created a Presidential Task Force (per Administrative Order No. 63) to resolve cases of indigenous communities whose ancestral domains were at risk due to encroachment, social conflict and unpeace. One of the cases dealt with the problematic application of IPRA in the ARMM. Through this initiative, the NCIP committed to enter into a Memorandum of Understanding with ARMM through the OSCC to draft an Executive Order to establish a mechanism for devolution.

A joint technical working group composed of technical staff of the OSCC and the NCIP recommended that the OSCC be devolved to the ARMM and be renamed as NCIP-ARMM. The draft Executive Order called for the transfer of personnel, budget, equipment, assets and

liabilities, and properties of OSCC to the new office. It also stipulated the turnover of the NCIP office in Basilan (except Isabela City) to OSCC and the expansion of the latter's area of coverage to the provinces of Maguindanao, Lanao del Sur, Sulu, Tawi Tawi, and Basilan plus the city of Marawi. This was submitted to former President Gloria Macapagal-Arroyo but was not acted upon.

There were two tracks taken by the Third and Fourth Commissions to render IPRA applicable in the ARMM: 1) devolution of NCIP powers and functions to the ARMM through the transformation of the OSCC into an NCIP regional office; and, 2) delineation and titling of the "unified Teduray-Lambangian-Dulangan Ancestral Domain" in Maguindanao Province. As shown in the previous section, the NCIP Leadership from 2003 to 2005 pushed for the implementation of the IPRA in the ARMM through a series of executive fiat. From 2003 to 2006, former Central Mindanao Commissioner Jannette Cansing Serrano, attempted to advance the rights-based policy by proposing to process the CADTs of the IPs in the ARMM as well as CADTs of Islamized (Bangsamoro) IPs outside the ARMM, notably of the Maguindanaon in Central Mindanao and Zamboanga del Sur, and the Maranao in Lanao del Norte.

It was about the same time that ARMM sought a capacity building program from the Asian Development Bank to enable the autonomous government to

accomplish the devolution of national offices. Former ARMM Executive Secretary Nabil Tan, revealed in 2003 the state of the delivery system of autonomy and governance to the donor community in appealing for funds for capacity building:

“Although the ARMM remains an integral part of the Philippines, and the President exercises supervision over the regional governor, RA 6734 (1989), as amended by RA 9054 (2000), provides the basis for autonomy and governance in the region giving wide-ranging powers and functions to the ARMM regional government. These include its own executive, legislative, and judicial powers to impose and collect certain taxes and to exercise powers for the proper governance and development of the ARMM. In line with this, the ARMM government enacted a regional local government code (1993) to further define and enhance autonomy and governance within the region, particularly by local government units. Neither of these founding laws is well understood by LGU officials or citizens, nor fully implemented. For example, service delivery responsibilities have not been fully devolved and powers and functions



remain vested in the regional government. The local government code has not been updated to reflect RA 9054, nor is it widely implemented, with most LGUs still using the national Local Government Code of 1991. One reason cited for the incomplete implementation of the legal framework is the inexperience of officials in both the regional government and the Regional Legislative Assembly (RLA) in translating the framework into policies and enabling regional legislation. The ARMM regional government is constrained in implementing its mandates under these laws by insufficient financial resources, weak institutions and processes, and limited human resource capacity.”

How can devolution be set into motion in a situation where the apparatus of public policy is not in place? In a recent lecture forum on at the University of the Philippines-Manila, DILG Secretary Jesse Robredo, the oversight of the ARMM, defined governance as simply the “relationship between the governed and those who govern” (February 9, 2011, Lecture on Governance and Accountability). Applying this adage to the case at hand would be like blaming the victim of a battered relationship rather than the perpetrator. What kind of

constituency is being developed in the ARMM when the goal of responsible governance is obscured making nugatory the principle that “those who have less in life should have more in law”? Devolution strategies have to transcend institutional reform to evolve a rights-based policy framework.

A leading member of the Indigenous Civil Society, Froilyn Bandara Mendoza observes that tokenism is still apparent in the treatment of the ARMM of indigenous leadership. This could be traced from a lack of vision and purpose since the ARMM considers the role of a deputy governor for IPs as a political honorific rather than a vehicle for social empowerment:

*“Yung nag-iisang position na deputy gov for IP ay para lang masabi na represented yung katutubo nagiging bunga pa nga ito minsan ng pagkahati hati din ng mga tribo wala namang nagagarwa hindi nga nakaupo sa mga cabinet meeting so paano pa niya dadalhin young boses ng mga katutubo, o di kaya katutubo naman siya pero hirap naman siyang i-articulate yung isyu ng katutubo dahil malakas lang siya sa kung sino mang appointing authority na influential na nag-appoint sa kanya kaya nalukluk siya diyan dapat siguro makagarwa ng mekanismo ang mga katutubo kung sino ba talaga ang maaring uupo as dep gov I-define yung kanyang job description at*

*kakayahan dapat siyempre may natapos na sa pag-aaral dahil mahirap din makilahok minsan kapag problematic yung ating competency o kakayan dahil pumapasok din tayo sa modernong pamamahala di tulad noong unang panahon na oral pa lahat...”* (The only position [given to IPs] that of deputy governor is just lip service to show that there is an IP [official in the ARMM], this even creates division within the tribe because [the appointee] cannot even sit in the cabinet meetings, so how can the deputy governor carry the voice of the IPs or articulate on the IP issues when he/she is just there because he/she was placed there with the influence of the appointing authority. Maybe what is needed is a mechanism among the IPs to choose who should sit down as deputy governor, define the job description and the qualifications, it is a must that he/she should be educated, a college graduate because sometimes it is difficult to participate if the competency is problematic [inadequate] as we join or enter modern governance unlike before when everything was just oral [tradition]...Froilyn Mendoza in MindaNews comment on the postponement of ARMM elections,)

The challenge of devolution is both structural and substantial as can be gleaned from a comparison of the rights-based delivery systems. On one hand, this comparative matrix shows that the relationships of the structures of governance are asymmetrical and subsequently intractable where the objective is to build an accountable and inclusive autonomy. On the other hand, relationship between NCIP and ARMM may be redesigned as a complementary and reciprocal exchange of expertise, technology, information and services. Given the uneven terrain of public policy to promote the best interest of IPs in the ARMM, there is a danger that less than a systemic approach may lead to their further minoritization as communities at risk of being assimilated to the dominant Islamized societies. This was a major finding of an ADB study on the implementation of IPRA in Mindanao:

In the Philippines, despite a fairly strong legal and institutional framework, there is still insufficient clarity as to which ethnic groups will be covered by the provisions of the IPRA. Full clarity will be needed if the Government carries out its pledge to accelerate the issuance of ancestral domain titles between 2002 and 2004. The issues are particularly complex in Mindanao, where the distinction between indigenous and Muslim identity

is not always clear. Muslim groups might henceforth choose to identify themselves as indigenous in order to pursue ancestral domain claims. (Roger Plant, “Indigenous Peoples/Ethnic Minorities and Poverty Reduction Regional Report,” Asian Development Bank 2002)

To achieve an optimal level of reciprocity and complementation, there is a need to amend the Organic Act to define and specify the structural and substantial features of an RBAP framework for the legal recognition of IP rights in the ARMM.

**The Struggle Continues:  
Uphold the Rights of  
Indigenous Peoples**

## **The Struggle Continues: Uphold the Rights of Indigenous Peoples\***

The recognition and protection of indigenous peoples' rights is one struggle that has been carried out passionately for many years now. Over at the United Nations, the adoption by the general assembly of the declaration of the rights of the indigenous peoples on September 13, 2007 sparked worldwide jubilation among indigenous cultural communities and various support groups from civil society. While the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is not a legally binding instrument, it sets "an important standard for the treatment of indigenous peoples that will undoubtedly be a significant tool towards eliminating human rights violations against the planet's 370 million indigenous people and assisting them in combating discrimination and marginalization," the UN says.

In the Philippines, the passage of the Indigenous Peoples' Rights Act (IPRA) on October 29, 1997 caused similar jubilation that reverberated even from the farthest outskirts of the Philippine society, home to approximately 14 to 15 million indigenous peoples subdivided further into 110 ethno-linguistic groups. The

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\* LAG's Ramie Toledo took note of the proceedings in Cotabato. Prof. Rommel Banlaoi of PIPVTR reported the proceedings from Makati.

common understanding then was finally a national law to protect and uphold the rights of the indigenous peoples has come at last.

IPRA with the four bundles of rights it swore to protect upon its passage into law came like a long-awaited rain. A downpour of celebration temporarily quenched lips that parched from shouting too long in the streets and legislative halls the aspiration for the recognition and protection of indigenous peoples' rights. These four bundles of rights include the right to ancestral domain and lands, right to self-governance and empowerment, social justice and human rights, and right to cultural integrity.

IPRA provides for the establishment of the National Commission for the Indigenous Peoples (NCIP) which the law mandates to "protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions." Unfortunately, as to what extent the NCIP has lived up to its mandate or how IPRA has been implemented since its passage in 1997 is another continuing sad story of the grievances of the indigenous peoples.

The indigenous peoples in the Philippines continue to figure in social discrimination, economic marginalization and political disempowerment, albeit the presence of IPRA and the existence of NCIP. Subject to



socio-economic and political exclusion, they have remained the most disadvantaged peoples representing the poorest of the poor and the most vulnerable sector.

The Institute for Autonomy and Governance (IAG) has kept abreast not only with the recent developments on the GPH-MILF and GPH-MNLF peace tables but with the current situation particularly of the indigenous peoples in the Autonomous Region in Muslim Mindanao (ARMM) as well.

Elena Damaso, development anthropologist and IAG consultant on IP matters captures the current situation of the approximately half a million indigenous peoples in the ARMM who comprise 20 percent of the population in the region. Damaso says: “The IPs in the ARMM are clearly in a situation of comparative disadvantage with reference to the dominant Islamized ethnic groups like the Maguindanaon, Maranao and Tausug who belong to the power and economic elite.” She adds that the four bundles of rights promised by IPRA “have not been fully enjoyed and exercised by the marginalized ethnic groups in the autonomous region.” The ethnic groups in the ARMM comprise the Teduray, Lambangian and Dulangan Manobo in Maguindanao Province, the Higaonon in two Lanao provinces, the Badjao of Tawi-Tawi and Basilan, among others.

IAG has taken on another challenge to mainstream the rights of the indigenous peoples in the ARMM in the regional governance and ultimately, in the national

agenda. The institute has organized two events in March 2011 to bring forth issues and concerns of the IP sector on the discussion table. The round table discussion in Makati City on March 11 and the forum in Cotabato City on March 28 are aimed at generating ideas on how to make the existing mechanisms viable for the welfare and protection of the indigenous peoples. These ideas will hopefully inform policy makers in designing a roadmap towards full recognition and protection of indigenous peoples' rights.

The round table discussion in Makati was co-organized by IAG's partner institute, the Philippine Institute for Peace, Violence and Terrorism Research (PIPVTR) headed by Prof. Rommel Banlaoi. In Cotabato City, Prof. Shiela Algabre and her team at Notre Dame University assisted in the forum. Konrad Adenauer Stiftung (KAS) provided support for these events.

In the Makati round table, Department of Interior and Local Government (DILG) Secretary Jesse Robredo lauds the Indigenous Peoples' Rights Act of 1997 that guarantees the protection of IP rights and welfare. However, Secretary Robredo has acknowledged that there is work to be done to make IPRA truly work. He stresses the necessity to provide opportunities for affirmative action not only for IPs but also for other sectors that have been neglected. The Interior Secretary laments the partisanship of some local officials whose interests run counter to the interests of indigenous peoples. He says

that there are local government units that are threatened by the idea of having an IP representative in the local legislative assembly.

IAG Director Fr. Eliseo 'Jun' Mercado recognizes the passage of IPRA as a milestone in the struggle of indigenous peoples. However he notes that implementing the law is another thing. Fr. Mercado stresses that it is high time to put IP issues and concerns right at the national table.

The issues and concerns put forward in the Makati and Cotabato fora mirror the general sentiment of indigenous peoples as they continue to wallow in their current situation of poverty, exclusion and disempowerment.

Jeovani Reyes, Secretary General of Koalisyon ng Katutubong Samahan ng Pilipinas (KASAPI) has presented the realities and prospects for IPs in the North in the Makati round table. Reyes has examined the issuance of Certificate of Ancestral Domain Title (CADT) and Certificate of Ancestral Land Title (CALT) as implemented in Baguio City.

CADT refers to the title formally recognizing possessory right of IPs over their ancestral domains. CALT, on the other hand, refers to a title formally recognizing ancestral rights. The NCIP is mandated to conduct survey and issue land titles. Prior to the passing of IPRA, DENR was given the authority to issue

Certificate of Ancestral Land Claims (CALCs) and Certificate of Ancestral Domain Claims (CADC). With the implementation of IPRA in 1997, all CALCs and CADCs should have been converted into CALTs and CADTs under the NCIP.

Reyes cites the Happy Hollow Ancestral Domain as a glaring example of displacement of indigenous people from their territory. Happy Hollow is an Igorot community lying on the extreme eastern side of Baguio City.

The Americans reached this part of the Philippines at the turn of the 20<sup>th</sup> century and carved an area that would later serve as their summer capital and health resort. The Americans also built a military camp that became part of Camp John Hay. By 1909, the entire Happy Hollow was declared part of the camp.

The passage of IPRA in 1997 resulted in the turnover of all ancestral domain claims from DENR to NCIP. Despite the IPRA, the period 1998 to 2000 saw a moratorium on land and ancestral domain claims. But in 2001, 197 “midnight” CALTs were issued to 757 claimants. In 2006, the CADT for Happy Hollow was issued. The Happy Hollow CADT was challenged because it excluded original Ibaloi inhabitants from their time immemorial ownership and replaced by non-Ibalois who are twentieth century migrants. According to Reyes,

this happened through intricate processes and sometimes dubious genealogies.

Reyes recommends the adoption of a pro-active process that demonstrates the viability of customary law and the role of knowledgeable elders in clearing claims. Paragraph A, Section 53 of IPRA says that “Allocation of lands within any ancestral domain to individual or indigenous corporate claimants shall be left to ICCs/IPs concerned to decide in accordance with customs and traditions.” Another provision – Paragraph F, Section 7 Part 1 Rule VIII of IPRA Implementing Rules and Regulations – states that “In case of conflicting claims, the NCIP shall refer the same to the Council of Elders/ Leaders in the community for settlement.” In the meantime, Happy Hollow stands in the face of uncertainty and specter of rapid urbanization even as it keeps its Igorot identity.

Former NCIP Commissioner and now Chair of Derepa te Erumanen ne Menuvu (DEM) Governing Council Edtami Mansayagan stresses even further the need to mainstream indigenous peoples’ issues in the national agenda. In his presentation on the realities and prospects of IPs in the South at the round table in Makati, Mansayagan says that the indigenous peoples are still struggling to be recognized in their ancestral domain. The IPs are not viewed as co-equal stakeholders even in their own territory and ancestral lands. They are,

oftentimes, victim of internal displacement. Worst, IPs who become internally displaced persons (IDPs) are not recorded. "If you are not recorded, you are not entitled to social services and therefore cannot be represented," Mansayagan laments. Mansayagan states further that IPs are not only displaced as a result of armed conflict but also because of land grabbing.

There is also a need to look at the issues of the indigenous peoples from the context of the ongoing peace process between the government and the revolutionary fronts. Mansayagan says that the IP ancestral domain must be acknowledged within the framework of the peace process with the Bangsamoro and the CPP-NDF-NPA. Mansayagan has urged everybody to recognize the existence of IPs and their role in nation-building. Only then can the issues and concerns of indigenous peoples truly proceed in the national agenda.

In Cotabato City, Organization of Teduray Lambagian Conference (OTLAC) Secretary General Deonato Mokudef has presented the IP position paper on the peace process between the government and the MILF. According to Mokudef, the position paper is a product of several consultations which OTLAC facilitated to capture the sentiments of IPs in the ARMM on the renewed peace negotiations. The position paper acknowledges the fresh mandate of the current

administration under President Aquino. With the opening of the peace talks, “a portal of expectations” will also be opened, it says. The paper asserts for the recognition of the ancestral domain of the tribes covering an estimated land area of 289,268 hectares situated in Maguindanao, and portions of Sultan Kudarat Province and Cotabato City.

The position paper states further that the IPs uphold the principle of peaceful co-existence. They “recognize and support a broader territory for the Bangsamoro people as a nation for the sake of genuine and lasting peace development in Mindanao provided that the Bangsamoro shall recognize the Teduray, Lambangian, and Dulangan Manobo territory within the Bangsamoro Nation.” Side by side with their Muslim sisters and brothers, the IPs “want to have equal opportunities and representation in all levels of governance, from local to regional level.”

The legal landscape wherein the IPs can realize their well-being could have been better given the presence of IPRA. In the ARMM, however, IP sectors and civil society have repeatedly pointed out that the Regional Legislative Assembly (RLA) of the Autonomous Regional Government (ARG) has yet to enact an enabling law for the full recognition of indigenous peoples’ rights as based on IPRA, the 1987 Constitution and international law.

Timuay Justice and Governance (TJG) of the Teduray and Lambangian tribes has noted the “low speed” and “hesitation” of some government agencies in the implementation of “certain provisions of IPRA that truly empower the indigenous peoples in the ARMM.”

TJG outlines the issues and concerns that need actions and guidelines from the ARMM up to the national level. These include the immediate review and approval of the draft Implementing Rules and Regulations (IRR) of Muslim Mindanao Autonomy (MMA) Act 241 or the Tribal Peoples’ Act in the ARMM, the implementation of DILG Memorandum Circular No. 2010-119 which provides for the mandatory representation of indigenous cultural communities/ indigenous peoples in policy-making bodies and other local legislative councils, the authorization and support from the Regional Governor through DENR-ARMM for the ‘deputization’ of tribal forest guards for the protection of natural resources, support to community-based conflict management, and the implementation of Free, Prior and Informed Consent (FPIC) in projects affecting the IPs in the ARMM, among others.

NCIP Central Mindanao Commissioner Santos Unsad has told participants in the Cotabato forum that the possibility of devolving the functions of the NCIP to ARMM has been explored as early as 2003. This initiative has led to the Regional Legislative Assembly (RLA) passing a resolution in August 2003. A technical



working group was formed to discuss and formulate an executive order to devolve the functions of NCIP to the ARMM. According to Unsad, the output of the technical working group was already submitted to Malacanang but no word has been heard ever since.

Commissioner Santos has lobbied for the devolution of NCIP in ARMM but his initiative has received ‘cold shoulder’ treatment from the other commissioners in the NCIP. This has saddened the participants from the Teduray, Lambangian and Dulangan-Manobo groups attending the forum in Cotabato City.

One Timuay (Tribal Chief) stood up to say he was hurting considering that the other commissioners that Santos was referring to were IPs themselves.

Teduray-Lambangian Women’s Organization (TLWO) Secretary General Froilyn Mendoza is saddened that until now, the biggest issues of ancestral domain protection, development aggression and human rights have not been fully addressed. She advocates a proactive stance and prods her co-participants in the Cotabato forum to come up with doables to address ‘deficits’ in governance structures in addressing the concerns of indigenous peoples of the ARMM.

Development Consultants (DEVCON) Executive Director Raffy Nabre points out that the residual power and authority of national agencies such as the NCIP can

be explored to move issues forward. Nabre adds that whatever the status of the implementation of IPRA in the autonomous region, at the end of the day, it is still NCIP that must resolve IP issues. As a good start, “Why not simplify the issue on ancestral domain according to evidence to determine where in ARMM is the IP ancestral domain?”

