



*Lumad's Struggle to Claim
Ancestral Domain Right in the ARMM:
The TLMADC Perspective*

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INTRODUCTION

In 1993, the Indigenous Peoples (IPs) of the Philippines marked an initial victory in their struggle to claim their right to ancestral domain when the Philippine Government provided a window for IPs to establish their right to such claims. Through the Department of Environment and Natural Resources (DENR), the government issued Administrative Order (AO) No. 02, a national policy instrument that set the rules and regulations for the identification, delineation, and recognition of ancestral domain claims. Subsequently, other administrative policies were created to address problems encountered in the issuance and management of Certificates of Ancestral Domain Claim (CADC). These experiences culminated in the promulgation of the Indigenous Peoples' Rights Act of 1997 (RA 8371, or the IPRA Law); the creation of administrative bodies, particularly the National Commission for Indigenous Peoples (NCIP); and eventually, provisions for the titling (instead of mere certification) of ancestral domain claims, or the conversion of CADCs into Certificates of Ancestral Domain Title (CADTs).

Between 2002 and 2007, the NCIP revealed that a total of 57 CADTs with an aggregate area of 1.116 M hectares were issued to IP organizations all over the country (cited in Bistoyong 2007). This aggregate CADT area represents about 23% of the country's estimated total ancestral domain area of 4.83 M hectares. To date, the record is incomplete on the breakdown of CADT awarded per region. However, based on a breakdown between 2002 and 2004, it appears that none of the 29 approved CADTs was awarded to the ARMM, although 13 (45%) of the 29 CADTs went to 5 other regions in Mindanao. (There are unverified verbal accounts that one IP was issued a CADT.)

If not a single CADT, or hardly any, has been issued in the ARMM, it appears that the IPs in the autonomous region have faced a stiff challenge in their desire to claim their ancestral domain rights. Recent accounts in IP literature

document to some extent the continuing struggle of the Teduray, Lambangian and Dulangan Manobo tribes in claiming CADTs. These tribes are located in Maguindanao, one of five ARMM provinces.

Their struggle has won the attention and support of local and foreign non-government organizations (NGOs) and funding institutions, one of which is the Upland NGO Assistance Committee (UNAC). Utilizing a grant from the MISEREOR in Germany in 2007-2008, UNAC assisted the Teduray, Lambangian, and Dulangan Manobo Development Council (TLMADC) in the creation of a three-dimensional (3D) model that mapped out lan

**BRIEF BACKGROUND ON THE TEDURAY,
LAMBANGIAN, AND DULANGAN
MANOBO OF MAGUINDANAO**

were to be sacrificed in the event that anyone violated the peace pact. The inter-tribal agreement was finally sealed with ritual and prayer. Because the people of both tribes had a stake in the Lambangian's continued survival, they maintained inter-tribal peace (Bandara et al. 2005).

Although today the Lumads are ethnolinguistically and culturally distinct from the Maguindanaons or Muslims in the province, it has been documented that they used to share a common ancestry (Bandara et al. 2005). According to these findings, there were two brothers Mamalu and Tabunaway who ruled neighboring villages in the customary *Timuay* way (tribal-based self-rule) when the Arab missionary Sharif Mohammad Kabungsuwan introduced Islam and the Sultanate system of governance to the area. While the elder Mamalu remained true to Teduray traditions, the younger Tabunaway embraced the new faith. Before going their separate ways, the brothers publicly swore through ritual and prayer that their subsequent generations would uphold a treaty recognizing and respecting their differences but retaining collective benefits, kinship, and unity. From Mamalu descended the Teduray and Dulangan Manobo, and from Tabunaway came the Maguindanaon (Bandara et al. 2005).

