



CASE STUDY

Transitional Justice Process?

The Experiences Of The Non-Moro Indigenous Peoples' Engagement In Dealing With Past And Contemporary Collective Claims And Needs In The Bangsamoro Autonomous Region In Muslim Mindanao.

By Rodelio N. Ambangan & Timuay Letecio Datuwata





A Teduray woman and her child watching the view from the window. Women among the indigenous Teduray and Lambangian people of Mindanao proclaim the need for equal access to the different social services including the recognition of home-birthing, an indigenous practice that has been passed down from generation to generation in many indigenous peoples' groups in the Philippines.

Transitional Justice Process?

The Experiences of the Non-Moro Indigenous Peoples' engagement in dealing with past and contemporary collective claims and needs in the Bangsamoro Autonomous Region in Muslim Mindanao

Copyright © Tebtebbba Foundation 2023

All rights reserved.

No part of this book may be reproduced in any form or by any means without the written permission of the copyright owner and the publisher.
The views expressed by the writers do not necessarily reflect those of the publishers.

Published by

Tebtebbba Foundation
No. 1 Roman Ayson Road, 2600
Baguio City, Philippines
Tel. +63 74 4447703 Tel/Fax: +63 74 4439459
E-mail: tebtebbba@tebtebbba.org
Websites: www.tebtebbba.org;
www.indigenousclimate.org

WRITERS

Rodelio N. Ambangan &
Timuay Letecio Datuwata

PHOTOS

Jimrex Calatan

LAYOUT

Gideon T. Ammang &
Gabriel C. De Vera

“Magulo ang sitwasyon namin ngayong ay hindi mapayapa; wala ba kaming karapatan na pamunuan ang aming komunidad? Kung iniisip ko, dati naming saklaw and mga probinsiya ng Maguindanao at Sultan Kudarat. Pero kami, mga tinataguriang Non-Moro Indigenous Peoples, ay naiwan na lang sa Bayan ng South Upi. Inaasahan namin na ibalik sa amin ang aming lupain ng BARMM. Sa ibang salita, kung kulang sa kanila ang buong manok, iwan niyo na sa amin naman ang balahibo. Ipahintulot niyo na ang aming parte. Sana maabot ko pa ang araw na maibigay sa amin ang lupang nakalaaan sa amin. Hindi na para sa akin, pero sa susunod na henerasyon ng aming tribo.”¹

—Timuay Florentino Orot Baul
Tribal Leader, Teduray-Lambanganian

INTRODUCTION

Transitional justice is an approach to address systematic and pervasive human rights violations. The Office of the High Commissioner on Human Rights (OHCHR) interprets Transitional Justice as that which “covers the full range of processes and mechanisms associated with a society’s attempt to come to terms with a legacy of large-scale past conflict, repression, violations, and abuses, to ensure accountability, serve justice, and achieve reconciliation”.² In Asia, the peace negotiation between the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) has been viewed as a model for transitional justice in Southern Philippines. After decades of holding the peace process, both parties came up with the Bangsamoro Organic Law (BOL) and established the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) with a transitional government known as the Bangsamoro Transition Authority (BTA).

Peace negotiation has been a “civilized” strategy for addressing sovereignty-based conflicts and teeming historical injustices mostly impacted by colonization. Peace negotiation forms part of the struggle of the Bangsamoros to freely chart their political status and pursue their economic, social and cultural development in the multi-ethnic and multi-cultural Southern Philippines. The BARMM is now in a transition period as it sets up a new

governance system and structure. This transition period is a crucial episode because it requires establishing a legitimate government that addresses the needs and claims of its citizens, which is an indispensable precondition for the government to enjoy the support and legitimacy granted by the people. Any transitional government that is incapable of addressing the claims and needs of its people engenders the recurrence of both direct and structural violence.