Office of Southern Cultural Communities (OSCC-ARMM) Director Fatima Kanakan, herself an advocate of the devolution of powers and functions of the NCIP to the ARMM to really empower IPs, notes that there is already a commission en banc resolution following the issuance of a resolution by the RLA in 2003. A technical working group was established to draft the executive order that would pave the way for NCIP devolution.

The RLA resolution was issued to proceed with the identification, delineation, and survey of ancestral domains of non-Moro IPs in the ARMM. Kanakan believes that the resolution remains valid despite after many years. She is hopeful that “we can move forward from this point.”

For all the criticisms being hurled at the Commission and the law that created it, NCIP Commissioner Zenaida Brigida Hamada-Pawid strongly believes that the IPRA law and the NCIP remain the “best chance” for IPs so that their issues and concerns will not disappear from the national agenda.

With an annual budget of half a billion pesos, the NCIP has still to perform its quasi-judicial function. The Commission is currently embroiled in a lot of litigation cases, most of which are cases filed in 2008 to 2010 that remain unresolved.

The challenges confronting the NCIP are, indeed, daunting. The ancestral domains of IPs are also battlegrounds of insurgencies. As such, IPs are caught in the crossfire. IPs are caught between many contradictions. They are told to preserve their patrimony but at the same time they are being told to share their lands for the development of natural resources.

Commissioner Hamada-Pawid admits that the NCIP has to regain the trust and confidence of the IPs. Second is the need to establish with other agencies the institutionalized pride in the NCIP. Third, laying the solid foundation of the Commission is very essential. There is no need to duplicate the functions of other agencies particularly the Department of Social Welfare and Development (DSWD). The commissioner adds her voice to what has been pointed out many times that the NCIP develops its own databank so that it will not keep on relying on the statistics of other agencies. One step for this is to call for the general registration of all IPs in the country. The reactivation of the quasi-judicial function of NCIP is also necessary. In relation to this, ways must be identified on how to institutionalize customary law in IP governance.

ConCom Commissioner Ponciano Bennagen has stressed the important role of the Council of Elders in empowering IPs. Through the Council of Elders, IPs have developed a practice in resolving conflicts that need to be institutionalized in the current legal practice. They also have very rich concept of citizenship being citizens of their ancestral territory in which they have inalienable right. There is a need to go back to their traditional concept to appreciate their current status. To empower the IPs and mainstream their issues in the national agenda, an IP constituency has to be built up. IP issues are already recognized by international law and the Philippines must pass a resolution to the UN Convention on the Indigenous People.

On the issue of peace and order and the role played by IPs, Retired Police Director Rodolfo Mendoza, Jr. underscores that IPs have an essential role they can effectively play in the promotion of peace and order. There is a need to mobilize IPs in promotion of peace and order because many crimes are committed in the IP domains. IPs are not only victims of traditional crimes but also of malpractices of multinational corporations (MNCs). Police Director Mendoza has raised the sad reality that the government is focused on the threats posed by New People's Army (NPA), Moro Islamic Liberation Front (MILF) and the Abu Sayyaf Group (ASG) but not on the threats posed by MNCs that victimize IPs in their own ancestral domain by exploiting their natural resources, particularly through the mining

industry. Mendoza observes that some small-scale mining practices in IP areas are actually controlled by rich people in cahoots with MNCs. General Mendoza describes MNCs as exploiters of IPs.

Lieutenant General Raymundo Ferrer, Commander of the Western Command of the Armed Forces of the Philippines, says that there is no major security problem confronting IPs in Western Mindanao. However, in CARAGA region, there are IPs who have become victims of NPA activities. Thus, there were cases of arming the IPs by the military to protect them from communist rebels. There were also cases of communist rebels arming the IPs resulting to IPs waging war against fellow IPs. LtGen. Ferrer has clarified that NPAs are also located in IP areas thus their involvement in internal armed conflicts cannot be avoided. IPs have also their own *rido* or clan wars. There are also pro-government IPs and pro-NPA IPs.

Com. Bennagen has stressed the need to focus on policy matters. There is a need to go back to the precondition for legal pluralism in the Constitution. In the 1987 Constitution, there is the concept of autonomy within autonomy, which upholds the principle of legal pluralism. Implementing legal pluralism in the Philippines that concerns the IPs truly requires building capacity and capacity building must start now. The idea of IP mainstreaming is something that is good. But mainstreaming shall mean inclusion without assimilation.

Sad to say, IPRA has brokered the tradition of assimilation as in the case of CARAGA Region. There is, therefore, a need to broaden the notion of capacity building. IP desks in various departments of the government can be installed. This can also be applied to MNCs and NGOs. The NCIP can be re-arranged based on these configurations.

Elena Damaso says that the IPs have legitimate grievances that deserve attention from authorities. In the ARMM, IPs are found in conflict-affected areas. As such, their right to participate in the peace process must be recognized. The traditional governance systems and conflict resolution practices of IPs must be acknowledged and accredited. Aside from these long-standing issues, IPs are also increasingly being affected by the emerging concern on climate change. IPs in all eco-zones must be trained on climate change mitigation and local adaptation. In fact, IPs have a lot indigenous knowledge to share on many issues that fall within their ancestral domain.

The issues and concerns of the indigenous peoples in the ARMM and throughout other regions are issues and concerns of the Filipino people. They deserve space in the government agenda. The issues and grievances of the indigenous peoples must be heard and acted upon now if we are truly for genuine peace and development.

**BASELINE RESEARCH AND ADVOCACY  
FOR LUMAD WOMEN'S RIGHTS  
AMONG THE TEDURAY-LAMBANGIAN  
TRIBE IN MAGUINDANAO AND  
SHARIFF KABUNSUAN**

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Pambansang Koalisyon ng Kababaihan sa Kanayunan  
(PKKK)

Teduray Lambangian Women's Organization, Inc.  
(TLWOI) Centro Saka, Inc.





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## **Baseline Research and Advocacy for Lumad Women's Rights among the Teduray-Lambangian Tribe in Maguindanao and Shariff Kabunsuan**

### **I. THE TEDURAY LAMBANGIAN PEOPLE**

*This section is based on the 1996 Petition of the Mamalo Descendants Organization (MDO) for their Téduray Ancestral Domain claim (submitted in compliance with DENR AO No.2).*

Until the coming of Islam in Mindanao roughly four and a half centuries ago, the Maguindanao and the Téduray were one and the same people. The Maguindanao and the Téduray were believed to have descended from two brothers, Mamalu and Tabunaway. According to legend, when Sharif Kabungsuan came to teach Islam, Mamalu, the elder brother refused to beconverted while the younger brother, Tabunaway, embraced the Islamic faith. With this major turn in their lives, the brothers made a pact that Mamalu would go to the mountains and Tabunaway would make his living near the lowlands and near the delta of the big river (now known as the Rio Grande de Mindanao); they also agreed to trade with each other. The brothers went their separate ways with their respective followers. This separation happened around 1300 AD. The elder brother Mamalu's descendants are now known as the Téduray and Dulangan Manobo peoples, while the younger brother Tabunaway's descendants are the Maguindanao people.

Historically, institutionalized trading pacts did exist between the Téduray Baglalan (headsmen or tribal title holders) and the Maguindanao Datus of the coastal area and valley. During the pre-spanish period, a system of trade between the Téduray, Dulangan Manobo and Maguindanao flourished. The former traded tobacco, beeswax, rattan, gutta percha, (sap of a tree the Téduray called Tefedus use as ingredients for insulation materials), almaciga and crops. The Maguindanao traded clothing materials, iron tools and salt. During this time, the people of the Cotabato river basin had been won over to Islam and had established a Sultanate all over Maguindanao.

Based on later developments it seems that this trading arrangement with the Maguindanao has inhabited the development of manufacturing among the Téduray. Very much unlike the other peoples in Mindanao the Tédurays have no weaving, pottery or metal works. These basic needs were secured through the trading system with the Maguindanao.

Spanish influence in the Téduray areas came rather late in the 19th century. It was already towards the end of the Spanish colonial rule in the Philippines that the central government in Manila and the Roman Catholic church were able to establish a stronghold in Cotabato. The Jesuits built a school near Awang close to the mountain region and the Spaniards were able to convert a number of Tédurays to Catholicism. By 1900s, the war between the American occupation forces and the Muslim

people of Mindanao signaled another phase of colonization. The Americans through the efforts of a Philippine Constabulary Officer named Irving Edwards who married a Téduray built a school in Upi in 1919. This development paved the building of roads into the Téduray territory and opened up the region to numerous lowland Christian settlers, mostly Ilocano and Visayan and Upi valley became the site of many homesteads. The Americans introduced the idea of titling lands as homesteads.

A significant number of Tédurays were persuaded to give up their traditional slash-and-burn methods of cultivation and they shifted to farming with plow and carabao. This was the beginning of the dichotomy in Téduray culture: many Téduray refused to be acculturated and retreated deeper into their ancestral mountain habitat, while others resettled in the Upi valley and became peasants. Many of the resettled and modernized Téduray have been converted to Christianity as a result of

**Creation Myth.** The creation myth centers around a female deity called *Minaden*, who shaped the world and the first creatures living on it. She fashioned human beings from mud. Having done this, she placed the sun between the earth and the sky and brought forth daylight. The world is believed to be divided into eight layers, the topmost layers occupied by *Tulus*, who was *Minaden's* brother. The *Tulus* was also known by other names, such as *Meketefu* and *Sualla*. The first two human beings created by *Minaden* began to grow, but after sometime, they had not yet begotten any offspring. *Meketefu* came down from the skyworld and saw that the male reproductive organ was as small as a tiny red pepper,

years of evangelization work by “clergy who are either American missionaries Filipinos from Luzon or profoundly westernized Téduray” (Schlegel 1970:9).

During the centuries of fighting between the Spaniards and the Moro people, some of the latter fled to the nearby upland territories and joined the Téduray there. The Spaniards and later the Americans sought to contain Moro influence by making the Téduray Christian and sedentary through missions and schools; they also protected the Téduray with soldiery. They also established plantations along the coast and used Téduray labor on them. Since the 1900 Christian Filipino colonists, land speculators and logging interests have entered the Téduray uplands along with Chinese storekeepers in the

and that of the female was as big as a snail shell. Furthermore, their noses were upside down and whenever it rained, they caught water, making two human beings sick.

*Meketefu* decided to create his own clay figures of a man and woman. Using an old bolo, he struck the female figure, wounding her where the legs joined together. As he did so, the handle of the bolo flew off and struck to the middle part of the male clay figure. He also turned their noses right side up, so they would not take in rainwater. Soon after, the two creatures were able to bring forth a child into the world. But no food was available to nourish themselves and the child eventually died. But the world had no soil and the child could not be buried. And so the father begged the god *Meketefu* to give them soil. Much later, various types of vegetation sprouted from the plot of the earth where the child was buried. One part of the plot gave forth plants and lime for chewing. The hands turned into bananas, the nails into nuts, the teeth into corn, the brains into lime, the bones into cassava, and the ears into betel leaf (Patanne 1977:256 and Wood 1957:15-16).

valley.

Today the Tédurays share a common fate with the many ethnic peoples in Mindanao. The rapid changes in their social and physical environment as brought about by the onslaught of different cultures have changed their way of life. To the Tédurays who have settled in the valleys and have maintained intense contact with lowlanders, both Christians and Muslims have been acculturated. Their adoption of sedentary agriculture has drawn them deeper into the market and cash economy typical of the rural economy of the entire country. This group of Teduray is now peasantized, live in relation to market systems, and though they still have some loyalty to their distinctive ethnic identity, they have become constituent elements of some larger political integration and usually, must speak some language other than their own to get along in the larger social whole which their society is merely a part. Many of them have accessed education and a number of them have settled in the cities and nearby provinces to seek greener pastures. Little by little they are aspiring for leading roles in local governance although they still constitute the constituency of those Maguindanao who have through the years made their presence felt in the local politics.

A glaring contrast are those Téduray who refuse to embrace the changes and are now forced to go deeper in the mountains due to the onslaught of logging and other economic interests.

### **Territorial Claim.**

The Tédurays are traditional hill people of southwestern Mindanao. They live in the upper portion of a river-drained area in



the north-western part of Cotabato, where the mountainous terrain of the Cotabato Cordillera faces the Celebes sea. The Téduray call themselves *etew teduray* or Téduray people but also classify themselves according to their geographical location: *etew rotor*, mountain people; *etew dogot*, coastal people; *etew tran*, for those living along the Tran river; and *etew Ufi* for those who live within and near the town center. According to the latest census, there are about 200,000 Tedurays. The Teduray are Malay in physical features and their language is structurally related to those of the Malayo-Polynesian family (Schlegel 1970:5).

The Téduray people have occupied the same area for several centuries, despite the varying degrees of assimilation and acculturation. The Téduray are animistic and swidden farming people who live in the northern reaches of the Cotabato cordillera in southwestern Mindanao.

The present habitat of the Téduray constitutes a small portion of their ancestral domain. The Téduray

account to the long history of its physical occupation which dates back even before the advent of Islam in the Philippines in the 12th century.



Tracing their roots

from Mamalu, the Téduray traced occupancy to as far as Awang and PC Hill in the north, occupying large portions of the Cotabato city and then stretches far to Dinaig down to the west, the Tran river in the south straddling its boundary with the Manobo and the coast of Illana bay on the east. The genealogy of the Téduray provides convincing proof that the Téduray have actually lived there for centuries.

**Lambangian.** Part of the Téduray's genealogy are the Lambangian people. **Lambangian** is a tribe that traced their roots to the historic war between the Téduray and Dulangan Manobo hundreds of years ago in a place called Binusugan near the Tran river now called Barangay Villamonte in Lebak, Sultan Kudarat Province. The tribal war was caused by the kidnapping of Dulangan Manobo experts in collecting honey bees; they were sold by the Téduray to the Maguindanaoan to serve as slave in collecting honey that in turn will be traded with the Chinese merchants.

The tribal war lasted for ten cropping seasons, or equivalent to ten years of conflict. The Téduray warriors came from as far as Bantek, Senigang and Balalaen while the Dulangan Manobo warriors came from Buyaan, Mrawir and upper Tran. As a result, both party succumbed casualties and this was only neutralized when a long drought called “lenggob” started to inflict damage to the agricultural production areas of the whole populace of both the Dulangan Manobo and Téduray. The *lenggob* brought food and water crisis for almost three years. At that time, the only place without food shortage was in tuduk Mrawir, the place of datu Midtu of the Dulangan Manobo.

Aware of the abundance of food at tuduk Mrawir, one Téduray Chieftain and his family tried to cross the war torn areas of Binusugan going to Mrawir to look for food. With all his wisdom, he succeeded to penetrate tuduk Mrawir without any untoward incidence and the Téduray Chieftain was able to explain to datu Midtu the negative effects of war and the *lenggob*. The two leaders concluded that God punished them because of the tribal war they engage so they decided to stop the war but datu Midtu asked to marry the daughter of the Téduray Chieftain.

After the drought, the Téduray chief went back to his place bringing with him seeds of rice, corn and other agricultural products. His fellow chieftains were surprised because they taught that he and his family were



already executed by their Manobo enemy. Knowing that he's still alive and was able to penetrate the Dulangan Manobo territory, they called him datu Dikalawanan, a tribal title which means supreme datu. From then on, a formal negotiation took place until such time that the relationship was normalized.

The negotiation took place in the war zone area called Binusugan, in Dulangan Manobo means battle field using bow and arrow but the name was corrupted by the present settlers and called it Villamonte, a barangay located east of Lebak. In the negotiation, both parties agreed to stop the conflict and swear not to do it again and instead maintain a friendly relationship. The agreement was sealed with inter-marriage of four young men and women from both the Téduray and Dulangan Manobo as a symbol of unity and oneness of the Téduray and Dulangan Manobo.

This was finally concluded with a ritual and prayer that gives the name **Lambangian** to the coming offsprings of the newly-wed Téduray and Dulangan Manobo men and women. It was stated that any violation of this negotiation of the armed conflict would mean that the Lambangian shall be cut into pieces signifying the nullification of the agreement. Since then on, no war between the Téduray and Dulnagan Manobo took place.

**Téduray World View on Land.** To understand the Téduray concept on land necessitates a deeper insight into its view on property or use right. This can be gleaned from the Téduray word “gefe” which roughly corresponds to having exclusive rights to something over its present use. According to Schlegel, to be gefe of something is when a person has not only an emotional or even economic interest on any object, person or even a ceremony but also a legitimate personal oversight.

Use of land for the Téduray applies the same concept directly in the sense of right of usufruct. A swidden belongs to a person who is gefe until after harvest time during which the sight is laid to fallow and that person is no longer gefe over the site. Once it has been publicly marked through community rituals, a land selected by an individual for a swidden is free for his/her use. For the Téduray, the right to use the swidden site is not hereditary. After a single cropping cycle the site reverts to public domain and cannot be inherited by descendants. Swidden cultivation is a system of agriculture practiced by the Téduray and guarantees a member of the tribe the right to use the land within a whole cropping cycle. After fallowing, when the forest vegetation has been restored the site is again free to anyone who may select it as his or her swidden for that cropping cycle. In this context the Téduray concept of land utilization is inextricably linked with their concept of use right. This is a marked contrast with the present context. The system of land ownership of the national

government as stipulated in government laws has forced the Téduray to give up the land concept which has sustained their tribe for generations.

**The Téduray Lambangian Women's Organization, Inc. (TLWOI)** was founded in September 25, 1994 in South Upi. TLWOI is a grassroots based umbrella organization of tribal women with members from the hinterlands of Maguindanao and Shariff Kabunsuan provinces. The TLWOI incorporates 35 grassroots based Téduray and Lambangian organizations. It envisions helping the tribal women enhance their capacities in community development according to each one's defined needs. TLWOI strives to achieve environmental and sustainable development with respect to their indigenous culture; likewise uphold their basic rights as tribal women when it comes on decision making, community development projects and the promotion of peace and justice.

## **II. Project Background**

This project is an offshoot of the 2007 UN Joint Programme grant fund for Local and Sectoral Application of CEDAW implemented by the Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK) in 2007-2008. It generally aimed to understand the processes of implementing CEDAW among the farmers, fishers and indigenous peoples. The following flow chart illustrates the links of CEDAW provisions,

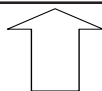
especially Article 14, to the Rural Women's Agenda of PKKK (indigenous women concerns are highlighted).

**CEDAW Article 14**

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the non-monetized sectors of the economy and shall take appropriate measures to ensure the application of provisions of this Convention to women in the rural areas.

2. States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on the basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- To participate in the elaboration and implementation of development planning at all levels;
- To have access to adequate health care facilities, including information, counseling and services in family planning;
- To benefit directly from social security programs;
- To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as inter-alia, the benefit of all community and extension services, in order to increase their technical proficiency.
- To organize self-help groups and cooperatives in order to obtain equal access to economic opportunities through employment or self-employment;
- To participate in all community activities;
- To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- To enjoy adequate living conditions, particularly in relation to housing, sanitation, water, transport and communications.



**CEDAW Concluding Comments**

Par.30. Pay special attention to the needsof rural women, **indigenous women and Muslim women living in ARMM**, ensuring that they have access to health care, social security, education, clean water and sanitation services, fertile land, income generations opportunities and participation in decision making processes.