In other literature, the Tabunaway descendants are described as only one segment of the Maguindanaon, and are referred to as the *dumatus* or non-slaves who occupied the second level (of four) in the Maguindanaon hereditary ranked status system (Mckenna 1998, cited in Caballero 2002). The *dumatus* were next in rank to the datu-rulers or descendants of rulers, who traced their lineage to Sharif Kabungsuwan and the prophet Muhammed. Owing to Tabunaway's alliance with Sharif Kabungsuwan, his descendants were accorded special privileges in the Maguindanaon ranking system.

As time has passed, the Maguindanaon and their sultanate system have prevailed, as their ideological influence and control has expanded in Muslim-commanded areas such as the plains, coasts, and riverine, and they have

organized armed revolts against external threats. On the other hand, the Lumad and their Timuay system have remained intact but more isolated in inland villages, and have responded to external incursions by retreating farther up the mountains or into the forests (Bandara et al. 2005, Muslim and Guiam 1999).

MAIN FEATURES OF THE STRUGGLE

There are several defining features of the TLMADC's struggle to gain legal recognition for their right to claim ancestral domain and be issued a CADT. There are s

organization) for the formal filing of a claim. The MDO's creation came in the wake of the alleged recruitment of Lumad tribesmen to the Bangsa Moro; they reportedly served as the latter's military commanders and soldiers. This led the Teduray leaders to consider forming an organization apart from their usual council of elders that could negotiate for their ancestral claim with either the Bangsa Moro or the ARMM and national governments. The MDO was subsequently registered with the Securities and Exchange Commission (SEC) in 1993. With external assistance, it assembled the proof needed for documenting its claim and, in 1996, applied for a CADC covering 57,850 hectares. Within the same year, the GRP-MNLF peace agreement was signed, but it reportedly skigneuhthe Gssi5wthe2ribal right to ancestral domathiwthe Bangsa Moro Homeland.

Expansion of the MDO stagneuhtin 1994 with the formationof the Teduray-Lambangian Youth and Student Association (TLYSA) and the Teduray-Lambangian Women's Organization (TLWO). In 1999, the Organization of Teduray-Lambangian Conference (OTLAC) was established, and by 2002, the Timuay Justice Governance (TJG) was organized with OTLAC as one of the representatives. The TJG, which consisneuhof administrative, legislative, and judicial branches, was set up mainly to strengthen and preserve the 2ribal structure. The leaders believeuhtthat it would be useless to file a claim if their tribal structure was weak. Aththat time, the MDO was considering applying for a CADT, and the TJG would enable it to meet the CADT's requirement for a strong tribal governance structure. The TJG's tasks consisneuhof codifying customary Lumad laws, unifying scattereuhtindigenous practices, and reviving tribal governance, particularly in the areawthe2ribal confliresolution. The organization was inauguraneuhton October 2, 2002. In November 2002, the leaders submitneuhthe documents on the TJG to the NCIP Regional Office for official recognition, but as of this writing they have not heard from the latter. Athpresent, they have accepneuhtheir situation by reasoning that what matters more Gs for them to sustain the TJG practice.

peace negotiator for the Muslims in ARMM. One of the major issues yet to be resolved is the definition of the Moro's ancestral domain, which forms the core of the MILF's negotiation for "Bangsa Moro Juridical Entity" (BMJE, which has replaced the "Bangsa Moro Homeland" concept of territoriality used by the MNLF in the peace negotiations conducted over a decade ago). To date, the TLMADC continues to seek ways to get their ancestral domain claim in the ARMM considered and recognized in MILF's definition of their BMJE.

2. Access to continuous support from external organizations, particularly nongovernment organizations and foreign funding agencies

From the very beginning, the Lumad Development Center Inc. (LDCI) has been a steadfast partner supporting the TLMADC in its struggle. A church official and some leaders of the Teduray-Lambangian tribes sit on the board and staff of LDCI. This nongovernment organization (NGO) helped to collect the proof needed to establish the Lumads' historical claim for ancestral domain in their 1996 CADC. Other assistance the LDCI provided include following up the CADC application at DENR, ARMM, and the Office of Southern Cultural Communities (OSCC), mediating and liaising with DENR and other groups for the Lumad, and accompanying the TJG in its dialogues with the MILF. The LDCI has also been instrumental in furthering the Lumads' advocacy work and fund-raising efforts, as detailed in other sections of this paper, as well as in seeking technical and financial assistance for the Lumads' preparation of CADT requirements, such as the 3-D map and the ancestral domain plan known as ADSDPP.