Thus, the experiences of the Non-Moro Indigenous Peoples (NMIP) have to be examined in the context of the transitional justice process to gauge the responsiveness of the BARMM. The experiences of the Non-Moro Indigenous Peoples, particularly the Teduray and Lambangian peoples, would contribute to the Global Initiative for Justice, Truth, and Reconciliation’s (GIJTR or the Consortium) endeavor to examine ways by which indigenous communities are engaging with and can engage in transitional justice processes. It will contribute to discussions on international human rights jurisprudence and transitional justice discourse, particularly in interpreting the scope of indigenous peoples’ collective rights, including the right to self-determination and the right to land, territory, and natural resources, as well as identifying ways in which indigenous communities



Most houses in the Lambangian community in the Philippines are made with light materials like kawayan (bamboo) and cogon grass which are readily available in their ancestral domain. *Benuan, Kuya, South Upi, Maguindanao, Philippines*

¹ *Conflict’s Long Game: A Decade of Violence in the Bangsamoro.* (2022, August 5). Conflict Alert. Retrieved from <https://conflictalert.info/>
² OHCHR: *Transitional justice and human rights.* United Nations. Retrieved from <https://www.ohchr.org/en/transitional-justice>

have been advocating and can advocate for their inclusion in truth, justice and reconciliation processes.

OBJECTIVES OF THE STUDY

This case study aims to examine and analyze the experiences of the Non-Moro Indigenous Peoples in dealing with their past and contemporary collective issues, including their claims and needs in the context of the transitional justice process in the BARMM. Specifically, the study aims to:

1. Review the Bangsamoro and Non-Moro Indigenous Peoples' struggle for the right to self-determination and peace;
2. Describe the NMIP's victimization and their engagement in the peace process and transitional justice process i.e., engagement of NMIP women;
3. Describe the framework of the transitional justice processes in dealing with NMIP's issues, claims, and needs;
4. Determine the NMIP's unaddressed claim and burning issues, the gaps in policy and practice on the transitional justice process, and recommendations.

METHODOLOGY AND CONCEPTUAL FRAMEWORK OF THE STUDY

Methodology and ethical considerations. The research team has undergone desk research and fieldwork through focus group discussions and key informant interviews among the leaders and members of the Timuay Justice and Governance (TJG). The field interviews were conducted on August 17-18, 2022 in Awang, Datu Odin Sinsuat Maguindanao and on August 19-21, 2022, in Benuan, Barangay Kuya, South

Upi, Maguindanao. The interviews were culled from a total of 61 participants (45 male, 16 female) with ages ranging from 22 to 67 years old. The participants volunteered for the interview and their opinions recorded verbatim. They expressed their consent to participate in the case study through a letter signed by the TJG leadership.

Conceptual framework of the study. The Transitional Justice and Reconciliation Commission's Dealing With the Past (DWP) framework³ was used as a guide in analyzing the experiences of Non-Moro Indigenous Peoples' engagement in dealing with the past and contemporary collective issues, claims, and needs. The framework was suggested as it was conceptualized that to achieve justice in a post-conflict situation, the victims, as well as the perpetrators, must deal with the past and undergo the transformative process of knowing the truth (right to truth), upholding justice (right to justice), providing reparation for the victims (right to reparation) and ensuring the non-recurrence of violence (right to non-recurrence). The NMIP's collective issues and needs at the center of the diagram must be acknowledged and investigated by an independent commission or fact-finding team before justice is accorded. In serving justice, a measure must be instituted to ensure that the past injustices or violent situations will not recur and there shall be reparation and rehabilitation of the relationship made. In between the episode of the transition process, gaps and challenges are encountered that need to be identified for proper recommendations and action.

Please see below the conceptual framework for the Transitional Justice process for NMIP's collective issues and needs.

Bangsamoro and NMIPs Struggle for Right to Self-determination and Peace

Emergence of the Liberation Movements and their struggle for the Right to Self-Determination

The struggle of the Bangsamoro and non-Moro indigenous peoples in Mindanao for the right to

3 *Report of the Transitional Justice and Reconciliation Commission.* Transitional Justice and Reconciliation Commission (2016). Manila, Philippines. pp.XIII