#### RURAL WOMEN'S AGENDA

- 1) Rural Women's Property Rights in Agrarian Reform;
- 2) **Rural Women's Property Rights in Ancestral Domains;**
- 3) Rural Women's Property Rights to Coastal Resources;
- 4) Access to Safe and Adequate Food, Potable Water, and Basic Services;
- 5) Access to Sustainable and Women-Friendly Agriculture and Fishery Support Services;
- 6) Representation and Participation in the Implementation of Gender and Development (GAD) Programs and Local Sectoral Representation (LSR);
- 7) Fulfillment of Reproductive Rights and Protection from all forms of Violence and other oppressive gender relations; and,
- 8) **Fulfillment of Rural Women's Peace Agenda, especially in Mindanao.**

*Target: Integrate women's rights into the SECTORAL AGENDA*

#### RIGHTS OF WOMEN FARMERS

*Output: RW indicators and monitoring tool*

#### RIGHTS OF WOMEN FISHERS

*Output: RW indicators and monitoring tool*

#### RIGHTS OF INDIGENOUS WOMEN

*Output: RW indicators and monitoring tool*

#### CEDAW Concluding Comments

Par.30. Pay special attention to the needs of rural women, **indigenous women and Muslim women living in ARMM**, ensuring that they have access to health care, social security, education, clean water and sanitation services, fertile land, income generations opportunities and participation in decision making processes.

*Sectoral application of CEDAW Article 14 and Concluding Comments on rural women in model communities:*

- o *farming community in Quezon province*
- o *coastal community in Northern Samar*
- o ***indigenous community of the Teduray Lambangian tribe in Maguindanao***

- o *Developed "Framework Paper for CEDAW Implementation for Rural Women and Indigenous Women", which will include recommendations for community-based approaches and policy reforms*
- o *Write-up on "Status of Rural Women and Indigenous Women in model communities", which will be based on selected and integrated indicators*
- o *Increased understanding of CEDAW among the project participants*
- o *Developed community-based advocacy plan for claim-taking of rights for 2008*

In connection with the indigenous women sector, the case of the Téduray women in the Autonomous Region of Muslim Mindanao (ARMM) was considered. Research was conducted in two barangays of Maguindanao province and involved the active participation of the Téduray Lambangian Women's Organization Inc. (TLWOI). **One of the concerns expressed by the organization and other**

*"Poverty is prevalent in Teduray communities with people commonly engaged in shifting 'slash and burn' cultivation. Income derived from farming of rice, corn, root crops or vegetables, is approximately between P1,000 – P2,000 a year. The core group in Kuya noted that the those who earn higher (P3,000 a year) are the Christian settlers in the community who, aside from farming, are also engaged in livestock production." – Observations in the two Lumad barangays of Kuya and Rifao, which are the research areas of the 2007 Local and Sectoral Application of CEDAW Project.*

**Teduray women was the practice of early and arranged marriage which has negative consequences on girl children. Other issues included widespread illiteracy, poor quality of health, lack of access to potable water,**

Hence this project - *BASELINE RESEARCH AND ADVOCACY FOR LUMAD WOMEN'S RIGHTS AMONG THE TEDURAY-LAMBLANGIAN TRIBE IN MAGUINDANAO AND SHARIFF KABUNSUAN*- is conceptualized to further deepen understanding of the Téduray women situation in order to generate learning that may be considered in enhancing development strategies with other indigenous or Lumad groups. In

this project, the TLWOI spearheaded the full implementation of this project that includes the following activities: **inadequate livelihood, environment degradation and prevailing armed conflicts.**

1. Baseline research on early marriage, socio-economic and political context covering five(5) barangays in South Upi and eight (8) barangays in Upi (North), Maguindanao.
2. Leadership and advocacy training on human rights awareness.
3. Popularizing advocacy on human rights and gender – responsive governance through radio.
4. Establishment of model communal farm to enhance self-help provision.
5. CEDAW orientation and advocacy dialogue with local government units.

**Project Coordination.** In the earlier project (2007-2008), Centro Saka Inc. and PKKK provided the necessary support to the women's organization, TLWOI. The TLWOI is a member of the Pambansang Koalisyon ng Kababaihan sa Kanayunan (PKKK) and is part of the National Council of Leaders, representing the Lumad Women in Mindanao. For this 2009 Baseline Research and Advocacy for Lumad Women's Rights, the TLWOI acts as the main implementer of the project at the local level, while Centro Saka, Inc and PKKK act as facilitator-coordinator at the national level.

Between October to December 2008, the TLWOI and PKKK discussed the mechanisms for the project implementation. This included finalizing who will constitute the project team, namely TLWOI (Over-all Project Coordinator), PKKK and Centro Saka.

As the Project Coordinator and main implementer of the project, it was clear to the TLWOI's Council of Leaders that they were key actors and not just beneficiaries in this project; hence they ensured the full cooperation of the tribal leaders in all the activities. In relation, the TLWOI Project Coordinator attended the Forum-Seminar on *Monitoring State Obligation through CEDAW* held at Cebu City on December 10-12, 2008. Participation to this activity aimed at acquiring knowledge on tools for CEDAW monitoring and assessing applicability to the indigenous women's experience.

PKKK acted as the project holder for this project and primarily managed the financial component of this project. PKKK was also responsible for monitoring the progress of the project and its relation to the over-all CEDAW Advocacy campaign of the rural women coalition. The PKKK also facilitated the canvassing of equipment for the project.

Centro Saka is the Research Committee head of PKKK and has existing working relations with TLWOI on various programs, such as rural women's capacity



building, tribal justice and governance documentation, and promoting sustainable livelihoods (rice and coconut sectors). Centro Saka also assisted PKKK in the implementation of the 2008 CEDAW Localization and Sectoral Application Project.

### **Indicative**

**Plan.** In February, the project team and the Council of Leaders of TLWOI tackled the expected project outcomes, outputs and activities, vis-a-vis the proposed



implementation period of October 2008 to September 2009. In re-assessing the situation and resources, the team proposed that the Indicative Plan be revised to cover the period of February 2009 to February 2010. The project implementation schedule was set as follows:

(1) Baseline Survey on early marriage:

- January, research design and instrument finalization
- 1st week of February, research training
- February 25 to May 25, data gathering
- May to August, data consolidation and analysis

(2) Human Rights Training of IP Women Leaders:

- March, Module preparation
- April, Training proper

(3) Advocacy at the LGU and Regional ARMM and line agencies:

- May, consultations with the barangay officials for the Baseline survey
- September, presentation of and dialogue on the Baseline Survey results
- October, local dialogues on the Observation of the Rural Women's and Indigenous Peoples' month.

(4) Radio Advocacy:

- April, skills training on radio program/production.
- May to February 2010, radio production and radio broadcasting.

(5) Socio Economic Component

- March to April, feasibility study
- May to June, land preparation of communal farm.
- July/August, planting/farming.
- September, rice festival/harvest time for organic rice farmers; TLWOI farmer members as source of seeds/planting material for the communal farm.

(6) Terminal Report Writing

- January 2010 to February 2010, terminal report preparation and assessment activities.
- March 2010, terminal report editing and submission.

The PKKK and TLWOI ensured that the mechanisms for budget transfer would be efficient at both ends; hence, orientation on the financial procedures was facilitated by the PKKK Finance Staff at the beginning of the project. Monthly and quarterly finance reports were also generated.



At the start of the project, the TLWOI anticipated that security concerns would escalate in the villages during the first quarter of this year. This was still related with the defunct signing of the MOA-AD (Memorandum

of Agreement on Ancestral Domain that was originally prepared for the peace processes in Mindanao last August of 2008) and the ensuing tensions between the military and so-called lost command of the Moro Islamic Liberation Front (MILF). The communities have experienced armed groups passing through their villages, especially at nights. This situation bore little implication to the start-up activities since the team decided to work by cluster of areas, i.e. clustering the barangays and holding meetings in a relatively safe area. The clustering enabled the Baseline Research Survey to still cover the desired number of barangays.

What the team did not anticipate was the Ampatuan Massacre of November 2009 that resulted to the mass killing of fifty-seven people (30 were journalists) arising from the political and family feuds. This put the Maguindanao province under martial law, bearing implications to some of the project activities and engagements.

The following chapters narrate the accomplishments of the project as presented according to the major outputs.

### **III. Baseline Research**

#### **Baseline Research on Early Marriage, Socio-Economic and Political Context of the Teduray Lambangian Women.**

##### **A. Preparatory Activities**

The research tool was drafted in January 2009 and was proposed to the project team during an orientation meeting on February 7 – 10, 2009, held at the St. Joseph Retreat House (Oblates of Notre Dame) in Tamontaka, Cotabato City. Through the facilitation of the Centro Saka and PKKK staff, the TLWOI Council of Leaders discussed the UNJP project and validated the soundness of the research design and tool for the baseline study. The meeting also served as a mentoring exercise for the

core group who composed the research team, who took time to pre-test the draft questionnaire among members of the council. By simulation, the leaders were able to grasp the idea on how to conduct Key Informant Interview (KII) and Focus Group Discussion - the techniques used in the data gathering.

It should be noted that as early as the first quarter of 2009, the leaders have expressed concern regarding peace and order security in their communities. The Teduray women anticipated that security concerns could escalate should negotiations fail between the Moro Islamic Liberation Front (MILF) and the Government of the Republic of the Philippines (GRP). The MILF command had shown impatience with the slow paced negotiation process particularly when the government withheld the approval of the MOA-AD pending further review and consultation. As a result, MILF ground troops started roaming around villages especially during the nights which caused severe anxiety to the Teduray women.

With such volatile situation, the first and foremost consideration for the research was the security of the team. The research team was composed of 3 groups (two per group) which shall gather data in 13 barangays (5 in South Upi, 8 in Upi). For safety concerns, the barangays were clustered into six (6), wherein one cluster consisted of two adjacent barangays enabling the teams

to easily go from one barangay to another.

Each team had two target clusters to visit, but, all three groups went together to visit one barangay

which was the farthest and remotest target area. By clustering the teams were able to conduct data gathering in more secured places. In addition, courtesy calls and letters were sent to the LGUs, Barangay officials, “Timuays” or tribal leaders and even the military to allow the team to conduct activities in the barangays. Since Maguindanao has been declared by the government under military alert, the team needed to inform the AFP and/or CAFGU detachments present in the areas. Such thorough coordination legwork activities consumed the whole of February.

### **RESEARCH TEAMS**

1. *Froilyn Mendoza; Perlita Landigan and Doris Dae Martinez*
2. *Elsie Mokudef; Rachel Tahay*
3. *Florencia Badisto; Edna Bobolaguey*

## **B. Data Gathering**

Data gathering and consolidation started from March until June 2009. The study targeted 13 barangays under Upi and South Upi municipalities. The areas identified were predominantly Téduray communities, and were comparatively safe to travel and visit, given the unstable situation in Maguindanao. These barangays

<b>SOUTH UPI (5 Barangays)</b>	<b>UPI (8 Barangays)</b>
Bongo	Bayabas
Itaw	Bantek
Kuya	Darugao
Looy	Kaba – Kaba
Romongaob	Ranao Pilayan
	Renti
	Remfes
	Rifao

were the following;

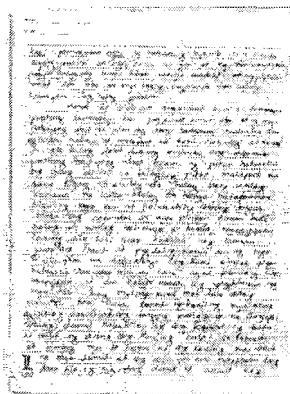
Focus Group Discussion (FGD) and Key Informant Interview (KII) were employed as data gathering techniques. The FGD was conducted per cluster with at least 8-10 participants coming from two adjacent barangays. The clustered barangays were the following;

- Bongo and Looy
- Kuya and Romongaob
- Rifao and Renti
- Ranao Pilayan and Bantek
- Remfes and Kaba – Kaba
- Darugao and Bayabas
- Itaw (the farthest and remotest area)

The KII was conducted among the barangay officials, with special attention on answering questions about indigenous women's political participation. These informants were the following;

Name	Position	Barangay
Rudy Minted	Barangay Captain	Renti
Marlon Michael Bansigan	Barangay Captain	Looy
Kulpong Kasim	Barangay Captain	Bongo
Salapudin Andres	Barangay Captain	Bayabas
Emelio Deano	Barangay Captain	Darugao
Nelson Timuay	Barangay Kagawad	Kuya
Manuel Martinez	Barangay Secretary	Kaba-Kaba

The profile of select FGD respondents per barangay was gathered. The teams also tried to request barangay profiles from officials but were unable to get even a single profile since the barangay officials claimed they do not maintain such record. Moreover, the researchers were encouraged to keep a diary/journal and write about their observations, learning experience and reflections in conducting the activity.

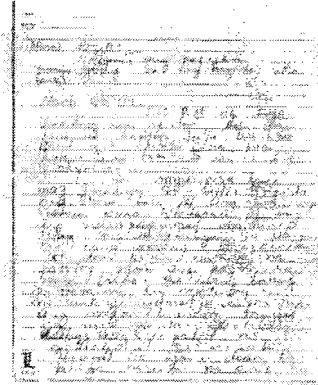


Sample Journal Entries

"...at dun nakita namin ang paghihirap ng mga tao. Kung mahirap kami, mas lalo silangmahirap kasi halos lahat ngkanilang mga anak ay walang damit at ang bagong panganak na sanggol at sako ng arina angkanyang balot sa katwan..."  
 (...we saw the extent of poverty. We ourselves are poor, but they are more deprived; almost all of the children have no clothes on; the newly-born baby was just covered with a flour sack..)  
 - Edna "Inaw" Bobolaguey



*"Nagumpisa kaming mag interbyu sa Sitio Maguda, Bgy. Itaw bale 14 ang na-interbyu namin puro illiterate, Isa lang ang nakapag-aral. Mahirap talaga ang maginterbyu.." (We started to do the interview in Sitio Maguda, Bgy. Itaw; there were 14 women, majority were illiterate; only one of them has attended school. It's really difficult to conduct the interview...)- Perlita Landigan.*



### C. Results

Upi and South Upi, are mountainous towns located at the southern portion of Maguindanao. Upi used to be under Shariff Kabunsuan Province however, in January 2009, Supreme Court decision ruled the creation of the province as unconstitutional. Under the Philippine Constitution, cities and provinces could only be created by a law passed by the National Congress. Shariff Kabunsuan was created by the Regional Assembly for the Autonomous Region of Muslim Mindanao, therefore, the law establishing the province was considered null and void. Upi now became part of Maguindanao province.

### A. The Téduray Women Respondents

From the profiling conducted, a total of eighty two (82) Téduray women were interviewed. *For South Upi.* Forty seven (47) women were surveyed from the five (5) barangays. Their ages ranged from late teens to 50s. Around 36% of the respondents (17 women) were in their 20s while only 4 % (2 women) were under 20. Four women (8%) declared that they have no idea about their age.

As regards the number of children, most of the respondents have around five (5) children, but onerespondent has as many as eleven (11) children and one has only one (1). In terms of education, the respondents mostly finished the primary level (Grade 1 until Grade 4); there were 2 respondents (one each from Barangays Bongo and Kuya) who have reached college level.

In all the five barangays, the research teams have encountered participants who could neither read nor write, with Barangay Itaw having the most number of illiterate women (12 out of 18 respondents).

*For Upi.* From the eight barangays, thirty five (35) women participated in the study. Their ages ranged from 20 to 50 years old;



most of them were in their 40's. Majority has six (6) to eight (8) children; only one has 10 children and another has 11 children.

Unlike in South Upi, many respondents were able to graduate from elementary (Grade 6) and some have reached high school, but still there were respondents who were illiterate.

## **B. Socio- Economic Condition**

*One could easily observe that poverty is prevalent in the thirteen barangays. These are far-flung areas without electricity, such as the case of the six barangays (Bongo, Romongaob, Bayabas, Darugao and Remfes). As for the areas with electricity, solar power source is provided by AMORE, however, the women claimed that services is only affordable to a few. AMORE charges P350.00 per month for the services.*

Tedurays generally obtain their source of livelihood from farming. Some are into fishing, hunting and weaving of handicraft materials. They are traditionally nomadic and until today many still practice agriculture using the kaingin system or shifting, slash and burn cultivation. In farming, the carabao and plow and harrow are very important implements but only a few could afford it. Many had to settle with using the bolo for cultivation. From the FGD conducted, the women mentioned that they commonly grow rice, corn, cassava and vegetables.

In terms of household income, many expressed that they only earn less than P20,000.00 a year. The women from Barangay Itaw lamented that they only earn

as low as P5,000.00 to P1,500.00 a year; while some confessed that they don't ever recall earning money so they don't even know how to count money. On the contrary, there were respondents from Barangay Ranao Pilayan, who earned higher than the others, approximately from P30,000.00 to P40,000.00 a year.

For those who were earning from their produce, respondents stressed that they applied fertilizer to increase production. Others acknowledged that aside from farming, they also raised swine or poultry for additional income. One even declared that she was also employed as teacher aide while another had a husband who was a barangay official. In addition, many exclaimed that their production was even insufficient for household consumption. To earn money some respondents or family members of the respondents had to work as hired/paid labor usually in the farm of a Moro or of a "Kasila" (term used to call Christian settlers who usually came from the Visayas).

**Women's Work in the Farm**

- Weeding (*pagdadamo*)
- Planting (*pagtatanim*)
- Shelling (*mag-alis ng butil ng mais sa puso*)
- Storing of seeds (*magtago ng binhi*)
- Cook and bring food (*magluto at magdala ng pagkain*)
- Look for sacks during harvest (*maghanap ng sako*)
- Threshing (*mag-giik ng palay at tapaktapakan*)
- Look out when drying palay seeds



With marginal produce derived from farming, more than half of the participants experienced hunger. Situation becomes worse when crops are attacked/eaten by rodents or destroyed by adverse climatic conditions. Even more alarming is when Tedurays are continuously being displaced from their ancestral lands because of the continuing rebellion exhibited by the MILF, MNLF and NPA revolutionary armed groups.

The respondents could not afford even the things that we considered as basic necessities. When asked about their most valued belonging, the women enumerated the “kaldero” or caserole, plates, spoon and fork, “galunan” or plastic water container, glass, blanket, the few clothing they have and things that most in mainstream society take for granted.



In Barangay Itaw for example, community members share a molded frying pan – this pan has been molded from the cover of a large can that fell from a truck. The truck was merely passing through their village. This can cover is now considered an important asset of the community.



When one goes to the barangays, a typical Téduray family would be living in a small hut made of cogon and bambo slabs with very limited belongings. They usual meal wouldbe boiled kamote (sweet potato), banana and vegetables. Corn and kamote are the usual substitutes for rice. Thehouse would have no electricity, so the family would be using a kerosene lamp (a bottle with a wick) for lighting, if this is still unavailable, they would burn the sap of an oil plant. Drinking water is usually obtained from spring, creek or well where one had to walk minutes from their house. Conveying information is done by sending a letter, but since many are illiterate one has to relay the message through relatives or friends. This goes without saying the veryimportant role of tribal leaders as source of information and as facilitators of decision making.



Cooking with the community's makeshift cooking pan.

### **C. Political Participation**

The TLWOI is a strong advocate for women's participation in peace negotiations. Leaders would

actively participate in consultations related to peace concerns and would assert for Lumad women's inclusion/representation in the peace process. The Teduray women believe that Lumad women suffer most from the brunt of armed conflicts, therefore, could help define genuine solutions to the problem. Hence, TLWOI played significant role in the launching of the Lumad Women Peace Summit in 2003. This was a significant event that made the Lumad women realize the importance of unifying efforts in order to strengthen participation toward the resolution of conflicts in Mindanao. The Lumad women believed that the on-going peace negotiation is not the solution, but only a good start in the process of reconciliation. For the voiceless to be heard, a strong organization of Lumad women should be established; hence TLWOI helped in convening and facilitating the Mindanao Council of Lumad Women (MCLW).