Apart from LDCI, the major organizations that provided support to the Lumad struggle in ARMM are the following:

- a) Tri-People Commission (TRICOM), a local LDCI partner that researched on and wrote the historical accounts and packaged the CADC application

- b) United Nations (UN) Voluntary Fund, which supported the codification of customary laws with a P200,000 grant to MDO
- c) World Bank (WB), which provided \$9000 for CADT processing, coursed through LDCI
- d) Panibagong Paraan, a WB Foundation that awarded P1M to LDCI for winning the "Community Access to Justice" competition using, the TJG system as a case study. The reward money was spent for the following purposes: (a) to develop the Timuay Justice System; (b) to document light to heavy punishments under this system; (c) to train justice officers (locally referred to as *kefedewan*); and (d) to construct the LDCI building that will house the office of the TJG (this building is awaiting completion).
- e) United Nations Development Programme (UNDP), which, through the Sentro sa Ganap na Pamayanan, awarded \$50,000 that was divided among three beneficiaries, including TLMADC, for a biodiversity conservation project

3. Engaging in advocacy to draw broad public attention and obtain crucial support

The Lumad leaders recognize the critical role of advocacy work in drawing broad attention to, and sympathy and support for, their struggle to gain ancestral domain recognition in ARMM. The most usual way for them to do this is to speak about their struggle at every possible opportunity, and opportunities become available when they participate in IP gatherings, for which they must mobilize a large contingent of Lumads (see next section).

However, for the purpose of broadening the sphere of public attention and educating the foreign public about issues involving their cause, key leaders

participated and presented papers in both local and international fora. The public dissemination also provided exposure for the Lumad organizations among funding agencies, which later provided financial grants or rewards for best practices. The following table presents the type and location of the forum and the subject of the presentation made by TLMADC leaders.

4. Maintaining visibility by participation in community mobilization and spearheading activism

In order to be effective in their advocacy, the Lumad organizations have maintained high public visibility. This was achieved whenever they mobilized

Other gatherings with a large Lumad participation include:

- a The annual Human Rights Day celebration attended by Lumad contingents since 1990 through the mediation of LDCI. This is organized locally by the National Council of Churches in the Philippines (NCCP) and the Philippine Action for Cultural Ties (PACT).
- a The Peace Caravan and Peace Summit which Lumads joined in 1998; they also participated in the subsequent Peace Summit every 3 years thereafter (the last one in December 2006). These activities were organized by the Mindanao Peoples' Peace Movement.
- a The *Lakbay Tribo para sa Gubat at Lupaing Ninuno* organized by the Lumad groups and held on April 7-12, 2006. This involved a walk through the sacred places in their ancestral domain and through the logging areas. The walk-through culminated in a forum held at the Nuro Municipal Gym in Upi, Sharif Kabunsuan that was attended by representatives of DENR, OSCC, the local government, and the foreign media from Holland which documented the entire activity. The documentation was featured in the Speaking 4 Earth website.

In addition to these, the Lumad organizations spearheaded certain forms of activism or protest which they called "extra-legal" actions, some of which temporarily caused them to deviate from their true struggle. Angry with the DENR for granting a logging concession within the ancestral domain (see below), the Lumads launched a "dikit" or slogan-pasting campaign against the government agency in 2002. The slogans they posted in their various villages called the DENR to task, and highlighted the ill effects of deforestation on people and the environment. More protests occurred in 2003 and were directed towards stopping the logging operations inside the claim. Aimed at ruining the logging machines and equipment, the Lumads' initial action



as belonging to the Spanish Crown, excepting those lands granted to inhabitants who had claimed or acquired private property rights from the Crown. Lastly, the incident of Spain's sale of the Philippine archipelago to the American colonizers reinforced the latter's Regalian Doctrine. Because the Lumads' claim cannot be acted upon until after the MILF's claim is resolved, they have in effect become once more entangled with the Islamic antecedent. According to a TLMADC leader, MILF's push toward self-determination is also a push for Islamism which may not be favorable to the Lumads.