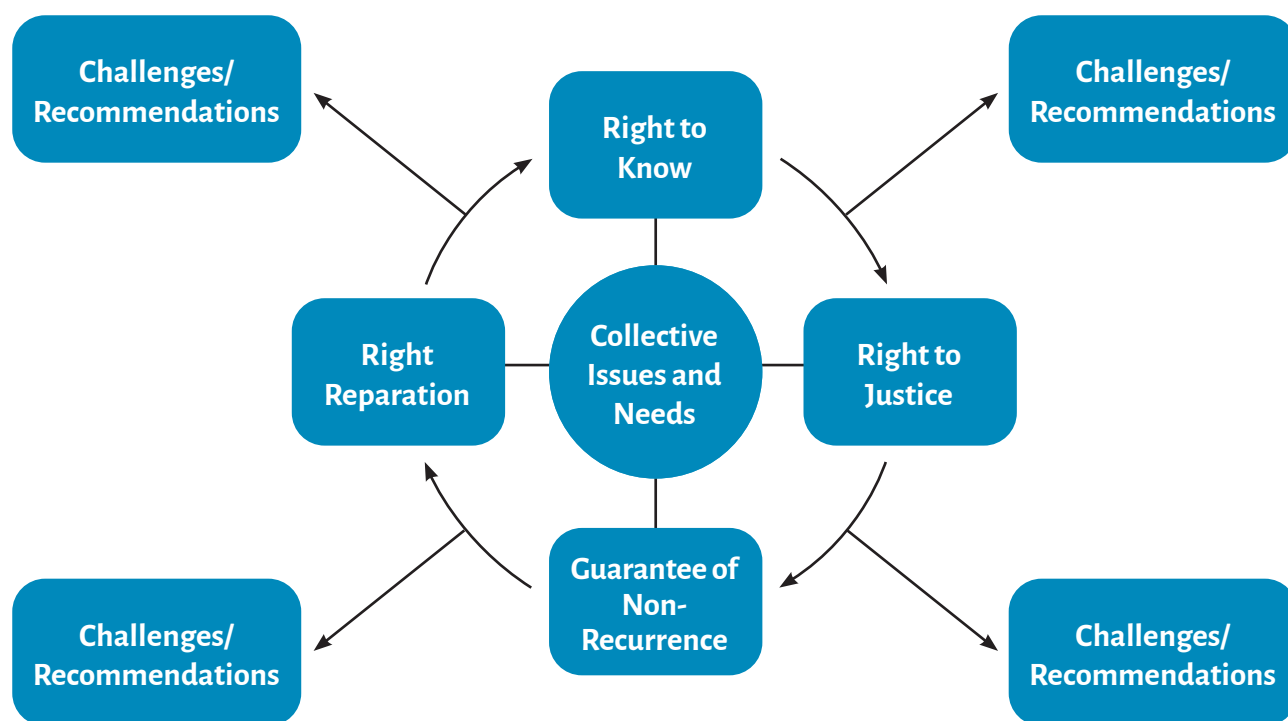


Fig. 1. Transitional Justice process for NMIP's collective issues and needs.

self-determination and freedom began with the advent of colonization on what will soon be known as the Philippine Islands in the 16th century. Throughout history, battles and skirmishes had ensued and duly recorded against the Spanish conquest. The Sultanate of Buayan and Maguindanao even allied with the ruling family of Ternate in Borneo (now North Maluku in Indonesia) to engage against the Spanish conquistadors. The Ternatan sent war vessels and thousands of troops to fight side by side with the Sultanate's forces. But even before the support from the Ternate family, the Sultanate has already launched a strategic offensive attack against the Spaniard.⁴ But then later the Spaniards employed on Mindanao their "divide and rule" tactic which effectively prolonged their colonial rule in the whole islands for 333 years (1565-1898). They used their native allies to fight fellow natives – a war strategy that produced serious prejudices and biases and which continues to characterize the fragile relationship among the peoples in Mindanao until today. This colonial approach was pursued by the United States of America (USA) after Spain sold the Philippine territory through the Treaty of Paris for US\$20 million on December 1898. This was a wanton violation of the Bangsamoro and Non-Moro Indigenous Peoples'

(NMIP) right to self-determination as it was made without their plebiscitary consent.⁵

The Philippines may soon have gained independence but the government, ran by Filipinos, maintained the colonizers' repressive policies such as the public land laws and resettlement programs which led to massive land dispossession and marginalization of the Moro and NMIP in Mindanao. This inevitably resulted in the emergence of the Bangsamoro resistance movements, including the Muslim Independent Movement (MIM) which was founded by Dato Udtog Matalam in 1968. The emergence of MIM was triggered by a confluence of events including the Jabidah massacre in Corregidor Island in Bataan during the presidency of the late Ferdinand Marcos Sr. President Marcos planned to infiltrate Sabah using elite Bangsamoro youth from Sulu and Tawi-tawi. The Civil Affairs Office of the Department of National Defense clandestinely trained 180 young Moro people in Corregidor Island for the operation but 26 of them were later accused of mutiny and executed by their superiors. This incident sparked aspirations of independence among the Bangsamoro as they felt threatened by the State. This situation further galvanized the emergence of two liberation fronts of the Moro – first, the Moro National Liberation Front