2007 Second Lumad Women Summit

At the village level, TLWOI members also actively participate in political processes, including elections. In the October 2007 local/barangay elections, four (4) were elected from the ten (10) TWLOI members who filed their candidacies. For this 2010 presidential/ national elections, TLWOI untiringly provided voters education especially in the light of the new automated election system (AES) and in the context of the prevailing illiteracy rate among fellow Tédurays. The group also supported candidates who promoted the agenda of IPs' rights, peace, and development in the region and was able to maximize the election period as strategy for promoting the indigenous peoples' agenda and establishing the presence of the Téduray Lambangian women in the political sphere.

The KII respondents, barangay officials, recognized the active participation of Tédurays during elections. However, they also added that since many are illiterate, they often fall prey to the cheating tactics of the traditional politicians. In

connection, TLWOI leaders reminded members and their communities not to succumb to vote-buying schemes and instead, search and vote for leaders who could support their advocacies.



2010 Local Election Sortie  
(TLWOI members in green  
shirts)



Unfortunately, Maguindanao has always been a hot spot area for election related violence.

In terms of monitoring the utilization of the GAD budget, one barangay official admitted that they did not have a GAD budget allocation since their barangay captain would allocate the money to other purpose. One barangay captain exclaimed that their GAD budget benefitted two women's organizations. Another proudly explained that their P10,000 allotment for the fiscal year would be given to women; and that part of the budget would also be used to buy vegetable seeds for distribution to the sitios. Further, one declared that when he attended a seminar in Davao, they were told that GAD budget allocation is no longer necessary for women projects. Finally, one mentioned that he used the GAD budget in buying t-shirts, providing food and transportation for the women who participated in the town fiesta celebration.

In terms of the tribe's self-governance, Tedurays, have their own system called Timuay Justice and Governance (TJG). The "Ukit" is the general guide of the Tedurays resembling the constitution of a country. The TJG is guided by six principles, which include the practice of collective leadership. Collective leadership is consultative and consensus in nature therefore would promote a free, peaceful and progressive community.

The "Timfada Limud" or Tribal Congress is the highest level of leadership structure. The "Kefedewan"

are the tribal leaders who settle conflicts to effect justice. A “kefedewan” is a leader of the council of elders and spokesperson of the village. A kefedewan is the person who is wellversed in Teduray customs and traditional laws. A female kefedewan is referred as “kededewan libun” while a male kefedewan is called “kefeduwan lagey”. A tribal leader is honored and addressed as “Timuay”. “Fintailan” is also a title given to a woman leader. The “Timuay Labi” is the Supreme Tribal Chief of the Tedurays. These tribal roles up indicate that women are recognized political leaders of the tribe.

#### **D. Early Arranged Marriage**



In 2007, a CEDAW Orientation Training was conducted for TLWOI leaders and the issue on early-arranged marriage was tackled. The council recognized the high incidence of early marriage among Tédurays and the context of poverty as the main reason why children as young as 9 to 11 years old had been arranged to marry. Having said that, the Téduray women leaders still clarified that while they do not approve of early marriage, they cannot be totally

against arranged marriage. Tédurays greatly value and respect the decision of parents and elders. They believe that parents only want what is best for their children. As good parents, they wanted to make sure that the potential partner of their child will be coming from a respectable family background.

As cited from the NCCA website, under courtship and marriage “the mother of the man leads the search for the *kenogon* (*young virgin lady*). Even the maternal grandparents help in this endeavor by calling on relatives to find a suitable wife. With a careful study of the woman’s background, the man’s party then sends out a spokesman to meet with the former’s parents and relatives and duly offers the *tising*, a contract for marriage. If the woman’s parents accept the *tising*, within a week, they will have to send their own spokesman with the *bantingan* over to the future groom’s house. The go-between will then state the amount of *flasa* (*total amount of dowries*) for the marriage of the woman.”

Before, dowries commonly given may include a gold necklace, gongs, jewelry box and other ornaments. The TLWOI leaders stressed that they do not view dowries as disempowering to the females; neither is it a symbol of male dominance over the wife but rather, a symbol of the sanctity of marriage. It is a marriage contract for the Tédurays - a symbol of great respect for the parents and the bride. Today, dowries are given

in terms of money (e.g. P5,000; P10,000) plus farm animals (carabao, goats, cow, horse etc.).

From the FGD conducted, approximately 65% were married even before they reached the legal age of 18, with the youngest, marrying at the age of 13 years old. By the time they reached their mid 20s, they would already have four to five children. A number of respondents do not know their exact age and were just as clueless of their age during marriage.



It should be noted that the children were not aware of the arrangements made by the parents. They would only realize that an agreement has been made the day they are to be married. They did not even know the person they are going to marry. When the women were asked how or what they felt, they answered the following:

- accepted what they were told even if they were confused and did not understand what was going on (particularly for those who married at very young age);
- wanted to hide but did not know what to do;
- afraid because they did not know who they were

- supposed to marry;
- cried (some even fainted);
- those who were brave or strong enough, left their house and ran off.

Despite strong feelings of resistance, children often succumb to parent's decision mainly because they have such high respect for parents and that defying their decisions would result to negative consequences or bad karma. Also, a dowry had been offered and accepted and returning it would disgrace the family or parents. Moreover, some parents have already spent the dowry and could not afford to raise the amount given them. One even responded that her parents told her that she would be put in jail when she refuses. When the respondents were asked how they were doing, they stated the following:

- they already have many children
  - they could not properly take care and provide for the needs of their children with many children they could not afford to take care of themselves (could not even take a bath or change their clothes)
  - some wished that they had gone to school instead of marrying
  - others admitted that they had low self esteem
- The TLWOI leaders realized from the FGDs that nowadays, the true essence of offering dowries has

been diminished. With the introduction of money, this has been commercialized, just like asking for a price in exchange for one's daughter. It is now being used by some parents to demand large amount from the family of the future husband.

The wife of one barangay official commented that because of the practice of early/arranged marriage, many children were unable to go to school, and have only reached until Grade 3. She felt bad about the children, for she knew that the parents were only after the dowries or the "tamuk".

One municipal government official stated that one reason why parents set up their children is because it would be shameful for parents when their children marry at an older age (e.g. between 20-30). Some expressed that early marriage also happens because of the daughter's/son's own doing.

Kefedewans, being well versed with customary and traditional laws, explained that the true essence of early/arranged marriage has been corrupted with the introduction of many external influences. Historically, parents would look for a potential partner for their young child not for them to marry but just to be assured that their child will have a potential partner coming from a respectable family background. When the daughter is ready, meaning mature enough, physically and

psychologically, it is only then that the parents of the young woman shall make the arrangement (which include the dowry) with the parents of the potential partner. The arrangement/agreement shall only take effect with the consent of the daughter.

From the study, TLWOI and kefedewans realized that there must be a review/information dissemination on the Teduray culture most especially to review and clarify the true essence of early/arranged marriage. Aside from community consultations, one medium is through the radio station DXUP FM in Upi.

Another means of addressing the issue was by lobbying local officials to pass an ordinance recommending a minimum age requirement for marriage and citing the negative effects/consequences of early/arranged marriage with girl children. In addition, in consultation with the kefeduwans, TLWOI also suggested the inclusion in the ordinance, a ceiling/limit for the dowry to discourage parents from engaging in such. Moreover, TLWOI leaders would continuously lobby for the GAD budget allocation.

#### **IV. Human Rights Training**

On April 13 to 14, the TLWOI conducted the Human Rights Training of IP Women Leaders at Upi Municipality in Maguindanao. This was participated in by 50 participants, 40 women and 10 men.



*The FGDs were participated in by 82 Téduray Lambangian women; but the meetings generated the interest of other members of the community too..*





*Clockwise from upper left: Research team transferring their notes; typical houses in the research areas; Tutut (Project Coordinator) & Elsie (TLWOI President) having light moments on the field; researchers Perlita & Dae traversing the riverbank; Kuleng & Perlita showing off their smiles; Inaw securing the food for the FGD.*



Prior to this activity, TLWOI and Centro Saka discussed the general expectations of the participants and the proposed training flow. The team was conscious of the right of indigenous peoples to have their cultural integrity respected and protected. For this project, this means being culturally sensitive in introducing concepts and principles such as human rights. Hence, the preparations included finding the appropriate resource persons for this training, which also meant ensuring that Human Rights topics are linked with the Lumad's perspective.



The resource persons were comprised of local leaders and resource persons who were considered knowledgeable of facilitating customary laws on justice, the various human rights instruments, and the tribal justice and governance systems of the tribe.

For the customary laws on justice, there were eight (8) local resource persons – four (4) were men tribal leaders

also called as *Timuay* (leader of the collective group) and the *Kéřédérwan* (facilitator in the resolution of conflicts), and four (4) were *Fintailan* (women leaders who have had experience in resolving conflicts and cases).

Meanwhile, Prof. Emmanuel V. Dumlao of the University of the Philippines was asked to provide input on the human rights instruments. He had ten years of experience in the Human Rights Education Program of the Task Force Detainees of the Philippines (TFDP) and is currently finishing his PhD in Creative Writing in Filipino. His knowledge on Philippine literature, specifically the Téduray epic, provided a deeper IP perspective to the topic of human rights.

Deonato Mokudef of the Organization of the Teduray Lambangian Conference, Inc. (OTLAC) and from the Office of the Deputy Governor for Indigenous Peoples in ARMM, was also tapped to share on the Indigenous Concepts of Human Rights.

Centro Saka also acted as resource persons for topics related to CEDAW, Convention on the Rights of the Child (CRC), UN Declaration on the Rights of the Indigenous Peoples (UNDRIP), Indigenous Peoples Rights Act (IPRA), and the GAD Budget policies.

***Training Content.*** The human rights training started with inputs from tribal leaders on concepts and practice of justice and human rights. They talked about

addressing cases of infidelity and early marriage, knowledge of rituals, and about their indigenous governance in relation to mainstream local governance systems. The local resource persons provided background

relevant to practices of arranged marriages and second wives. Among the issues discussed was how traditional practices that were

originally intended for the welfare and rights of women, e.g. dowry, have been corrupted through time by commercialism and malebias.

Human Rights context from the tribe's perspective:

1. Timuay Donato Oham, who is a kefedewan or justice officer, shared how spirituality and politics strengthened the practice of the tribal justice system. He also showed this style of leadership when he assumed the role of a Barangay Chair for five years. He observed that it's easier to resolve cases of conflict in earlier times compared to the present; he attributed this to the inherent respect of people to one another. His

Kefedewan  
Deming  
(right) and  
Timuay  
Deonato  
(below)



motivation in being a leader is the tribe's ancestral land.

2. Kefedewan Deming Ravelo stated that it's important to recognize everybody's rights and that this respect for human rights is one of the responsibilities that God has given us.

3. Fintailan Rebecca Mokudef shared her experiences in settling cases of "infidelity" or "selamfa;" she said that she facilitated the return of the "tamuk" or the properties to the parties concerned but avoided having them face each other so as to avoid further conflict.

4. Fintailan Kalima Gunsu who was a provincial board official expressed thanks to the TLWOI for giving her opportunities for self-development and helping her reach where she is now. She emphasized how important it is to be proud of being a Teduray and how this helped assert her rights.

5. Tita Mann, a Lambangian, shared about the experience of her 11- year old daughter who was arranged for marriage. She thanked the TLWOI for guiding the mostly illiterate Lambangian women; she said that they can now see that they have rights and they have other purpose in life apart from marrying and giving birth.

6. Kuleng Badisto shared her experience as "sen gedot" or someone who had been arranged for early

marriage. She was 8 years old, Grade 3, when she was arranged for marriage; she ran away several times from the house of her husband until her parents gave up. Kuleng also sought help from her teachers.

7. Timuay Johnny Mokudef mentioned about “Femandu Undo”- one who does not look at where he/she came from, cannot reach where he /she wanted to go. He said that as we fight for our rights, it is important to know one’s roots before knowing where you want to go. Unity and cooperation among men and women, young and old, is the key to a peaceful tribal territory.

The input on Human Rights Instruments took off from the epic story of the Tedurays – the *Bérinaréw*. Prof. Dumlao tackled the tribal concepts of individual’s and peoples’ rights, equality, freedom, dignity, development, and stewardship of land, as told in the epic. Dumlao emphasized that the concept of equality or “serifata” is based on the understanding of “tindeg” or a sense of personhood as a tribe or member of the tribe, which is also largely based on the qualities of itungan (mind), lowoh (body), kebenal (rights/truth), keterdam (feelings), meginalew (spirit), and fedew or sense of justice.

The epic illustrated that the vision of human rights, equality and freedom is attainable if the Tédurays abide with their customs and traditions, without hurting the fedew of others. The epic also highlighted the roles of

men and women, as represented by the various Teduray characters, in achieving a peaceful society. Over-all, this approach allowed the participants to relate their spiritual and cultural beliefs with the principles of the Universal Declaration of Human Rights.



*Mengonoy gebaya-baya  
vision of order, equality and  
freedom is similar to the vision  
of the UDHR*

The training was further synthesized by the input on the tribal governance practices of human rights. However, it was recognized that there are social, economic, and political challenges that prevent the tribe from realizing their right to self determination; likewise, cultural challenges that deter individuals from enjoying their human rights. In relation, the training touched on other human rights instruments, i.e. CEDAW, CSC and UNDRIP, that guarantee the bases for claiming rights in the context of present struggles.

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Meanwhile, Timuay Deonato Mokudef shared about the core principles espoused by the Tribal Justice and Governance (TJG) system of the Teduray.

### **Tribal Justice and Governance (TJG) principles.**

In the tribe's first Timfada Limud (Tribal Congress, October 2-5, 2002), written documents about the Téduray and Lambangian customary laws were circulated. The so-called UKIT or the Téduray and Lambangian Constitution covered the following principles of the tribal justice and governance (TJG) principles:



1. *Closeness and Good Relationship with Nature.* –

The environment is the basic source of food, medicines and materials for the home. It is also where the culture, tradition and customs of the tribes are rooted. The environment is the extension of life and body. Hence, it is necessary to preserve

and maintain the people's closeness to and good relationship with the environment. Thus, it is strictly prohibited to do any activity destructive to the environment.



Colors yellow and red symbolize their traditions and customs; green –ancestral domains; white – freedom, peace and progress

2. *Collective Leadership.*—The Timuay Justice and Governance comes from a tradition of collective leadership that promotes a free, peaceful and modestly progressive community. Because of this experience, the Tribal Title Holders and the whole tribes strongly believe that a collective leadership is still effective and appropriate even in the present modern times. Hence, it is necessary to implement, pursue, and develop it.

In a collective leadership, the authority of the Tribal Title Holders emanates from the constituency through the latter's free and voluntary participation in the Village Assembly, Cluster of Villages Leaders' Conference and the Tribal Congress.

3. *Communal Ownership of Everything in the Community.*— For the tribes, things are not owned by anybody. Humans are just the stewards of things on earth and are free to use them in order to live and survive in this world. The Timuay Justice and Governance recognizes the long experience of the tribes in terms of communal ownership especially with regard to land and other basic sources of livelihood. On the other hand, it respects the right of individuals to own properties.

The Timuay Justice and Governance also recognizes the concept of the tribe that humans are just stewards and caretakers of things found on earth. The Timuay Justice and Governance develops individual and collective potential of the members of the tribes in agricultural production, industrialization and even technical work.

4. *Equal Status of Every Human in the Society.*— The concept of equal status of every human being is based on the view that land is the Mother of humanity. This being so, human beings, as children are equal. It is forbidden to use fellow human beings in order to elevate one's status in society.

*5. Peace of Mind as Basis of Justice and Development.*

— Peace of mind is the absence of conflict in the community, whether physical or emotional. This is the basis for justice and development for all and not the satisfaction of one person or a few people in the community.

*6. Progressive Pluralism.*— Progressive pluralism is characterized by being open to other individual or group of people as provided in Sections 4-7 of this Teduray and Lambangian constitution that recognize the importance of human beings. Though open to other people, their beliefs and mind, it does not mean that their principles are lost.

The team was also sensitive in discussing human rights issues, e.g. early marriage and polygamy, and in attributing these issues to the Teduray culture as founded on traditional beliefs or on current ways of socialization/practice.

## **V. Radio Advocacy**

The Radio Advocacy aimed to effectively use community radio as venue for tackling the issues/agenda and promoting the rights of the indigenous women in Maguindanao. This entailed networking with local radio stations and proactively producing radio materials, especially on human rights and indigenous women concerns.



Teduray Lambangian Human Rights Training 13-14 April 2009, Upi, Maguindanao (Participating women came from North Upi, South Upi, Ampatuan; Timuays and bgy. officials also joined the training)



Left photo: Prof. Emmanuel V. Dumlao of the University of the Philippines



TWLOI and Centro Saka agreed to hold the Radio Advocacy training immediately after the Human Rights Training. This would allow the application of human rights as the subject/content for doing radio advocacy. It was also agreed that the radio advocacy training would focus mainly on scriptwriting and production of radio plugs, which were part of Prof. Dumlao's expertise. He acted as the resource person for the Radio Advocacy training.

TLWOI coordinated with the Municipality of Nuro and its community radio station, DXUP, for the use of its radio station during the program recording.

### **Radio Advocacy Training**

The Radio Advocacy Training started with Scriptwriting for Radio plugs/advertisements; the training was held on April 15 to 16, at Upi Maguindanao. This was participated in by 47 participants, 40 women and 7 men.

The training involved the following exercises: making sounds from one's body, making sounds from objects, telling folktales and stories, discussing characters and plots, and scriptwriting for radio drama and plugs. The participants were grouped into six (6) and were tasked to produce a one- minute radio plug of selected themes.

The participants were able to produce and record 6 radio plugs on the following topics (available in <http://teduraywomen.multiply.com/video>):

- (1) effects of early marriage on girl's education;
- (2) effects of early marriage on reproductive health;
- (3) preserving traditional variety of rice;
- (4) maintaining access to clean water;
- (5) protecting the forests; and
- (6) promoting Téduray's identity as a people.

The training ended with an advocacy plan that included the following: promoting the radio plugs at local radio programs (DXUP and in Central Mindanao); using the radio plugs as introduction to educational discussions; developing new radio plugs/drama for future advocacies.

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It must be noted that the training venue was originally set to be conducted in a community, where it would be easier to practice on integrating the natural elements in making



a radio production. However, apart from the security concerns, the target training area would be far from the actual radio station that would later help out with the editing. This was the reason why the training team decided to conduct the radio advocacy training nearer the radio station, DXUP. This decision turned into an opportunity of collaborating with the DXUP, especially in regularly airing the six (6) radio plugs. Further, the TLWOI collaborated with other Teduray anchorpersons to promote the group's advocacy.

From October 2009 to March 2010, the TWLOI was also able to secure a regular time slot in DXUP FM 105.5 – Wednesdays, 7-8 pm (*as advertised in their 2010 calendar on the left*).

The TLWOI have had the chance of airing several topics already and have discussed the following laws/policies: UNDRIP, CRC, CEDAW, Magna Carta of Women, Rural Women's Day observation, IPRA, GAD budget, UN Security Council Resolution 1325 regarding women, peace and security, ARMM Act 241 or Tribal Peoples Rights Act, RA 9262, 9208, 8353, 7877, and the Family Code. Other topics covered tribal customs and traditions, including promotion of their tribal songs, dances and stories/legends/epic.