2. Multiple, layered claims and resource use within the Lumad ancestral domain. The Lumads are not the sole claimants of the area they have identified as ancestral domain. Around 20 years ago, the same area was part of the territories also claimed by the MNLF as their Bangsa Moro Homeland. At present, the TLMADC claim within the ARMM remains a contentious area, since the ARMM is annexed as the core area of the MILF's Bangsa Moro Juridical Entity.

Moreover, resource use within the claim is not exclusively in the hands of the Lumads. In 1998, the DENR granted 5000 hectares within the claim to a private logging concession under Industrial Forest Management Agreement (IFMA) No. 005. The grantees were allegedly MNLF Moro returnees. The logging concession became operational in 2002, but encountered problems when the Lumads launched extra-legal protests against the company a year later. In 2004, the IFMA was reportedly declared suspended during a congressional budget hearing. Although the cutting operations stopped, the logging community remained, and converted the area into an agricultural settlement. Unknown to TLMADC, another IFMA came in the wake of the suspension of the first IFMA. The second IFMA covering another 5000 hectares was awarded to the Pinansaran Logging Concession Inc (PLCI), which is reportedly headed by a local municipal government official. To date, logging activities under PLCI are reportedly ongoing.

Apart from being used for logging, resources within the Lumads' claim are also allegedly utilized for military, training, and other purposes of Moro camps established in the area. These camps are said to have presently attracted an estimate of around 200 migrant families and this number is expected to increase over time.

3. *Existence of policy loopholes.* The loopholes on ancestral domain claims may be traced in part to the absence of clear-cut provisions and implementing rules and regulations in the IPRA Law for IP claimants and claims for ancestral domain located within the ARMM. Hence the IPRA Law cannot be invoked and applied to the unique situation of IP groups like the TLMADC in Maguindanao who are juxtaposed with Muslim claimants.

Muslim claimants and claims are, in turn, covered in the Organic Act for ARMM, which reportedly nullifies the IPRA Law in autonomous Muslim areas like Maguindanao. A very important IPRA provision is the requirement that all IP applications for ancestral domain claims should be coursed through the NCIP. Under the Organic Act, however, the NCIP is not a recognized entity, so it does not possess any power and authority over the recognition, delineation, and titling of ancestral domain claims in ARMM areas. What the Autonomous Government recognizes is the Office of Southern Cultural Communities (OSCC), which has a limited mandate on IP claims in ARMM. In the Lumads' case, for example, the OSCC's role is reduced to serving as a channel for claim documents, or for endorsing them to and following these up at NCIP. Because no agency is responsible for accepting claim applications in ARMM, copies of the Claim Book (containing the application, names of claimants, family genealogies, community profiles, and other supporting papers) submitted by TLMADC to NCIP and OSCC are reportedly lost.

Owing to conflicts in the provisions of the IPRA Law and the Organic Act, the

believed to weaken the Lumad's claim. In such renaming, traditional Lumad names or terms are replaced and will thus be forgotten. The Lumads also experienced dishonesty when they attended a meeting organized by the local government about the issue of IFMA No. 005. They were made to believe that the signatures they provided were for attendance purposes, but these

articulated by the leaders, which institutional partners can provide in order to help them attain self-determination, is the generation of data on Lumad population size, composition, movement, and other characteristics such as shifts in land ownership. Write-ups of updated profiles of Lumad communities will likewise be required. Assistance given in these areas will be critical for the Lumads' organizational planning and decision-making.

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