4 Damao, M. (2022). *In search of Independence from Moro Revolt to the Remaking of Bangsamoro*. LAP LAMBERT Academic Publishing, pp. 18

5 Rodil, R. B. (2003). *A Story of Mindanao and Sulu in Question and Answer*. Mindanao Coalition of Development NGO Networks.

(MNLF) and later, the Moro Islamic Liberation Front (MILF) which split from the MNLF in 1976.⁶

Bangsamoro and NMIP's Engagement in the Peace Process

The MNLF was first organized and immediately began waging a revolution against the Philippine government soon after Martial Law was declared on September 21, 1972. State agents perpetrated numerous massacres that systematically targeted the Bangsamoro and non-Moro indigenous people; among them the Jabidah massacre, Manili massacre, Malisbung massacre, and others.⁷ In retaliation, the MNLF launched a series of devastating attacks on the military outposts in the provinces of Cotabato, Jolo and South Cotabato in 1972 and 1973. They declared Mindanao, Sulu, and Palawan as their Bangsamoro ancestral homeland. They declared their wish to be free from Filipino colonialism's terror, oppression, and tyranny and establish the "Independent Bangsamoro Republic". They engaged in peace negotiations with the government as facilitated by the Organization of Islamic Conference led by the Quadripartite Ministerial Committees (QMC) represented by Saudi Arabia, Senegal, Somalia, and Libya⁸ which resulted in a Tripoli Agreement signed on December 23, 1976. The agreement stipulated that an autonomous government shall be established in the southern Philippines within the realm of the sovereignty and territorial integrity of the Republic of the Philippines covering 13 provinces and all the cities and villages therein subject to democratic processes. The salient provisions of the agreement include the establishment of a judicial system for Shariah



Nestled among the abundant forest is the sitio Benuan settlement. The community is safe amidst the trees and their farm lands even without security infrastructure, as long as their right to their ancestral domain and lands are recognized and respected. *Sitio Benuan, Kuya, South Upi, Maguindanao, Philippines*

law, an educational system, special security forces, observance of the ceasefire, the establishment of its own economic and financial system, and the right of representation and participation in the Central Government and all other organs of the State.⁹ With this autonomous status, Chairman Nur Misuari of the MNLF abandoned their claim for independence. However, Vice Chairman Sheik Hasim Salamat was not fully satisfied with the Agreement, cut himself from the MNLF and created what would become the Moro Islamic Liberation Front (MILF) which he said will continue the struggle for an Independent Islamic State. The MILF leadership viewed the Tripoli Agreement as just a "scrap of paper" as it was not faithfully implemented by the Philippine Government until the ouster of President Ferdinand Marcos on February 26, 1986.¹⁰

During the Presidency of Corazon C. Aquino, the peace negotiation was resumed which led to the GRP-MNLF Jeddah Accord in 1987, granting full autonomy to Mindanao, Sulu, Tawi-tawi, Basilan, and Palawan subject to a democratic process. Again, the MILF

6 Ibid. pp.133-134

7 Rodil, R. B. (2003). *A Story of Mindanao and Sulu in Question and Answer*. Mindanao Coalition of Development NGO Networks.

8 Ibid. pp. 138

9 *The Tripoli Agreement*. (1976). United Nations Peacemaker. Retrieved from <https://peacemaker.un.org/philippines-tripoliagreement76> on September 07, 2022

10 Jubair, S. (1999). *Bangsamoro: A Nation Under Endless Tyranny*. IQ Marin, Kuala Lumpur, Malaysia.

leadership denounced the Jeddah Accord as a “Cheap Drama” of the Philippine government that compromised the Bangsamoro struggle for sovereignty. On January 13-17, 1987, MILF launched a five-day full-scale tactical offensive attacking military installations and personnel.¹¹ Despite the strong resistance, the Aquino administration continued to engage with MNLF and pursue the peace process which resulted in the enactment of the Republic Act 6734 in 1989, providing an Organic Act for the Autonomous Region in Muslim Mindanao. For this, a plebiscite was conducted among the constituents to finally determine which areas shall be under the autonomous region. It is worthy to note that in this law, the rights of the non-Moro indigenous cultural communities to ancestral land are protected in Section 1, Article XI which says “Subject to the Constitution and national policies, the Regional Government shall undertake measures to protect the ancestral domain and the ancestral lands of indigenous cultural communities”. It is also worth mentioning that before the conception of BARMM, there were legal measures already in place to uphold the rights of Non-Moro Indigenous peoples to ancestral domain and land.