**Notable topics that generated much feedback from listeners were: Teduray customs on marriage, Climate change, traditional variety of upland rice,**





Payapang bukas para sa lahat,  
Masaganang hapag kainan,  
Malayang edukasyon,  
Makabuluhang kultura at sining!  
Méuyag ang Teduray Lambangian!

Making sa kababaihang Teduray  
Lambangian sa DXUP FM 105.5 MHz Radio  
for Peace, tuwing Miyerkules, 7-8 ng gabi.

January	February	March	April	May	June
S M T W Th F S	S M T W Th F S	S M T W Th F S	S M T W Th F S	S M T W Th F S	S M T W Th F S
1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4 5 6 7
8 9 10 11 12 13 14	8 9 10 11 12 13 14	8 9 10 11 12 13 14	8 9 10 11 12 13 14	8 9 10 11 12 13 14	8 9 10 11 12 13 14
15 16 17 18 19 20 21	15 16 17 18 19 20 21	15 16 17 18 19 20 21	15 16 17 18 19 20 21	15 16 17 18 19 20 21	15 16 17 18 19 20 21
22 23 24 25 26 27 28	22 23 24 25 26 27 28	22 23 24 25 26 27 28	22 23 24 25 26 27 28	22 23 24 25 26 27 28	22 23 24 25 26 27 28
29 30 31	29 30	29 30 31	29 30	29 30 31	29 30 31

July	August	September	October	November	December
S M T W Th F S	S M T W Th F S	S M T W Th F S	S M T W Th F S	S M T W Th F S	S M T W Th F S
1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3 4 5 6 7
8 9 10 11 12 13 14	8 9 10 11 12 13 14	8 9 10 11 12 13 14	8 9 10 11 12 13 14	8 9 10 11 12 13 14	8 9 10 11 12 13 14
15 16 17 18 19 20 21	15 16 17 18 19 20 21	15 16 17 18 19 20 21	15 16 17 18 19 20 21	15 16 17 18 19 20 21	15 16 17 18 19 20 21
22 23 24 25 26 27 28	22 23 24 25 26 27 28	22 23 24 25 26 27 28	22 23 24 25 26 27 28	22 23 24 25 26 27 28	22 23 24 25 26 27 28
29 30 31	29 30	29 30 31	29 30	29 30	29 30 31

 Teduray Lambangian Women's Organization, Inc. (TLWOI)  
<http://tlwoi.org.ph>

Member of:  
Mindanao Council of Luma Women (MCLW) Panaghiusa  
sa Tulo Katutuban Kababayan-an sa Kabankalan sa  
Mindanao (PTBKKM-MRC); Pambarangay Koalisyong ng  
Kababaihan sa Karamoran (PKKK)

**women's protection through Barangay Protection Orders.** The anchor persons commented that the topic on climate change and el ninogenerated so many feedback that they were not able to read on air all the text messages they received. Meanwhile, TLWOI's radio advocacy extended to radio program hopping outside of Maguindanao. This was the case when TLWOI Project Coordinator became guest in the Philippine Commission



on Women's radio program Tinig ng Kababaihan last October 30, for the Rural Women's Month; and in the Dev Con's Women's Month program on Women's Struggle this March 2010 ([http://www.devcon-ngo.org/index.php?option=com\\_content&task=view&id=57&Itemid=5](http://www.devcon-ngo.org/index.php?option=com_content&task=view&id=57&Itemid=5)).

## **VI. Model communal farm**

### **Establishment of Model Communal Farm to Enhance Self-Help Provision**

Tédurays abide by the principle of communal ownership of the basic sources of livelihood. The tribe believes that humans are just stewards and caretaker of the environment. And the environment defines the culture, traditions and customs of the tribe. As a group advocating for the empowerment of Téduray women, the TLWOI envisioned developing a communal farm that





would showcase the strength of the tribe, contribute in community development, and enhance the capacities of the Lumad women.

### **The Model Farm**

The model farm is a three hectare upland area donated by the TLWOI Chair, Ms. Elsie Mokudef. The site is located at Sitio Sta. Fe, Barangay Looy, South Upi which is about an hour's drive from Cotabato City passing through the Awang-Upi-Lebak National Highway. From the high way, one has to walk about 45 minutes to get to the farm. Said farm was established not for income generation but mainly for nutrition and food security concerns. Also, it was established for environmental protection, education and training.

### **Farm Establishment and Development**

Clearing and land preparation started from July until August 2009. Working animals like carabao were purchased to assist with the cultivation of the one hectare rice field. Organic upland rice was planted in September, however, growth and yield was affected because of the very dry spell caused by the El Nino phenomenon. The palay (rice) was harvested in February and yielded only eleven (11) cavans. With minimal harvest, it was decided that three sacks of palay would be distributed to the three sitios (one sack per sitio) visited in Barangay Itaw, namely Sitios Manguda, Tenaked and Silay. The palay seeds were

for planting purposes and were considered as communal. The community would then ensure the fruitful production of the palay in order to benefit as many members of the community as possible.



Vegetables like tomato, eggplant, stringbeans and others were also grown at the farm. Apart from this, perennial crops (e.g. coffee, coconut), fruit trees (e.g. jackfruit, marang) and forest trees (e.g. narra, lauan) were also planted. However, the seedlings were affected by the extreme weather conditions; mortality of seeds was observed. The seedlings shall be replaced when conditions become more favorable.

Goats, swine and poultry were also purchased and raised in the farm for dispersal. The system established was to distribute the livestock to the identified beneficiaries and to ensure that these animals shall reproduce for further dispersal to other members of the community. It should be noted that one carabao purchased by TLWOI was pregnant and had given birth this March to a single calf. When the calf is strong enough, it shall be given to a Lambangian member.

Prior planting, a bunkhouse was constructed which served as a multi-purpose center. It became not only as a shelter for farm workers but more importantly a venue for meetings and training. In connection with promoting sustainable agriculture, the bunkhouse became the venue for the training on organic fertilizer making. This was facilitated by Mr. Ronnie Ampok, the Sustainable Development Program Coordinator of Kadtuntaya Foundation Inc. or KFI. He is also the IP and Land Rights coordinator of the said NGO.



Aside from the bunkhouse, a “Tenines” was also constructed inside the farm. The “Tenines” is a worship area established to offer thanksgiving and ritual for protection, guidance and blessing.

The organic fertilizing training was also an opportunity to teach fellow Tédurays on Herbal Processing. Ms. Froilyn Mendoza, a certified midwife,







provided this input. Said training was participated by 47 Tedurays, of which 13 are men and the rest are women. Of the 13 male participants, 3 were Timuays or tribal leaders.

A day after the training, “Kanduli” or thanksgiving ritual (participated by 115 Tédurays) was performed to bless the communal farm. A ritual is headed by a spiritual leader called the “B’liyan”. In later meetings, the youth were taught on how to play the gong which is an important tribal instrument.

### **Management and Supervision.**

A caretaker was assigned to maintain the farm, who is no ordinary Téduray for he is a “B’liyan” or spiritual leader.

Through his influence the TLWOI can be assured that the farm shall be respected and protected.



The TLWO Chair, Ms. Elsie Mokudef, currently coordinates and monitors the productivity of the farm. She is assisted by two other TLWOI members. The TLWO council/members on the other hand provided the manpower during land preparation, planting, harvesting and other activities needing additional labor.



## **VII. CEDAW Orientation and Advocacy Dialogues with Local Government Units**

The  
conduct of  
C E D A W  
Orientation and  
advocacy dialogue  
with local



government units was affected by several events that posed safety/security concerns not only with the Tédurays but all the people in Maguindanao as well. The

province has always been in heightened military alert starting with the conflict the MOA-AD negotiation, to the election related violence (massacre) in Ampatuan, which has placed the province under State of Emergency and eventually led to the declaration of the Martial Law. While this may be the case, the TLWOI leaders







maximized every opportunity to lobby for their advocacies.

During data gathering, the research teams made it a point to discuss CEDAW in their meetings with the barangay officials. The organization was also able to conduct a follow up activity on three barangays;

- Barangay wide orientations/consultations were conducted in Barangays Romongaob and Itaw on May 31 and September 13-14 respectively. The activity for Brgy. Romongaob was held at the Timanan Central School Multipurpose Hall while Itaw Elementary School served as the venue for the other barangay.

The consultation in Barangay Romongaob was attended by the Barangay Captain and the Councilors together with 100 Téduray residents. Ms. Froilyn Mendoza provided the input on CEDAW, UNDRIP, IPRA, CRC as well as on gender responsive governance.

After the input, TLWOI officers presented a proposed ordinance regarding the issue on early marriage. Said ordinance was the result of the Gender Responsive





Training facilitated by Saligan for PKKK Council Members. In response, the barangay officials articulated that they would tackle the proposal in one of their regular sessions.

They expressed support to the ordinance however unsure of the budget they can provide for the IEC activities.

On the other hand, the activity in Barangay Itaw was in form of a training. It was attended by more than sixty (60) participants. The TLWOI invited speakers from the Barangay Health Center and from the Kutawatu Council for Justice and Peace (KCJP). The Barangay Health Midwife (Luzviminda Hortillano) provided an input on Basic Health and Sanitation while the KCJP (Jeomar Hillado) provided an input on Human Rights and the International Humanitarian Law. Herbal preparation and soap making was also provided by a TLWOI Supreme Council (Perlita Landigan) while CEDAW, IPRA and the initial results of the baseline study on early marriage was presented by the TLWOI project coordinator (Froilyn Mendoza).

The Barangay Captain of Itaw was thankful for the presence of TLWOI in his area. He expressed his full support for the proposed ordinance, since he is also very

concerned on the high incidence of early-arranged marriage in his barangay. He likewise observed that parents are more often after the dowries because of poverty.

After the training, the following points were recommended;

- barangay wide information dissemination on laws protecting the rights of women
  - drafting and passing of an ordinance protecting girl children
  - passing an ordinance requiring a limit for the dowry
  - provide orientation training on children's rights
  - provide IEC on the Téduray culture on marriage and dowry system.
- A discussion meeting was also conducted on July 11, 2009 with the Barangay Captain of Bayabas, one barangay councilor and the GAD focal person.



TLWOI presented and discussed the proposed ordinance.

The Mayor of Upi, who is also a Teduray, was very supportive with the advocacies of TLWOI. He was even willing to provide budget for the information education campaign of the organization.



As regards the baseline study, the results were presented on two occasions. One was during the celebration of TLWOI's 15th anniversary and the other in celebration of the National IP Thanksgiving Day.

The TLWOI founding anniversary celebration was conducted on October 04, 2009 at the Timanan



Central School Multipurpose Center in South Upi. More than a hundred Teduray s including Timuays or tribal leaders and barangay officials in South Upi, participated in this activity. Likewise, the activity was attended by



the Vice Mayor of South Upi, the Municipal Agriculturist and other municipal government agencies.

The Vice Mayor showed her interest on the baseline study and even shared her experience as a young Teduray woman. She gave her support on the proposed ordinance to address early marriage and even suggested that the ordinance could be translated into a municipal ordinance. Moreover, she is willing to further discuss the matter with the TLWOI officers and to invite the leaders to present the study in one of the sessions of the Sangguniang Bayan.

The celebration of the National IP Thanksgiving Day on the other hand was held through a Forum; TLWOI aimed to present the result of the baseline study to the regional government of ARMM. TLWOI expected to gather response and recommendations on possible areas of collaboration towards addressing the Teduray women concerns. The activity was conducted on October 29, and held at the Estosan Garden Hotel in Cotabato City.

The forum was attended by Atty. Oscar Sampulna, the Executive Secretary of the Regional Governor.



He was considered a key person in policy making and could help with the advocacy of TLWOI. However, instead of providing solutions, he ended up blaming the Tédurays on their predicament. For him, the high illiteracy rate among Tédurays is their own doing. He added that for political leaders to recognize the women's concerns, the group should be big and consolidated, thereby establishing its voting power.

Such reaction made PKKK representatives to realize how difficult it is to deal with the regional government of ARMM. None of the members of the Regional Legislative Assembly attended the forum, despite endless follow-up.

On a positive note, the presentation of the baseline study made the teacher from Upi Agricultural School realize the value of conducting research to strengthen the Téduray advocacy. She appreciated the effort of PKKK representatives in helping the TLWOI. As a teacher and a Téduray, she felt the responsibility that she should do something to help fellow Tedurays. Other



agency representatives like the Department of Health (DOH) and Department of Environment and Natural Resources (DENR) also expressed openness on how to involve the Téduray women in their future activities and projects.

SAMPLE ORDINANCE for lobby  
*Ordinance creating awareness on the effects of  
Arranged Early Marriage*

Republic of the Philippines  
Barangay Itaw, South Upi, Maguindanao  
Ordinance No. 09—

ORDINANSANG NAGPAPALAGANAP NG  
KAALAMAN TUNGKOL SA EPEKTO NG  
MAAGANG PAGAASAWA SA MGA BATANG  
KABABAIHAN, LALO NA SA MGA  
KABABAIHANG KATUTUBO

**Sapagkat** batay sa pag-aaral ng Teduray Lambangian Women Organization, Inc. (TLWOI) tungkol sa maagang pag-aasaawa na isinagawa sa 5 barangay ng South Upi, kung saan naninirahan ang mga Teduray Lambangian gaya ng Barangay Itaw, laganap pa rin ang kinaugaliang maagang pag-aasawa lalo na sa mga kababaihang katutubo;

**Sapagkat** napag-alaman na ang maagang pag-aasawa ay nakakasama sa mga batang kababaihan sa



kadahilanang may tendesiya silang huminto sa pag-aaral, nakakasama sa kanilang kalusugan ang maagang pagbubuntis, at wala silang kahandaang magsimula ng sariling pamilya;

**Sapagkat** malinaw na ang ganitong kondisyon ay lumalabag sa probisyon ng mga instrumentong nagbibigay proteksyon sa karapatan ng bata at kababaihan, gaya ng Convention on the Rights of the Child (CRC) at sa Convention on the Elimination of all forms of Discrimination against Women (CEDAW) kung saan ang Republika ng Pilipinas ay may sinumpaang tungkulin;

**Sapagkat** kinikilala ang karapatan ng mga katutubong komunidad na magdesisyon sa kanilang sariling pamamahala at kultura batay sa nakasaad sa Indigenous Peoples Rights Act (IPRA);

**Ipinagtitibay** ng Sangguniang Barangay ng Barangay Itao na:

## **Seksyon 1. Polisiya**

a. Magsagawa ng mga BARANGAY CONSULTATIONS hinggil sa maagang pag-aasawa ng batang kababaihan. Sisiguruhin na sa konsultasyong ito ay may partisipasyon ng mga Timuay o Tribal Leaders, Kafedewan, at ang Iba pang mga nakakatanda sa komunidad, mga magulang, mga guro, mga kababaihang

katutubo, at lalong higit ang mga apektadong batang kababaihan; (***holding of village consultations about the impact of early marriage on young Téduray women***)

b. Magsagawa ng mga PAGESASANAY PARA SA BATANG KABABAIHANG MAAGANG NAGASAWA lalo na sa mga usaping may kinalaman sa kalusugan at nutrisyon, pagpapamilya at reproductive health, at karapatan ng mga bata at ng mga kababaihan; at (***training for women who entered into early marriage especially on reproductive health issues***)

c. Magsagawa ng mga PAGESASANAY PARA SA MGA GURO SA BARANGAY at PAGBABAGO SA KURIKULUM ng mga “para-teachers” na magsisigurong maisasama ang pagsusuri ng implikasyon ng maagang pagaasawa sa mga asignaturang Values, Science at Social Studies.

(***training and curriculum development for teacher, towards creating awareness on the implications of early marriage***)

## **Seksyon 2. Depinisyon ng Termino**

a. Maagang pag-aasawa – kalagayan ng pag-aasawa ng mga batang edad 17 pababa. Kadalasang apektado ng maagang pag-aasawa ay ang mga batang kababaihan na sapilitan oinareglong pina-asawa ng kanilang mga magulang.

b. Timuay – mga kinikilalang lider ng katutubong komunidad na siyang nagseseguro ng kaayusan;

c. Kefedewan – mga katutubong lider na nagpapasya sa mga usaping pag-aasawa, lalo na sa dowry system;

d. CEDAW – Convention on the Elimination of all forms of Discrimination Against Women ay isang internasyunal na kasunduan na nagbibigay proteksyon sa karapatan ng mga kababaihan, kasama ang mga batang kababaihan at kababaihang katutubo;

e. CRC - Convention on the Rights of the Child ay isang internasyunal na kasunduan na nagbibigay proteksyon sa karapatan ng bata;

f. Reproductive health – ay kalagayang pangkalusugan at kagalingan ng mga kababaihan, kasama na ang pagdedesisyon sa sariling katawan.

### **Seksyon 3. Pagpapatupad/ Enforcement ng Polisiya**

Ang Ordinansa ay pangungunahang ipatupad ng Komite ng Edukasyon, Komite ng Pangkalusugan, GAD Focal Person, at ng Teduray Lambangian Women's Organization, Inc (TLWOI) batay na rin sa mga sumusunod na tungkulin:

a. Komite ng Edukasyon ang mangungunang magpatawag ng mga konsultasyon at pagsasanay sa mga nabanggit na sektor;

b. Komite ng Pangkalusugan ang mangungunang magsagawa ng pagsasanay para sa nutrition, reproductive health at family planning;

c. GAD Focal Person ang magsisigurong kasama sa Barangay Development Plan ang Ordinansang ito, magmonitor sa implementasyon at magsagawa ng taunang ulat (annual report) kaugnay sa insidente ng maagang pag-aasawa ng batang kababaihan;

d. TLWOI ang magbabahagi ng mga resulta ng pag-aaral na kanilang isinasagawa sa karanasan ng maagang pag-aasawa, gayundin ng pagsasanay hinggil sa culture sensitivity.

#### **Seksyon 4. Pondong Inilalaan**

**Ang Ordinansang ito ay popondohan ng Barangay GAD Fund**, katumbas ng 5-35% ng kabuuang IRAng barangay, at kung kakailanganin ay maglaan ng dagdag pondo mula sa pondo ng Edukasyon at Kalusugan. (***The ordinance will be funded by the Barangay's GAD Fund***) **Seksyon 5: Epektibidad.** Ang Ordinansang ito ay magiging epektibo matapos ang sampung (10) araw mula sa publikasyon o pagpapaskel ng hindi bababa sa 3 kopya sa mga pampublikong lugar.

## **Appendices**

**A. Indigenous Peoples  
Rights Act (RA 8371)**

**B. Muslim Mindanao Act  
No. 241**



REPUBLIC OF THE PHILIPPINES

CONGRESS OF THE PHILIPPINES

*Third Regular Session*

S. No. 1728

H. No. 9125

REPUBLIC ACT NO. 8371

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

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

CHAPTER I  
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be  
known as “The Indigenous Peoples Rights Act of 1997.”

SEC. 2. *Declaration of State Policies.* – The State  
shall recognize and promote all the rights of Indigenous  
Cultural Communities/Indigenous Peoples (ICCs/IPs)  
hereunder enumerated within the framework of the  
Constitution:

a) The State shall recognize and promote the rights of ICCs/IPs within the framework of national unity and development;

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

d) The State shall 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) The State shall 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) The State recognizes 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 realization of these rights, taking into consideration their customs, traditions, values, beliefs, interests and institutions, and to adopt and implement measures to protect their rights to their ancestral domains.

## CHAPTER II

### DEFINITION OF TERMS

SEC. 3. *Definition of Terms.* – For purposes of this Act, the following terms shall mean:

a) *Ancestral Domains* - Subject to Section 56 hereof, 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 hereof, refers 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 claims 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 and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots;

c) *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 this law;

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

*e) Communal Claims* - refer to claims on land, resources and rights thereon, belonging to the whole community within a defined territory;

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

*g) Free and Prior Informed Consent* - as used in this Act shall mean the consensus of all members of the ICCs/ IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community;

*h) Indigenous Cultural Communities/Indigenous Peoples* - refer to a group of people or homogenous

societies identified by self-ascription and 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, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, 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;

*i) Indigenous Political Structures* - refer to organizational and cultural leadership systems, institutions, relationships, patterns and processes 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;

j) *Individual Claims* - refer to claims on land and rights thereon which have been devolved to individuals, families and clans including, but not limited to, residential lots, rice terraces or paddies and tree lots;

k) *National Commission on Indigenous Peoples (NCIP)* - refers to the office created under this Act, which shall be under the Office of the President, and which shall be the primary government agency responsible for the formulation and implementation of policies, plans and programs to recognize, protect and promote the rights of ICCs/IPs;

l) *Native Title* - refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest;

m) *Nongovernment Organization* - refers to a private, nonprofit 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;

n) *People's Organization* - refers to a private, nonprofit voluntary organization of members of an ICC/IP which is accepted as representative of such ICCs/IPs;

o) *Sustainable Traditional Resource Rights* - refer to the rights of ICCs/IPs to sustainably use, manage, protect and conserve a) land, air, water, and minerals; b) plants, animals and other organisms; c) collecting, fishing and hunting grounds; d) sacred sites; and e) other areas of economic, ceremonial and aesthetic value in accordance with their indigenous knowledge, beliefs, systems and practices; and

p) *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.

### CHAPTER III

#### RIGHTS TO ANCESTRAL DOMAINS

SEC. 4. *Concept of Ancestral Lands/Domains.* – Ancestral lands/domains shall include such concepts of territories which cover not only the physical environment but the total environment including the

spiritual and cultural bonds to the areas which the ICCs/IPs possess, occupy and use and to which they have claims of ownership.

SEC. 5. *Indigenous Concept of Ownership.* – Indigenous concept of ownership sustains the view that ancestral domains and all resources found therein shall serve as the material bases of their cultural integrity. The indigenous concept of ownership generally holds that ancestral domains are the ICCs/IPs private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed. It likewise covers sustainable traditional resource rights.

SEC. 6. *Composition of Ancestral Lands/Domains.* – Ancestral lands and domains shall consist of all areas generally belonging to ICCs/IPs as referred under Sec. 3, items (a) and (b) of this Act.

SEC. 7. *Rights to Ancestral Domains.* – The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. Such rights shall include:

a) *Right of Ownership.* – The right to claim ownership over lands, bodies of water traditionally and actually occupied by ICCs/IPs, sacred places, traditional hunting and fishing grounds, and all improvements made by them at any time within the domains;

b) *Right to Develop Lands and Natural Resources.* - Subject to Section 56 hereof, right to develop, control and use lands and territories traditionally occupied, owned, or used; to manage and conserve natural resources within the territories and uphold the responsibilities for future generations; to benefit and share the profits from allocation and utilization of the natural resources found therein; the right to negotiate the terms and conditions for the exploration of natural resources in the areas for the purpose of ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws; the right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they may sustain as a result of the project; and the right to effective measures by the government to prevent any interference with, alienation and encroachment upon these rights;

c) *Right to Stay in the Territories.* - The right to stay in the territory and not to be removed therefrom. No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain. Where relocation is considered necessary as an exceptional measure, such relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned and whenever possible, they



b) *Right to Develop Lands and Natural Resources.* - Subject to Section 56 hereof, right to develop, control and use lands and territories traditionally occupied, owned, or used; to manage and conserve natural resources within the territories and uphold the responsibilities for future generations; to benefit and share the profits from allocation and utilization of the natural resources found therein; the right to negotiate the terms and conditions for the exploration of natural resources in the areas for the purpose of ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws; the right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they may sustain as a result of the project; and the right to effective measures by the government to prevent any interference with, alienation and encroachment upon these rights;

c) *Right to Stay in the Territories.* - The right to stay in the territory and not to be removed therefrom. No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain. Where relocation is considered necessary as an exceptional measure, such relocation shall take place only with the free and prior informed consent of the ICCs/IPs concerned and whenever possible, they

shall be guaranteed the right to return to their ancestral domains, as soon as the grounds for relocation cease to exist. When such return is not possible, as determined by agreement or through appropriate procedures, ICCs/IPs shall be provided in all possible cases with lands of quality and legal status at least equal to that of the land previously occupied by them, suitable to provide for their present needs and future development. Persons thus relocated shall likewise be fully compensated for any resulting loss or injury;

*d) Right in Case of Displacement.* - In case displacement occurs as a result of natural catastrophes, the State shall endeavor to resettle the displaced ICCs/IPs in suitable areas where they can have temporary life support systems: *Provided*, That the displaced ICCs/IPs shall have the right to return to their abandoned lands until such time that the normalcy and safety of such lands shall be determined: *Provided, further*, That should their ancestral domain cease to exist and normalcy and safety of the previous settlements are not possible, displaced ICCs/IPs shall enjoy security of tenure over lands to which they have been resettled: *Provided, furthermore*, That basic services and livelihood shall be provided to them to ensure that their needs are adequately addressed;

e) *Right to Regulate Entry of Migrants.* - Right to regulate the entry of migrant settlers and organizations into the domains;

f) *Right to Safe and Clean Air and Water.* - For this purpose, the ICCs/IPs shall have access to integrated systems for the management of their inland waters and air space;

g) *Right to Claim Parts of Reservations.* - The right to claim parts of the ancestral domains which have been reserved for various purposes, except those reserved and intended for common and public welfare and service; and

h) *Right to Resolve Conflict.* - Right to resolve land conflicts in accordance with customary laws of the area where the land is located, and only in default thereof shall the complaints be submitted to amicable settlement and to the Courts of Justice whenever necessary.

SEC. 8. *Rights to Ancestral Lands.* - The right of ownership and possession of the ICCs/IPs to their ancestral lands shall be recognized and protected.

a) *Right to transfer land/property.* - Such right shall include the right to transfer land or property rights to/ among members of the same ICCs/IPs, subject to

customary laws and traditions of the community concerned.

b) *Right to Redemption.* - In cases where it is shown that the transfer of land/property rights by virtue of any agreement or devise, to a non-member of the concerned ICCs/IPs is tainted by the vitiated consent of the ICCs/IPs, or is transferred for an unconscionable consideration or price, the transferor ICC/IP shall have the right to redeem the same within a period not exceeding fifteen (15) years from the date of transfer.

SEC. 9. *Responsibilities of ICCs/IPs to their Ancestral Domains.* - ICCs/IPs occupying a duly certified ancestral domain shall have the following responsibilities:

a) *Maintain Ecological Balance.* - To preserve, restore, and maintain a balanced ecology in the ancestral domain by protecting the flora and fauna, watershed areas, and other reserves;

b) *Restore Denuded Areas.* - To actively initiate, undertake and participate in the reforestation of denuded areas and other development programs and projects subject to just and reasonable remuneration; and

c) *Observe Laws.* - To observe and comply with the provisions of this Act and the rules and regulations for its effective implementation.

SEC. 10. *Unauthorized and Unlawful Intrusion.* – Unauthorized and unlawful intrusion upon, or use of any portion of the ancestral domain, or any violation of the rights herein before enumerated, shall be punishable under this law. Furthermore, the Government shall take measures to prevent non-ICCs/IPs from taking advantage of the ICCs/IPs customs or lack of understanding of laws to secure ownership, possession of land belonging to said ICCs/IPs.

SEC. 11. *Recognition of Ancestral Domain Rights.* – The rights of ICCs/IPs to their ancestral domains by virtue of Native Title shall be recognized and respected. Formal recognition, when solicited by ICCs/IPs concerned, shall be embodied in a Certificate of Ancestral Domain Title (CADT), which shall recognize the title of the concerned ICCs/IPs over the territories identified and delineated.

SEC. 12. *Option to Secure Certificate of Title Under Commonwealth Act 141, as amended, or the Land Registration Act 496.* – Individual members of cultural communities, with respect to their individually-owned ancestral lands who, by themselves or through their predecessors-in-interest, have been in continuous possession and occupation of the same in the concept of owner since time immemorial or for a period of not less than thirty (30) years immediately preceding the approval of this Act and uncontested by the members of the same ICCs/IPs shall have the option to secure title to their ancestral

lands under the provisions of Commonwealth Act 141, as amended, or the Land Registration Act 496.

For this purpose, said individually-owned ancestral lands, which are agricultural in character and actually used for agricultural, residential, pasture, and tree farming purposes, including those with a slope of eighteen percent (18%) or more, are hereby classified as alienable and disposable agricultural lands.

The option granted under this section shall be exercised within twenty (20) years from the approval of this Act.

#### CHAPTER IV RIGHT TO SELF-GOVERNANCE AND EMPOWERMENT

SEC. 13. *Self-Governance.* – The State recognizes the inherent right of ICCs/IPs to self-governance and self determination and respects the integrity of their values, practices and institutions. Consequently, the State shall guarantee the right of ICCs/IPs to freely pursue their economic, social and cultural development.

SEC. 14. *Support for Autonomous Regions.* – The State shall continue to strengthen and support the autonomous regions created under the Constitution as they may require or need. The State shall likewise encourage other ICCs/IPs not included or outside Muslim

Mindanao and the Cordilleras to use the form and content of their ways of life as may be compatible with the fundamental rights defined in the Constitution of the Republic of the Philippines and other internationally recognized human rights.

SEC. 15. *Justice System, Conflict Resolution Institutions, and Peace Building Processes.* – The ICCs/IPs shall have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights.

SEC. 16. *Right to Participate in Decision-Making.* – ICCs/ IPs have the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the State shall ensure that the ICCs/ IPs shall be given mandatory representation in policy-making bodies and other local legislative councils.

SEC. 17. *Right to Determine and Decide Priorities for Development.* – The ICCs/IPs shall have the right to determine and decide their own priorities for development affecting their lives, beliefs, institutions, spiritual well-being, and the lands they own, occupy or use. They shall

participate in the formulation, implementation and evaluation of policies, plans and programs for national, regional and local development which may directly affect them.

SEC. 18. *Tribal Barangays.* – The ICCs/IPs living in contiguous areas or communities where they form the predominant population but which are located in municipalities, provinces or cities where they do not constitute the majority of the population, may form or constitute a separate barangay in accordance with the Local Government Code on the creation of tribal barangays.

SEC. 19. *Role of Peoples Organizations.* – The State shall recognize and respect the role of independent ICCs/IPs organizations to enable the ICCs/IPs to pursue and protect their legitimate and collective interests and aspirations through peaceful and lawful means.

SEC. 20. *Means for Development/Empowerment of ICCs/ IPs.* – The Government shall establish the means for the full development/empowerment of the ICCs/IPs own institutions and initiatives and, where necessary, provide the resources needed therefor.



CHAPTER V  
SOCIAL JUSTICE AND HUMAN RIGHTS

SEC. 21. *Equal Protection and Non-discrimination of ICCs/IPs.* – Consistent with the equal protection clause of the Constitution of the Republic of the Philippines, the Charter of the United Nations, the Universal Declaration of Human Rights including the Convention on the Elimination of Discrimination Against Women and International Human Rights Law, the State shall, with due recognition of their distinct characteristics and identity, accord to the members of the ICCs/IPs the rights, protections and privileges enjoyed by the rest of the citizenry. It shall extend to them the same employment rights, opportunities, basic services, educational and other rights and privileges available to every member of the society. Accordingly, the State shall likewise ensure that the employment of any form of force or coercion against ICCs/IPs shall be dealt with by law.

The State shall ensure that the fundamental human rights and freedoms as enshrined in the Constitution and relevant international instruments are guaranteed also to indigenous women. Towards this end, no provision in this Act shall be interpreted so as to result in the diminution of rights and privileges already recognized and accorded to women under existing laws of general application.

SEC. 22. *Rights during Armed Conflict.* – ICCs/ IPs have the right to special protection and security in periods of armed conflict. The State shall observe international standards, in particular, the Fourth Geneva Convention of 1949, for the protection of civilian populations in circumstances of emergency and armed conflict, and shall not recruit members of the ICCs/ IPs against their will into the armed forces, and in particular, for use against other ICCs/IPs; nor recruit children of ICCs/IPs into the armed forces under any circumstance; nor force indigenous individuals to abandon their lands, territories and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.

SEC. 23. *Freedom from Discrimination and Right to Equal Opportunity and Treatment.* – It shall be the right of the ICCs/IPs to be free from any form of discrimination, with respect to recruitment and conditions of employment, such that they may enjoy equal opportunities for admission to employment, medical and social assistance, safety as well as other occupationally-related benefits, informed of their rights under existing labor legislation and of means available to them for redress, not subject to any coercive recruitment systems, including bonded labor and other forms of debt servitude; and equal treatment in employment for men and women, including the protection from sexual harassment.

Towards this end, the State shall, within the framework of national laws and regulations, and in cooperation with the ICCs/ IPs concerned, adopt special measures to ensure the effective protection with regard to the recruitment and conditions of employment of persons belonging to these communities, to the extent that they are not effectively protected by laws applicable to workers in general.

ICCs/IPs shall have the right to association and freedom for all trade union activities and the right to conclude collective bargaining agreements with employers' organizations. They shall likewise have the right not to be subject to working conditions hazardous to their health, particularly through exposure to pesticides and other toxic substances.

SEC. 24. *Unlawful Acts Pertaining to Employment.*

– It shall be unlawful for any person:

a) To discriminate against any ICC/IP with respect to the terms and conditions of employment on account of their descent. Equal remuneration shall be paid to ICC/IP and non-ICC/IP for work of equal value; and

b) To deny any ICC/IP employee any right or benefit herein provided for or to discharge them for the purpose of preventing them from enjoying any of the rights or benefits provided under this Act.

SEC. 25. *Basic Services.* – The ICCs/IPs have the right to special measures for the immediate, effective and continuing improvement of their economic and social conditions, including in the areas of employment, vocational training and retraining, housing, sanitation, health and social security. Particular attention shall be paid to the rights and special needs of indigenous women, elderly, youth, children and differently-abled persons. Accordingly, the State shall guarantee the right of ICCs/IPs to government's basic services which shall include, but not limited to, water and electrical facilities, education, health and infrastructure.

SEC. 26. *Women.* – ICC/IP women shall enjoy equal rights and opportunities with men, as regards the social, economic, political and cultural spheres of life. The participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition.

The State shall provide full access to education, maternal and child care, health and nutrition, and housing services to indigenous women. Vocational, technical, professional and other forms of training shall be provided to enable these women to fully participate in all aspects of social life. As far as possible, the State shall ensure that indigenous women have access to all services in their own languages.

SEC. 27. *Children and Youth.* – The State shall recognize the vital role of the children and youth of ICCs/IPs in nation-building and shall promote and protect their physical, moral, spiritual, intellectual and social well-being. Towards this end, the State shall support all government programs intended for the development and rearing of the children and youth of ICCs/IPs for civic efficiency and establish such mechanisms as may be necessary for the protection of the rights of the indigenous children and youth.

SEC. 28. *Integrated System of Education.* – The State shall, through the NCIP, provide a complete, adequate and integrated system of education, relevant to the needs of the children and young people of ICCs/IPs.

## CHAPTER VI CULTURAL INTEGRITY

SEC. 29. *Protection of Indigenous Culture, Traditions and Institutions.* – The State shall respect, recognize and protect the right of ICCs/IPs to preserve and protect their culture, traditions and institutions. It shall consider these rights in the formulation and application of national plans and policies.

SEC. 30. *Educational Systems.* – The State shall provide equal access to various cultural opportunities to the ICCs/IPs through the educational system, public or

private cultural entities, scholarships, grants and other incentives without prejudice to their right to establish and control their educational systems and institutions by providing education in their own language, in a manner appropriate to their cultural methods of teaching and learning. Indigenous children/youth shall have the right to all levels and forms of education of the State.

SEC. 31. *Recognition of Cultural Diversity.* – The State shall endeavor to have the dignity and diversity of the cultures, traditions, histories and aspirations of the ICCs/IPs appropriately reflected in all forms of education, public information and cultural-educational exchange. Consequently, the State shall take effective measures, in consultation with ICCs/IPs concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among ICCs/IPs and all segments of society. Furthermore, the Government shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. The State shall likewise ensure the participation of appropriate indigenous leaders in schools, communities and international cooperative undertakings like festivals, conferences, seminars and workshops to promote and enhance their distinctive heritage and values.

SEC. 32. *Community Intellectual Rights.* – ICCs/IPs have the right to practice and revitalize their own cultural traditions and customs. The State shall preserve, protect and develop the past, present and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious, and spiritual property taken without their free and prior informed consent or in violation of their laws, traditions and customs.

SEC. 33. *Rights to Religious, Cultural Sites and Ceremonies.* – ICCs/IPs shall have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect and have access to their religious and cultural sites; the right to use and control of ceremonial objects; and, the right to the repatriation of human remains. Accordingly, the State shall take effective measures, in cooperation with the ICCs/IPs concerned, to ensure that indigenous sacred places, including burial sites, be preserved, respected and protected. To achieve this purpose, it shall be unlawful to:

a) Explore, excavate or make diggings on archeological sites of the ICCs/IPs for the purpose of obtaining materials of cultural values without the free and prior informed consent of the community concerned; and

b) Deface, remove or otherwise destroy artifacts which are of great importance to the ICCs/IPs for the preservation of their cultural heritage.

SEC. 34. *Right to Indigenous Knowledge Systems and Practices and to Develop own Sciences and Technologies.*  
– ICCs/ IPs 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 special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, including derivatives of these resources, traditional medicines and health practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, knowledge of the properties of fauna and flora, oral traditions, literature, designs, and visual and performing arts.

SEC. 35. *Access to Biological and Genetic Resources.*  
– Access to biological and genetic resources and to indigenous knowledge related to the conservation, utilization and enhancement of these resources shall be allowed within ancestral lands and domains of the ICCs/ IPs only with a free and prior informed consent of such communities, obtained in accordance with customary laws of the concerned community.

SEC. 36. *Sustainable Agro-Technical Development.*  
– The State shall recognize the right of ICCs/IPs to a



sustainable agro-technological development and shall formulate and implement programs of action for its effective implementation. The State shall likewise promote the bio-genetic and resource management systems among the ICCs/IPs and shall encourage cooperation among government agencies to ensure the successful sustainable development of ICCs/IPs.

SEC. 37. *Funds for Archeological and Historical Sites.*

– The ICCs/IPs shall have the right to receive from the national government all funds especially earmarked or allocated for the management and preservation of their archeological and historical sites and artifacts with the financial and technical support of the national government agencies.

## CHAPTER VII

### NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP)

SEC. 38. *National Commission on Indigenous Cultural Communities/Indigenous Peoples (NCIP).* – To carry out the policies herein set forth, there shall be created the National Commission on ICCs/IPs (NCIP), which 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.

SEC. 39. *Mandate.* – The NCIP shall protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions.

SEC. 40. *Composition.* – The NCIP shall be an independent agency under the Office of the President and shall be composed of seven (7) Commissioners belonging to ICCs/IPs, one (1) of whom shall be the Chairperson. The Commissioners shall be appointed by the President of the Philippines from a list of recommendees submitted by authentic ICCs/IPs: *Provided*, That the seven (7) Commissioners shall be appointed specifically from each of the following ethnographic areas: Region I and the Cordilleras; Region II; the rest of Luzon; Island Groups including Mindoro, Palawan, Romblon, Panay and the rest of the Visayas; Northern and Western Mindanao; Southern and Eastern Mindanao; and Central Mindanao: *Provided*, That at least two (2) of the seven (7) Commissioners shall be women.