During this period, the Philippine 1987 Constitution was crafted with five core provisions enshrined for protecting and fulfilling the rights of the indigenous peoples to ancestral domain and ancestral land and well-being enunciated Constitution. One of which is Article XII, Section 5 of the 1987 Constitution, which states: “*The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well-being. The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.*”¹² This provision in the 1987 Constitution is an acknowledgment and recognition that as a duty-bearer, the State shall make necessary measures to intervene and protect the indigenous peoples from land dispossession, marginalization, and neglect happening all over the country. Philippine legal tradition enunciated it as a Principle of Parens Patriae wherein “persons suffering from serious disadvantage or handicap which place them

in a position of actual inequality relation or transaction with others are entitled to the protection of the State”.¹³ The articulation of these provisions by the framers of the 1986 Constitution was a result of the indignant and militant struggle of IP against the establishment and operation of logging companies, dams, ranches, mining, and agribusiness plantation within their ancestral domains. It suffices to say that the struggle of indigenous peoples in claiming justice and peace was at pace with the Bangsamoro peoples’ negotiations with the Philippine State.

Twenty years after the Tripoli Agreement was crafted, another accord was made by the GRP-MNLF known as the Final Peace Agreement (FPA) of 1996 to fulfill the long desire for full autonomy in the Southern Philippines. The agreement consists of two phases; the first phase deals more with economic structures such as the establishment of the Special Zone of Peace and Development (SZOPAD), the Southern Philippines Council for Peace and Development (SPCPD), and the Consultative Assembly and the establishment of the procedure for the integration of former MNLF guerrillas into the Armed Forces of the Philippines (AFP) as well as into the Philippine National Police (PNP) while the second phase was more on political and governance structuring such as the legislative action to amend or repeal the existing Republic Act 6734, otherwise known as the Organic Act of the Autonomous Region of Muslim Mindanao (ARMM). Any laws as a result of amendment shall be submitted to the people in the affected regions for a plebiscite for ratification, specifically laws related to the expansion of the geographical scope of the autonomy beyond the four provinces of ARMM.

The MILF leadership was again skeptical about the twists and turns of the GRP-MNLF peace process. A year after the signing of the FPA, the MILF leadership also started its formal peace negotiation with the Government of the Philippines. In the same year, the Republic Act 8371 otherwise known as Indigenous Peoples Rights Act (IPRA) was enacted by Congress after a long and arduous democratic struggle. Like the two revolutionary groups, IPRA is a legal measure that supports the expression of the right to self-determination and is considered the “Peace Agreement” between the indigenous people and the Philippine Government. Through this act, the State

11 Ibid. pp. 184-186

12 Philippine 1987 Constitution, pp.40-44.

13 Pimentel, M. P. (n.d.) *The Indigenous Peoples Rights Act, Commentaries and Guide in Practice*, 2021. Rex Book Store, Manila Philippines.

guarantees the respect, protection, and fulfillment of the rights of indigenous peoples on ancestral domain, self-governance, social justice, human rights, and cultural integrity.¹⁴

Recurrent conflicts and skirmishes interrupted the peace negotiations between the government and MILF since 1997. In 2008, the negotiators created the Memorandum of Agreement on Ancestral Domain (MoA-AD). This agreement would have led to the creation of the “Bangsamoro Juridical Entity”, an associative state relationship with the Philippine Government. But the Supreme Court later declared the MOA-AD unconstitutional on the ground that the Associative State would lead to an Independent State and there were no sufficient consultations and information made for the people whose public interest would be affected by the proposed policy.¹⁵