SEC. 41. *Qualifications, Tenure, Compensation.* – The Chairperson and the six (6) Commissioners must be natural born Filipino citizens, *bona fide* members of ICCs/IPs as certified by his/her tribe, experienced in ethnic affairs and who have worked for at least ten (10)

years with an ICC/IP community and/or any government agency involved in ICC/IP, at least 35 years of age at the time of appointment, and must be of proven honesty and integrity: *Provided*, That at least two (2) of the seven (7) Commissioners shall be members of the Philippine Bar: *Provided, further*, That the members of the NCIP shall hold office for a period of three (3) years, and may be subject to re-appointment for another term: *Provided, furthermore*, That no person shall serve for more than two (2) terms. Appointment to any vacancy shall only be for the unexpired term of the predecessor and in no case shall a member be appointed or designated in a temporary or acting capacity: *Provided, finally*, That the Chairperson and the Commissioners shall be entitled to compensation in accordance with the Salary Standardization Law.

SEC. 42. *Removal from Office.* – Any member of the NCIP may be removed from office by the President, on his own initiative or upon recommendation by any indigenous community, before the expiration of his term for cause and after complying with due process requirement of law.

SEC. 43. *Appointment of Commissioners.* – The President shall appoint the seven (7) Commissioners of the NCIP within ninety (90) days from the effectivity of this Act.

SEC. 44. *Powers and Functions.* – To accomplish its mandate, the NCIP shall have the following powers, jurisdiction and function:

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 implement policies, plans, programs and projects for the economic, social and cultural development of the ICCs/IPs and to monitor the implementation thereof;

d) To request and engage the services and support of experts from other agencies of government or employ private experts and consultants as may be required in the pursuit of its objectives;

e) To issue certificate of ancestral land/domain title;

f) Subject to existing laws, to enter into contracts, agreements, or arrangement, with government or private agencies or entities as may be

necessary to attain the objectives of this Act, and subject to the approval of the President, to obtain loans from government lending institutions and other lending institutions to finance its programs;

g) To negotiate for funds and to accept grants, donations, gifts and/or properties in whatever form and from whatever source, local and international, subject to the approval of the President of the Philippines, for the benefit of ICCs/IPs and administer the same in accordance with the terms thereof; or in the absence of any condition, in such manner consistent with the interest of ICCs/IPs as well as existing laws;

h) To coordinate development programs and projects for the advancement of the ICCs/IPs and to oversee the proper implementation thereof;

i) To convene periodic conventions or assemblies of IPs to review, assess as well as propose policies or plans;

j) To advise the President of the Philippines on all matters relating to the ICCs/IPs and to submit within sixty (60) days after the close of each calendar year, a report of its operations and achievements;

k) To submit to Congress appropriate legislative proposals intended to carry out the policies under this Act;

l) To submit to Congress appropriate budget to the Office of the President;

m) 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;

n) To decide all appeals from the decisions and acts of all the various offices within the Commission;

o) To promulgate the necessary rules and regulations for the implementation of this Act;

p) To exercise such other powers and functions as may be directed by the President of the Republic of the Philippines; and

q) To represent the Philippine ICCs/IPs in all international conferences and conventions dealing with indigenous peoples and other related concerns.

SEC. 45. *Accessibility and Transparency.* – Subject to such limitations as may be provided by law or by rules and regulations promulgated pursuant thereto, all official records, documents and papers pertaining to official acts,

transactions or decisions, as well as research data used as basis for policy development of the Commission shall be made accessible to the public.

SEC. 46. *Offices within the NCIP.* – The NCIP shall have the following offices which shall be responsible for the implementation of the policies hereinafter provided:

a) *Ancestral Domains Office* - The Ancestral Domain Office shall be responsible for the identification, delineation and recognition of ancestral lands/domains. It shall also be responsible for the management of ancestral lands/domains in accordance with a master plan as well as the implementation of the ancestral domain rights of the ICCs/IPs as provided in Chapter III of this Act. It shall also issue, upon the free and prior informed consent of the ICCs/IPs concerned, certification prior to the grant of any license, lease or permit for the exploitation of natural resources affecting the interests of ICCs/IPs or their ancestral domains and to assist the ICCs/IPs in protecting the territorial integrity of all ancestral domains. It shall likewise perform such other functions as the Commission may deem appropriate and necessary;

b) *Office on Policy, Planning and Research* - The Office on Policy, Planning and Research shall be responsible for the formulation of appropriate policies and programs for ICCs/IPs such as, but not limited to, the development of a Five-Year Master Plan for the ICCs/

IPs. Such plan shall undergo a process such that every five years, the Commission shall endeavor to assess the plan and make ramifications in accordance with the changing situations. The Office shall also undertake the documentation of customary law and shall establish and maintain a Research Center that would serve as a depository of ethnographic information for monitoring, evaluation and policy formulation. It shall assist the legislative branch of the national government in the formulation of appropriate legislation benefiting ICCs/IPs;

c) *Office on Culture, Education and Health* - The Office on Culture, Education and Health shall be responsible for the effective implementation of the education, cultural and related rights as provided in this Act. It shall assist, promote and support community schools, both formal and non-formal, for the benefit of the local indigenous community, especially in areas where existing educational facilities are not accessible to members of the indigenous group. It shall administer all scholarship programs and other educational rights intended for ICC/IP beneficiaries in coordination with the Department of Education, Culture and Sports and the Commission on Higher Education. It shall undertake, within the limits of available appropriation, a special program which includes language and vocational training, public health and family assistance program and related subjects.



It shall also identify ICCs/IPs with potential training in the health profession and encourage and assist them to enroll in schools of medicine, nursing, physical therapy and other allied courses pertaining to the health profession.

Towards this end, the NCIP shall deploy a representative in each of the said offices who shall personally perform the foregoing task and who shall receive complaints from the ICCs/ IPs and compel action from appropriate agency. It shall also monitor the activities of the National Museum and other similar government agencies generally intended to manage and preserve historical and archeological artifacts of the ICCs/IPs and shall be responsible for the implementation of such other functions as the NCIP may deem appropriate and necessary;

*d) Office on Socio-Economic Services and Special Concerns* - The Office on Socio-Economic Services and Special Concerns shall serve as the Office through which the NCIP shall coordinate with pertinent government agencies specially charged with the implementation of various basic socio-economic services, policies, plans and programs affecting the ICCs/IPs to ensure that the same are properly and directly enjoyed by them. It shall also be responsible for such other functions as the NCIP may deem appropriate and necessary;

*e) Office of Empowerment and Human Rights* - The Office of Empowerment and Human Rights 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. 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;

*f) Administrative Office* - The Administrative Office shall provide the NCIP with economical, efficient and effective services pertaining to personnel, finance, records, equipment, security, supplies and related services. It shall also administer the Ancestral Domains Fund; and

*g) Legal Affairs Office* - There shall be a Legal Affairs Office which shall advise the NCIP on all legal matters concerning ICCs/IPs and which shall be responsible for providing ICCs/IPs with legal assistance in litigation involving community interest. It shall conduct preliminary investigation on the basis of complaints filed by the ICCs/IPs against a natural or juridical person believed to have violated ICCs/IPs rights. On the basis of its findings, it shall initiate the filing of appropriate legal or administrative action to the NCIP.

SEC. 47. *Other Offices.* – The NCIP shall have the power to create additional offices as it may deem necessary subject to existing rules and regulations.

SEC. 48. *Regional and Field Offices.* – Existing regional and field offices shall remain to function under the strengthened organizational structure of the NCIP. Other field offices shall be created wherever appropriate and the staffing pattern thereof shall be determined by the NCIP: *Provided,* That in provinces where there are ICCs/IPs but without field offices, the NCIP shall establish field offices in said provinces.

SEC. 49. *Office of the Executive Director.* – The NCIP shall create the Office of the Executive Director which shall serve as its secretariat. The office shall be headed by an Executive Director who shall be appointed by the President of the Republic of the Philippines upon recommendation of the NCIP on a permanent basis. The staffing pattern of the office shall be determined by the NCIP subject to existing rules and regulations.

SEC. 50. *Consultative Body.* – A body consisting of the traditional leaders, elders and representatives from the women and youth sectors of the different ICCs/IPs shall be constituted by the NCIP from time to time to advise it on matters relating to the problems, aspirations and interests of the ICCs/IPs.

## CHAPTER VIII

### DELINEATION AND RECOGNITION OF ANCESTRAL DOMAINS

SEC. 51. *Delineation and Recognition of Ancestral Domains.* – Self-delineation shall be the guiding principle in the identification and delineation of ancestral domains. As such, the ICCs/IPs concerned shall have a decisive role in all the activities pertinent thereto. The Sworn Statement of the Elders as to the scope of the territories and agreements/pacts made with neighboring ICCs/IPs, if any, will be essential to the determination of these traditional territories. The Government shall take the necessary steps to identify lands which the ICCs/IPs concerned traditionally occupy and guarantee effective protection of their rights of ownership and possession thereto. Measures shall be taken in appropriate cases to safeguard the right of the ICCs/IPs concerned to land which may no longer be exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities, particularly of ICCs/IPs who are still nomadic and/or shifting cultivators.

SEC. 52. *Delineation Process.* – The identification and delineation of ancestral domains shall be done in accordance with the following procedures:

a) *Ancestral Domains Delineated Prior to this Act.* – The provisions hereunder shall not apply to ancestral

domains/lands already delineated according to DENR Administrative Order No. 2, series of 1993, nor to ancestral lands and domains delineated under any other community/ancestral domain program prior to the enactment of this law. ICCs/IPs whose ancestral lands/domains were officially delineated prior to the enactment of this law shall have the right to apply for the issuance of a Certificate of Ancestral Domain Title (CADT) over the area without going through the process outlined hereunder;

b) *Petition for Delineation.* - The process of delineating a specific perimeter may be initiated by the NCIP with the consent of the ICC/IP concerned, or through a Petition for Delineation filed with the NCIP, by a majority of the members of the ICCs/ IPs;

c) *Delineation Proper.* - The official delineation of ancestral domain boundaries including census of all community members therein, shall be immediately undertaken by the Ancestral Domains Office upon filing of the application by the ICCs/IPs concerned. Delineation will be done in coordination with the community concerned and shall at all times include genuine involvement and participation by the members of the communities concerned;

d) *Proof Required.* - Proof of Ancestral Domain Claims shall include the testimony of elders or

community under oath, and other documents directly or indirectly attesting to the possession or occupation of the area since time immemorial by such ICCs/IPs in the concept of owners which shall be any one (1) of the following authentic documents:

- 1) Written accounts of the ICCs/IPs customs and traditions;
- 2) Written accounts of the ICCs/IPs political structure and institution;
- 3) Pictures showing long term occupation such as those of old improvements, burial grounds, sacred places and old villages;
- 4) Historical accounts, including pacts and agreement concerning boundaries entered into by the ICCs/IPs concerned with other ICCs/IPs;
- 5) Survey plans and sketch maps;
- 6) Anthropological data;
- 7) Genealogical surveys;

8) Pictures and descriptive histories of traditional communal forests and hunting grounds;

9) Pictures and descriptive histories of traditional landmarks such as mountains, rivers, creeks, ridges, hills, terraces and the like; and

10) Write-ups of names and places derived from the native dialect of the community.

*e) Preparation of Maps.* - On the basis of such investigation and the findings of fact based thereon, the Ancestral Domains Office of the NCIP shall prepare a perimeter map, complete with technical descriptions, and a description of the natural features and landmarks embraced therein;

*f) Report of Investigation and Other Documents.* - A complete copy of the preliminary census and a report of investigation, shall be prepared by the Ancestral Domains Office of the NCIP;

*g) Notice and Publication.* - A copy of each document, including a translation in the native language of the ICCs/IPs concerned shall be posted in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial and regional offices of the NCIP, and shall be published in a

newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from date of such publication: *Provided*, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: *Provided, further*, That mere posting shall be deemed sufficient if both newspaper and radio station are not available;

*h) Endorsement to NCIP.* - Within fifteen (15) days from publication, and of the inspection process, the Ancestral Domains Office shall prepare a report to the NCIP endorsing a favorable action upon a claim that is deemed to have sufficient proof. However, if the proof is deemed insufficient, the Ancestral Domains Office shall require the submission of additional evidence: *Provided*, That the Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification: *Provided, further*, That in case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP: *Provided, furthermore*, That in cases where there are conflicting claims among ICCs/IPs on the boundaries of ancestral domain claims, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to the section below.



i) *Turnover of Areas Within Ancestral Domains Managed by Other Government Agencies.* - The Chairperson of the NCIP shall certify that the area covered is an ancestral domain. The secretaries of the Department of Agrarian Reform, Department of Environment and Natural Resources, Department of the Interior and Local Government, and Department of Justice, the Commissioner of the National Development Corporation, and any other government agency claiming jurisdiction over the area shall be notified thereof. Such notification shall terminate any legal basis for the jurisdiction previously claimed;

j) *Issuance of CADT.* - ICCs/IPs whose ancestral domains have been officially delineated and determined by the NCIP shall be issued a CADT in the name of the community concerned, containing a list of all those identified in the census; and

k) *Registration of CADTs.* - The NCIP shall register issued certificates of ancestral domain titles and certificates of ancestral lands titles before the Register of Deeds in the place where the property is situated.

SEC. 53. *Identification, Delineation and Certification of Ancestral Lands.* -

a) The allocation of lands within any ancestral domain to individual or indigenous corporate (family or clan) claimants shall be left to the ICCs/IPs concerned to decide in accordance with customs and traditions;

b) Individual and indigenous corporate claimants of ancestral lands which are not within ancestral domains, may have their claims officially established by filing applications for the identification and delineation of their claims with the Ancestral Domains Office. An individual or recognized head of a family or clan may file such application in his behalf or in behalf of his family or clan, respectively;

c) Proofs of such claims shall accompany the application form which shall include the testimony under oath of elders of the community and other documents directly or indirectly attesting to the possession or occupation of the areas since time immemorial by the individual or corporate claimants in the concept of owners which shall be any of the authentic documents enumerated under Sec. 52 (d) of this Act, including tax declarations and proofs of payment of taxes;

d) The Ancestral Domains Office may require from each ancestral claimant the submission of such other documents, Sworn Statements and the like, which in its opinion, may shed light on the veracity of the contents of the application/claim;

e) Upon receipt of the applications for delineation and recognition of ancestral land claims, the Ancestral Domains Office shall cause the publication of the application and a copy of each document submitted including a translation in the native language of the ICCs/IPs concerned in a prominent place therein for at least fifteen (15) days. A copy of the document shall also be posted at the local, provincial, and regional offices of the NCIP and shall be published in a newspaper of general circulation once a week for two (2) consecutive weeks to allow other claimants to file opposition thereto within fifteen (15) days from the date of such publication: *Provided*, That in areas where no such newspaper exists, broadcasting in a radio station will be a valid substitute: *Provided, further*, That mere posting shall be deemed sufficient if both newspapers and radio station are not available;

f) Fifteen (15) days after such publication, the Ancestral Domains Office shall investigate and inspect each application, and if found to be meritorious, shall cause a parcellary survey of the area being claimed. The Ancestral Domains Office shall reject any claim that is deemed patently false or fraudulent after inspection and verification. In case of rejection, the Ancestral Domains Office shall give the applicant due notice, copy furnished all concerned, containing the grounds for denial. The denial shall be appealable to the NCIP. In case of conflicting claims among individual or indigenous

corporate claimants, the Ancestral Domains Office shall cause the contending parties to meet and assist them in coming up with a preliminary resolution of the conflict, without prejudice to its full adjudication according to Sec. 62 of this Act. In all proceedings for the identification or delineation of the ancestral domains as herein provided, the Director of Lands shall represent the interest of the Republic of the Philippines; and

g) The Ancestral Domains Office shall prepare and submit a report on each and every application surveyed and delineated to the NCIP, which shall, in turn, evaluate the report submitted. If the NCIP finds such claim meritorious, it shall issue a certificate of ancestral land, declaring and certifying the claim of each individual or corporate (family or clan) claimant over ancestral lands.

SEC. 54. *Fraudulent Claims.* – The Ancestral Domains Office may, upon written request from the ICCs/IPs, review existing claims which have been fraudulently acquired by any person or community. Any claim found to be fraudulently acquired by, and issued to, any person or community may be cancelled by the NCIP after due notice and hearing of all parties concerned.

SEC. 55. *Communal Rights.* – Subject to Section 56 hereof, areas within the ancestral domains, whether delineated or not, shall be presumed to be communally held: *Provided*, That communal rights under this Act shall

not be construed as co-ownership as provided in Republic Act No. 386, otherwise known as the New Civil Code.

SEC. 56. *Existing Property Rights Regimes.* – Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.

SEC. 57. *Natural Resources within Ancestral Domains.* – The ICCs/IPs shall have priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains. A non-member of the ICCs/IPs concerned may be allowed to take part in the development and utilization of the natural resources for a period of not exceeding twenty-five (25) years renewable for not more than twenty-five (25) years: *Provided*, That a formal and written agreement is entered into with the ICCs/IPs concerned or that the community, pursuant to its own decision making process, has agreed to allow such operation: *Provided, finally*, That the NCIP may exercise visitorial powers and take appropriate action to safeguard the rights of the ICCs/IPs under the same contract.

SEC. 58. *Environmental Considerations.* – Ancestral domains or portions thereof, which are found to be necessary for critical watersheds, mangroves, wildlife sanctuaries, wilderness, protected areas, forest cover, or reforestation as determined by appropriate agencies with the full participation of the ICCs/IPs

concerned shall be maintained, managed and developed for such purposes. The ICCs/IPs concerned shall be given the responsibility to maintain, develop, protect and conserve such areas with the full and effective assistance of government agencies. Should the ICCs/IPs decide to transfer the responsibility over the areas, said decision must be made in writing. The consent of the ICCs/IPs should be arrived at in accordance with its customary laws without prejudice to the basic requirements of existing laws on free and prior informed consent: *Provided*, That the transfer shall be temporary and will ultimately revert to the ICCs/IPs in accordance with a program for technology transfer: *Provided, further*, That no ICCs/IPs shall be displaced or relocated for the purpose enumerated under this section without the written consent of the specific persons authorized to give consent.

SEC. 59. *Certification Precondition.* – All departments and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certification shall only be issued after a field-based investigation is conducted by the Ancestral Domains Office of the area concerned: *Provided*, That no certification shall be issued by the NCIP without the free and prior informed and written consent of ICCs/IPs concerned: *Provided, further*,

That no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or production sharing agreement while there is a pending application for a CADT: *Provided, finally*, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.

SEC. 60. *Exemption from Taxes.* – All lands certified to be ancestral domains shall be exempt from real property taxes, special levies, and other forms of exaction except such portion of the ancestral domains as are actually used for large-scale agriculture, commercial forest plantation and residential purposes or upon titling by private persons: *Provided*, That all exactions shall be used to facilitate the development and improvement of the ancestral domains.

SEC. 61. *Temporary Requisition Powers.* – Prior to the establishment of an institutional surveying capacity whereby it can effectively fulfill its mandate, but in no case beyond three (3) years after its creation, the NCIP is hereby authorized to request the Department of Environment and Natural Resources (DENR) survey teams as well as other equally capable private survey teams, through a Memorandum of Agreement (MOA), to delineate ancestral domain perimeters. The DENR Secretary shall accommodate any such request within one (1) month of its issuance: *Provided*, That the

Memorandum of Agreement shall stipulate, among others, a provision for technology transfer to the NCIP.