Another milestone in the Philippines Government-MILF peace negotiations was the Comprehensive Agreement on the Bangsamoro signed in 2014. It was the first significant peace agreement in ten years and has become a reference for other contemporary peace processes. After 17 years of negotiations, the Philippines Government and the Moro Islamic Liberation Front managed to

build a creative hybrid architecture for verifying ceasefires, supporting negotiations, and implementing the agreements, with the participation of Filipinos and members of the international community, the military and civilians, institutions and civil society.¹⁶

NMIP's victimization and their engagement in the peace process

Victimization of NMIPs in war and the peace process

The Non-Moro Indigenous Peoples (NMIP) have been trapped and impacted by both the war and peace processes of the government with the MNLF and the MILF in Mindanao. Early on during the foundation of MNLF and later the MILF in the 1970s, there were numerous accounts of NMIP joining the liberation front as members and even officials in their hope that their collective issues, claims, and needs would be given attention. Some even served as auxiliary forces to provide shelter, food, protection, and shelter despite the risks of being subjected to combat. Hosting the rebel forces in their ancestral territories indeed resulted in war and displacement of their families for several months or even years. When some of the NMIP evacuees returned to their traditional abodes, they found new settlers occupying and cultivating their lands. In some areas, the NMIP could not return to their original land as rebel forces used them as their base camps. Based on the elders' testimonies in Sitio Mari in Barangay Ahan in Guindulungan, Maguindanao, when they dared to return to access their farms and food sources, they were given no choice but to join or serve the rebel forces and embrace the Islamic religion and teaching.

Some NMIP were even taught to employ violence in claiming their rights. As they were dead-set for drastic change, they willingly worked with and joined the rebel groups, believing that armed struggle is the only solution while dismissing democratic dialogue as a submissive and weak strategy. The NMIP were



In the Philippines, and most especially in BARMM areas such as in sitio Benuan, signs such as these are placed at school entrances as a reminder for either State or non-State forces not to occupy schools as their camps. *Sitio Benuan, Kuya, South Upi, Maguindanao, Philippines*

14 Alejo, Abert. “PEACETALK: “IPRA itself is a peace agreement”.” *Minda News*. December 2, 2014. <<http://www.mindanews.com/mindaviews/2014/12/peacetalk-ipra-itself-is-a-peace-agreement/>>

15 GMA News Online. “Supreme Court rules domain agreement ‘unconstitutional’.” 14 October, 2008. <<http://www.gmanetwork.com/news/news/nation/126956/supreme-court-rules-domain-agreement-unconstitutional/story/>>.

16 Herbolzheimer, Kristian. “The peace process in Mindanao, the Philippines: evolution and lessons learned.” *Norwegian Peacebuilding Resource Center*. December, 2015. <<http://www.cr.org/downloads/a6c4f7339db9c90cd15a63c85405404e.pdf>>.

forced to take sides with the MILF and took up weapons to defend their lives. They fought not because they embraced a new ideology but simply to survive or evade suspicion as spies or enemy supporters. In some instances, the NMIP were forced to join the government military forces to avoid being tagged as agents of the rebel forces.¹⁷

While some NMIP joined the liberation fronts, many have sought to engage in various forms of the peace process and dialogues despite the limitations brought by their distinct claims and needs at the community and national levels. These claims included the “non-diminution of rights” of what has been already guaranteed by the State through IPRA and the United Nations Declaration on the Right of Indigenous Peoples (UNDRIP). The rationale of the NMIP peace engagement was drawn from their experience with the GRP-MNLF peace process. They felt that their peace agenda were neglected and sidelined because IPRA was not meaningfully and effectively implemented by the Autonomous Region in Muslim Mindanao (ARMM) for more than 20 years. Though the ARMM passed the Muslim Mindanao Act 241 entitled “Tribal Peoples Rights Act in the ARMM”¹⁸ as their attempt to respond to the clamor of NMIP, this, too, was never implemented to its fullest extent.

NMIP's Engagement in the Government of the Philippines - MILF peace process

The NMIPs participation in the peace negotiation was arduous and challenging because they were “othered” in the peace process. This exclusion was deeply felt when their submissions of peace proposals and agenda to the Government peace panel were considered “unofficial” because they are not the primary parties that the government are negotiating with. They engaged in dialogue with the MILF leadership to include IPRA in the Bangsamoro Basic Law but the MILF leadership claimed that the inclusion of the said law will dilute Bangsamoro Basic Law and would only limit the exercise of the Bangsamoro rights to self-determination. Ghadzali Jaafar, the MILF Vice Chairman for Political Affairs said, “We will catch the



Rojohn Gunsi, 26, is a Teduray youth actively advocating for the recognition of indigenous people's rights in camp transformation related projects that may encroach in their territory. He hails from Mt. Firis, where intense conflicts occurred in December 2020. Awang, Datu Odin Sinsuat, Maguindanao, Philippines

chicken first before we decide which part of it will be given to you”.¹⁹ That meant that the Bangsamoro and NMIP should work together in peace negotiations and come up with a favorable peace agreement before tackling the NMIP's rights over their ancestral land and self-governance.

The Teduray, Lambangian, Erumanen ne Menuvu and other NMIP heightened their peace engagement in diverse forms and scales. They organized the Independent Indigenous Peoples' Voice and LOYUKAN (Comrades in Struggle) as platforms to amplify their voices in the peace process. Tebtebba is one of the active members of LOYUKAN. This mechanism solicits legitimate voices through the representation of the Indigenous Political Structure and System of NMIP. In 2017, they actively participated in the Mindanao Indigenous Peoples

17 Ruivivar, Patmei Bello. “PEACE TALK: Indigenous Peoples' Peace Table.” *Minda News*. October 2, 2016. <<http://www.mindanews.com/mindaviews/2016/10/peace-talk-indigenous-peoples-peace-table>>.

18 It is 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, and act passed by the Regional Legislative Assembly on June 11, 2008, by the Autonomous Region for Muslim Mindanao (ARMM)

19 Ambangan, Rodelio, Inclusive peace process? *Indigenous peoples' experience of engagement with the Bangsamoro and the government of the Philippines*. Research Dissertation Presented to The Academic Faculty of Paññāsāstra University of Cambodia. 2021. Unpublished. pp.106

Legislative Assembly (MIPLA) to study and propose relevant peace proposals for the inclusion of indigenous peoples' rights in the Bangsamoro Basic Law through the Office of the Presidential Peace Process (OPAPP) and Committee on National Cultural Communities in the Congress.²⁰



A Lambangian fintailan (woman leader) offers her voice in the consolidation of issues experienced by Non-Moro Indigenous Peoples (NMIPs) in the transitional justice process under the Bangsamoro Autonomous Region in Muslim Mindanao.

The Independent Indigenous Peoples' Voice and LUYUKAN were actively involved in the direct and indirect lobbying for the full inclusion of the indigenous peoples' rights in the Bangsamoro Basic Law. They participated in committee hearings in the Senate, prepared peace proposals and submissions

during the public congressional hearing, dialogued with the legislators who championed indigenous peoples' rights, held study sessions with legal luminaries and framers of the Constitution, and built and broadened their alliance. At the ground level, they initiated consultations and public education such as the Indigenous Peoples Journey for Self-Determination (Lakbay Tribu para sa Sariling Pagpapasya) in partnership with the Mindanao Peoples' Peace Movement and other civil society organizations (CSO). They started the consultations with a sacred ritual known as Fafad among the Teduray in Maguindanao; this ritual was a prayer for the success of the event. It was made at the Upi Agricultural School in Nuro Upi, Maguindanao which was attended by 170 individuals belonging to the NMIP, Bangsamoro, and migrant settlers.

They increased their capacity in ensuring effective engagement in peace negotiations by regularly organizing study sessions on the Bangsamoro Basic Law and its implication for the NMIP's right to self-determination. They released statements and position papers, held dialogues and conferences with the support of CSOs, and educated the public about the distinct identity of the indigenous peoples through a photo gallery featuring the people's history, territories, and distinct identities. The strong assertion of NMIP identity was intense because they experienced exclusion and non-responsiveness from their claimed community, the ARMM, and the Philippine Government. There was a symbiosis between the claimed community and its responsiveness to its members.²¹

Women's Voices in the Transitional Justice Process

The leaders of the TJG in a focus group discussion (FGD)²² shared that women have a special role in the Indigenous Political Structure known as Fentailan.²³ Some of the Kefeduwana or justice holders are women. Many Teduray and Lambangian communities are also headed by women and they have equal roles,

20 Loyukan, *Our call for inclusion: A Collection of Articles on Peace, Indigenous Peoples rights, and Bangsamoro Basic Law*. Loyukan, Quezon City. 2015

21 Madew, M., Schulz, C., & Dakal, P. *Discourse on Social Cohesion*. VEG. Germany. 2015. pp.18

22 Focus Group Discussion was conducted among the TJG leaders on August 17-18, 2022 at MP Romeo Saliga's office in Tenorio, Awang, Datu Odin Sinsuat Maguindanao on the NMIP experiences on the Transitional Justice process.