SEC. 62. *Resolution of Conflicts.* – In cases of conflicting interest, where there are adverse claims within the ancestral domains as delineated in the survey plan, and which can not be resolved, the NCIP shall hear and decide, after notice to the 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 process shall be followed. The NCIP shall promulgate the necessary rules and regulations to carry out its adjudicatory functions: *Provided, further*, That any decision, order, award or ruling of the NCIP on any ancestral domain dispute or on any matter pertaining to the application, implementation, enforcement and interpretation of this Act may be brought for Petition for Review to the Court of Appeals within fifteen (15) days from receipt of a copy thereof.

SEC. 63. *Applicable Laws.* – Customary laws, traditions and practices of the ICCs/IPs of the land where the conflict arises shall be applied first with respect to property rights, claims and ownerships, hereditary succession and settlement of land disputes. Any doubt or ambiguity in the application and interpretation of laws shall be resolved in favor of the ICCs/IPs.



SEC. 64. *Remedial Measures.* – Expropriation may be resorted to in the resolution of conflicts of interest following the principle of the “common good.” The NCIP shall take appropriate legal action for the cancellation of officially documented titles which were acquired illegally: *Provided*, That such procedure shall ensure that the rights of possessors in good faith shall be respected: *Provided, further*, That the action for cancellation shall be initiated within two (2) years from the effectivity of this Act: *Provided, finally*, That the action for reconveyance shall be within a period of ten (10) years in accordance with existing laws.

## CHAPTER IX

### JURISDICTION AND PROCEDURES FOR ENFORCEMENT OF RIGHTS

SEC. 65. *Primacy of Customary Laws and Practices.*  
– When disputes involve ICCs/IPs, customary laws and practices shall be used to resolve the dispute.

SEC. 66. *Jurisdiction of the NCIP.* – The NCIP, through its regional offices, shall have jurisdiction over all claims and disputes involving rights of ICCs/IPs: *Provided, however*, That no such dispute shall be brought to the NCIP unless the parties have exhausted all remedies provided under their customary laws. For this purpose, a certification shall be issued by the Council of Elders/Leaders who participated in the attempt to settle the dispute that the same has not been resolved, which

certification shall be a condition precedent to the filing of a petition with the NCIP.

SEC. 67. *Appeals to the Court of Appeals.* – Decisions of the NCIP shall be appealable to the Court of Appeals by way of a petition for review.

SEC. 68. *Execution of Decisions, Awards, Orders.* – Upon expiration of the period herein provided and no appeal is perfected by any of the contending parties, the Hearing Officer of the NCIP, on its own initiative or upon motion by the prevailing party, shall issue a writ of execution requiring the sheriff or the proper officer to execute final decisions, orders or awards of the Regional Hearing Officer of the NCIP.

SEC. 69. *Quasi-Judicial Powers of the NCIP.* – The NCIP shall have the power and authority:

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

b) To administer oaths, summon the 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 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 affect social or economic activity.

SEC. 70. *No Restraining Order or Preliminary Injunction.* – No inferior court of the Philippines shall have jurisdiction to issue any restraining order or writ of preliminary injunction against the NCIP or any of its duly authorized or designated offices in any case, dispute or controversy arising from, necessary to, or interpretation of this Act and other pertinent laws relating to ICCs/IPs and ancestral domains.

## CHAPTER X ANCESTRAL DOMAINS FUND

SEC. 71. *Ancestral Domains Fund.* – There is hereby created a special fund, to be known as the Ancestral Domains Fund, an initial amount of One hundred thirty million pesos (P130,000,000) to cover

compensation for expropriated lands, delineation and development of ancestral domains. An amount of Fifty million pesos (P50,000,000) shall be sourced from the gross income of the Philippine Charity Sweepstakes Office (PCSO) from its lotto operation, Ten million pesos (P10,000,000) from the gross receipts of the travel tax of the preceding year, the fund of the Social Reform Council intended for survey and delineation of ancestral lands/domains, and such other source as the government may deem appropriate. Thereafter, such amount shall be included in the annual General Appropriations Act. Foreign as well as local funds which are made available for the ICCs/IPs through the government of the Philippines shall be coursed through the NCIP. The NCIP may also solicit and receive donations, endowments and grants in the form of contributions, and such endowments shall be exempted from income or gift taxes and all other taxes, charges or fees imposed by the government or any political subdivision or instrumentality thereof.

## CHAPTER XI PENALTIES

SEC. 72. *Punishable Acts and Applicable Penalties.* – Any person who commits violation of any of the provisions of this Act, such as, but not limited to, unauthorized and/or unlawful intrusion upon any ancestral lands or domains as stated in Sec. 10, Chapter

III, or shall commit any of the prohibited acts mentioned in Sections 21 and 24, Chapter V, Section 33, Chapter VI hereof, shall be punished in accordance with the customary laws of the ICCs/IPs concerned: *Provided*, That no such penalty shall be cruel, degrading or inhuman punishment: *Provided, further*, That neither shall the death penalty or excessive fines be imposed. This provision shall be without prejudice to the right of any ICCs/ IPs to avail of the protection of existing laws. In which case, any person who violates any provision of this Act shall, upon conviction, be punished by imprisonment of not less than nine (9) months but not more than twelve (12) years or a fine of not less than One hundred thousand pesos (P100,000) nor more than Five hundred thousand pesos (P500,000) or both such fine and imprisonment upon the discretion of the court. In addition, he shall be obliged to pay to the ICCs/IPs concerned whatever damage may have been suffered by the latter as a consequence of the unlawful act.

SEC. 73. *Persons Subject to Punishment.* – If the offender is a juridical person, all officers such as, but not limited to, its president, manager, or head of office responsible for their unlawful act shall be criminally liable therefor, in addition to the cancellation of certificates of their registration and/or license: *Provided*, That if the offender is a public official, the penalty shall include perpetual disqualification to hold public office.

CHAPTER XII  
MERGER OF THE OFFICE FOR NORTHERN  
CULTURAL COMMUNITIES (ONCC) AND THE  
OFFICE FOR SOUTHERN CULTURAL  
COMMUNITIES (OSCC)

SEC. 74. *Merger of ONCC/OSCC.* – The Office for Northern Cultural Communities (ONCC) and the Office of Southern Cultural Communities (OSCC), created under Executive Order Nos. 122-B and 122-C respectively, are hereby merged as organic offices of the NCIP and shall continue to function under a revitalized and strengthened structures to achieve the objectives of the NCIP: *Provided*, That the positions of Staff Directors, Bureau Directors, Deputy Executive Directors and Executive Directors, except positions of Regional Directors and below, are hereby phased-out upon the effectivity of this Act: *Provided, further*, That officials and employees of the phased-out offices who may be qualified may apply for reappointment with the NCIP and may be given prior rights in the filling up of the newly created positions of NCIP, subject to the qualifications set by the Placement Committee: *Provided, furthermore*, That in the case where an indigenous person and a non-indigenous person with similar qualifications apply for the same position, priority shall be given to the former. Officers and employees who are to be phased-out as a result of the merger of their offices shall be entitled to gratuity a rate equivalent to one and a half (1 1/2) months salary for every year of continuous and

satisfactory service rendered or the equivalent nearest fraction thereof favorable to them on the basis of the highest salary received. If they are already entitled to retirement or gratuity, they shall have the option to select either such retirement benefits or the gratuity herein provided. Officers and employees who may be reinstated shall refund such retirement benefits or gratuity received: *Provided, finally*, That absorbed personnel must still meet the qualifications and standards set by the Civil Service and the Placement Committee herein created.

SEC. 75. *Transition Period.* – The ONCC/OSCC shall have a period of six (6) months from the effectivity of this Act within which to wind up its affairs and to conduct audit of its finances.

SEC. 76. *Transfer of Assets/Properties.* – All real and personal properties which are vested in, or belonging to, the merged offices as aforesaid shall be transferred to the NCIP without further need of conveyance, transfer or assignment and shall be held for the same purpose as they were held by the former offices: *Provided*, That all contracts, records and documents relating to the operations of the merged offices shall be transferred to the NCIP. All agreements and contracts entered into by the merged offices shall remain in full force and effect unless otherwise terminated, modified or amended by the NCIP.

SEC. 77. *Placement Committee.* – Subject to rules on government reorganization, a Placement Committee shall be created by the NCIP, in coordination with the Civil Service Commission, which shall assist in the judicious selection and placement of personnel in order that the best qualified and most deserving persons shall be appointed in the reorganized agency. The Placement Committee shall be composed of seven (7) commissioners and an ICCs'/IPs' representative from each of the first and second level employees association in the Offices for Northern and Southern Cultural Communities (ONCC/OSCC), nongovernment organizations (NGOs) who have served the community for at least five (5) years and peoples organizations (POs) with at least five (5) years of existence. They shall be guided by the criteria of retention and appointment to be prepared by the consultative body and by the pertinent provisions of the civil service law.

### CHAPTER XIII FINAL PROVISIONS

SEC. 78. *Special Provision.* – The City of Baguio shall remain to be governed by its Charter and all lands proclaimed as part of its townsite reservation shall remain as such until otherwise reclassified by appropriate legislation: *Provided*, That prior land rights and titles recognized and/or acquired through any judicial, administrative or other processes before the effectivity of this Act shall remain valid: *Provided, further*, That this



provision shall not apply to any territory which becomes part of the City of Baguio after the effectivity of this Act.

SEC. 79. *Appropriations.* – The amount necessary to finance the initial implementation of this Act shall be charged against the current year’s appropriation of the ONCC and the OSCC. Thereafter, such sums as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SEC. 80. *Implementing Rules and Regulations.* – Within sixty (60) days immediately after appointment, the NCIP shall issue the necessary rules and regulations, in consultation with the Committees on National Cultural Communities of the House of Representatives and the Senate, for the effective implementation of this Act.

SEC. 81. *Saving Clause.* – This Act will not in any manner adversely affect the rights and benefits of the ICCs/IPs under other conventions, recommendations, international treaties, national laws, awards, customs and agreements.

SEC. 82. *Separability Clause.* – In case any provision of this Act or any portion thereof is declared unconstitutional by a competent court, other provisions shall not be affected thereby.

SEC. 83. *Repealing Clause.* – Presidential Decree No. 410, Executive Order Nos. 122-B and 122-C, and all other laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 84. *Effectivity.* – This Act shall take effect fifteen (15) days upon its publication in the *Official Gazette* or in any two (2) newspapers of general circulation.

Approved, October 29, 1997.

RLA BILL NO. 82

Republic of the Philippines  
Autonomous Region in Muslim Mindanao  
**REGIONAL ASSEMBLY**  
Cotabato City

**FIFTH LEGISLATIVE ASSEMBLY**  
(Third Regular Session)

**MUSLIM MINDANAO AUTONOMY  
ACT NO. 241**

Begun and held in Cotabato City, on Monday, the  
nineteenth day of November, two thousand and seven.

**AN ACT TO RECOGNIZE, RESPECT,  
PROTECT AND PROMOTE THE RIGHTS,  
GOVERNANCE AND JUSTICE SYSTEMS,  
AND CUSTOMARY LAWS OF THE  
INDIGENOUS PEOPLES/TRIBAL PEOPLES  
OF THE AUTONOMOUS REGION IN  
MUSLIM MINDANAO.**

Be it enacted by the Regional Assembly in session  
assembled:

**Section 1. Title.** – This Act shall be known as the  
“Tribal Peoples Rights Act.”

**Section 2. Coverage.** – This Act shall apply to all members of the indigenous cultural communities/ indigenous peoples/ tribal peoples [ICCs/IPs/TPs] within the Autonomous Region in Muslim Mindanao, which includes the Teduray, Lambangian, Dulangan Manobo and other tribes/ peoples.

**Section 3. Declaration of Policy.** – The Regional Government of the Autonomous Region in Muslim Mindanao [ARMM] reaffirms the policies embodied in the 1987 Philippine Constitution, Republic 8371 [Indigenous Peoples Rights Act of 1997 (IPRA)], Republic Act 9054 [Organic Act], and international treaties and agreements concerning indigenous peoples, such as but not limited to, the International Labor Organization Convention No. 169 and the UN Declaration on the Rights of Indigenous Peoples as adopted by the General Assembly on September 13, 2007. It is hereby declared the policy of the Regional Government:

1. To recognize and promote the rights of ICCs/IPs/TPs within the framework of national and regional unity and development.
2. To recognize, respect, and protect the rights of ICCs/IPs/TPs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of regional plans and policies.

3. To ensure the development, protection, and well-being of all ICCs/IPs/TPs within the Autonomous Region in Muslim Mindanao.
4. To recognize the inherent right of the ICCs/IPs/TPs to self-governance and self-determination and to respect the integrity of their values, practices and institutions. Consequently, the Regional Government shall guarantee the right of indigenous peoples to freely pursue their economic, social and cultural development and establish the means for the full development/empowerment of the ICCs'/IPs'/TPs' own institutions and initiatives and, where necessary, provide the resources needed thereof.
5. To protect the rights of the ICCs/IPs/TPs to their ancestral domain 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.

**Section 4. Recognition of Rights.** – The Regional Government shall recognize and promote the rights of ICCs/IPs/TPs as defined in, but not limited to the 1987 Constitution and the Organic Act [RA 9054], the Indigenous Peoples Rights Act [RA 8371, the United Nations Declaration on the Rights of Indigenous Peoples, and the International Declaration on Human Rights. Said rights shall include, among others, the following:

1. The right to practice and revitalize their own cultural traditions, indigenous beliefs and customs, including the free exercise of their religions.
2. The right to use their own commonly accepted justice systems, conflict resolution institutions, peacebuilding processes or mechanisms and other customary laws and practices within their respective communities and as may be compatible with the national legal system and other internationally recognized human rights.
3. The right to be free from any form of discrimination.
4. The right to self-governance and self-determination, including the right to determine and decide their own priorities for development, and to maintain and develop their own indigenous political structures.
5. The right to participate fully, if they choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them, and to participate in the formulation, implementation and evaluation of policies, plans and programs for regional and local development. Consequently, the Regional Government shall ensure that the ICCs/IPs/TPs shall be given mandatory representation in policy making bodies and other local legislative councils.
6. The right to an informed and intelligent participation in the formulation and

implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they sustain as a result of the project. The OSCC shall facilitate the conduct of said for a/consultation with the ICCs/IPs/TPs. Provided, that such should be conducted within the affected area of the ICCs/IPs/TPs. Provided, furthermore, that the consent of the ICCs/IPs/TPs shall be mandatory prior to any intervention or project/program implementation.

7. The right of the ICCs/IPs/TPs to protect their culture, traditions and institutions, including, the right to establish and control culturally appropriate integrated educational system.

The Regional Government shall institute and establish the necessary mechanisms to enforce and guarantee the realization of these rights, taking into consideration the ICCs'/IPs'/TPs' customs, traditions, values, beliefs, and right to their ancestral domains.

**Section 5. Self-Governance.** – The Regional Government shall recognize, respect and support the indigenous systems of leadership and governance, in all levels, of the ICCs/IPs/TPs in pursuance of the latter's right to self-determination.

Existing systems of governance include, but are not limited to, the following: the Timuay Justice and Governance (TJG) of the Teduray and Lambangian peoples with the Ukit and Tegudon of customary law as their governing laws, the Guyudan among the Dulangan Manobo and other types of tribal-based self-governance.

**Section 6. Relationship with Barangay Officials.**

– The indigenous systems of governance are most visible at the village level. As such, Barangay Officials and the traditional leaders of the ICCs/IPs/TPs, such as Timuays, Datus, among others, should work closely with each other in addressing the common concerns of the community.

In matters relating exclusively to members of the ICCs/IPs/TPs, the jurisdiction and decision of such traditional leaders shall be respected by the Barangay Officials concerned.

**Section 7. Establishment of Tribal Halls.** – The Regional Government shall establish Tribal Halls in various locations for the use of ICCs/IPs/TPs. The establishment of said Tribal Halls shall be done in consultation with the ICCs/IPs/TPs concerned.

**Section 8. Resolution of Conflicts; Primacy of Customary Laws and Practices.** – In recognition of the ICCs’/IPs’/TPs’ right to resolve conflicts in accordance with their customary laws, only in default



thereof shall the complaints be submitted to amicable settlement (i.e. Katarungang Pambarangay) and to the Courts of Justice, whenever necessary.

The customary law, traditions and practices of indigenous cultural communities on land claims and ownership and settlement of land dispute shall be implemented and enforced among the members of such communities. When disputes involve ICCs/IPs/TPs, customary laws, traditions and practices shall be used to resolve the dispute.

**Section 9. Tribal Courts.** – The Regional Government shall recognize and respect the ICCs'/IPs'/TPs' justice system, including the tribal courts, that had already been in existence since time immemorial. Furthermore, it shall provide assistance in the establishment and strengthening of said tribal courts, and provide support for the tribal justices or jury (e.g. panel of Kéfédúwan).

These courts shall determine, settle, and decide controversies and enforce decisions involving personal and family and property rights of members of the ICCs/IPs/TPs concerned in accordance with the customary laws of these communities.

These courts may also exercise exclusive jurisdiction over crimes committed by members of the ICCs/IPs/TPs where the imposable penalty as prescribed

by the Revised Penal Code [RPC] or other pertinent laws does not exceed imprisonment of six (6) years or a fine not exceeding fifty thousand pesos (P50,000.00) or both such imprisonment and fine where the offended party or parties are also members of the indigenous cultural community concerned.

**Section 10. Coordination with Law Enforcement Agencies.** – The ICCs/IPs/TPs, through the tribal courts and their leaders, shall coordinate with law enforcement agencies of the Regional Government and local government unit concerned, in criminal cases mentioned in the foregoing section.

Said law enforcement agencies shall respect the jurisdiction of the tribal courts.

**Section 11. Indigenous Structures.** – The Regional Government shall recognize indigenous structures or systems which promote peace, law, and order.

Such indigenous structures or systems shall include local peace enforcers, such as, but not limited to, Dyaga Fénuwo and Agubalang.

**Section 12. Rights during Armed Conflicts.** – Indigenous peoples have the right to special protection and security in periods of armed conflict. The Regional Government shall observe international standards, for

the protection of civilian populations in circumstances of emergency and armed conflict.

It shall not recruit members of the ICCs/IPs/TPs against their will in any military, paramilitary and/or armed groups, especially, when said recruitment is for the use against other ICCs/IPs/TPs. Furthermore, it shall not recruit children of ICCs/IPs/TPs into the armed forces under any circumstance. Nor for the indigenous individuals to abandon their lands, territories and means of subsistence, or relocate them in special centers for military purposes under any discriminatory condition.

**Section 13. Saving Clause.** – This Act will not in any manner adversely affect the rights and benefits of the indigenous Peoples under Republic Act 8371, otherwise known as the Indigenous Peoples Rights Act of 1997, other conventions, recommendations, international treaties, regional and national laws, awards, customs, and agreements.

**Section 14. Separability Clause.** – Should any provision of this Act or any portion thereof is declared unconstitutional by a competent court, other provisions shall not be affected thereby.

**Section 15. Repealing Clause.** – All laws, issuances, decrees, or any part or parts thereof inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

**Section 16. Effectivity Clause.** – This Act shall take effect within fifteen (15) days following the completion of its publication in at least two (2) newspapers of regional circulation.

This Act was passed by the Regional Assembly on may 26, 2008.