23 Woman leader in the Timuay Justice and Governance

24 Participants during the Focus Group Discussion with the leaders of the Timuay Justice and Governance (TJG) on August 18, 2022 in Awang Maguindanao



Strength and dignity. Indigenous women in the Bangsamoro Autonomous Region in Muslim Mindanao steadfastly assert their quiet strength and dignity as they continuously call for the recognition of their indigenous rights as stated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Philippines' Indigenous Peoples Rights Act 1997 (Republic Act No. 8371 of 1997).

rights, and obligations as the men in defending the ancestral domain.²⁴

In 2001, the Teduray and Lambangian women formed an indigenous peoples umbrella organization called the Teduray Lambangian Women Organization Inc. (TLWI), federating the 35 community-based women's organizations of indigenous peoples in the province of Maguindanao.²⁵ Fentailan Froilyn Mendoza is the leader of the organization and is actively participating in the peace structure, particularly the Government of the Philippines-Joint Task Force on Camp Transformation (GPH-JTFCT) as camp coordinator for Camp Omar. Recently, Ms. Mendoza was chosen as one of the 80 members of the Minister of Parliament of the Bangsamoro Transition Authority.

This further provides a platform for NMIP women to amplify their voices in the legislative process.

Ms. Jen Cornelio is also an active human right advocate working for the release of the 24 men who were red-tagged and imprisoned in jail. These men surrendered to the government military forces in line with the campaign to end local communists by virtue of Executive Order No. 70.²⁶ However, since it is illegal to detain them without charges, they were charged with murder and arson cases so that they can be put to jail in General Santos City. The military spy who belongs to Teduray community volunteered to be a witness against his fellow IP to justify the charges. Ms. Cornelio along with other human rights groups was able to release two out of twenty-four people from jail.

In addition to these two notable leaders engaged in legislative process and advocacy for human rights, there are numerous NMIP women in the communities working for the community's welfare and well-being though yet to be recognized and organized. There is a need for an up-scaled collective effort among women to intentionally work on the transitional justice process in the context of NMIP.

Framework of Transitional Justice processes and the NMIPs contemporary burning issues and challenges

Peace Agreements as the framework and legal basis for dealing with NMIPs' claims and needs

Similar to the Indigenous Peoples Rights Act in the Philippines, the Bangsamoro Organic Law intends to rectify historical injustices. This legislation is a product of the Philippines Government - Moro Islamic Liberation Front's protracted peace negotiations for 17 years. Both parties signed the Framework of Agreement on Bangsamoro on October 15, 2012, the Comprehensive Agreement on Bangsamoro on

25 Conciliation Resources, TEDURAY LAMBANGIAN WOMEN'S ORGANIZATION (TLWOI), <https://www.c-r.org/organisation-profile/teduray-lambangian-womens-organization-tlwoi>, retrieved on September 10, 2022.

26 A national policy of the Duterte Administration in Institutionalizing the Whole of Nation-Approach in Attaining Inclusive and Sustainable Peace, creating a National Task Force to End the local Communist, and directing the adoption of the National Peace Framework" which was issued on December 4, 2018, at Malacañang Palace, Manila.

27 Transitional Justice and Reconciliation Commission. "Report of the Transitional Justice and Reconciliation Commission." Makati City, Philippines. 2016.

March 27, 2014, and later the Normalization Annex on January 25, 2014.²⁷ The Bangsamoro Organic Law was enacted by Congress in 2018 which created the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) and other salient structures and offices to advance Bangsamoro aspirations for self-determination. Within the BARMM, the Ministry of Indigenous Peoples Affairs (MIPA) is mandated to protect and promote the rights of the NMIP within the autonomous region. It is this law that differentiates the Moro from the Bangsamoro Indigenous Peoples and NMIPs, owing to the reverberating cry in the peace negotiation process from many indigenous peoples, largely the un-Islamized indigenous peoples who do not ascribe to the Bangsamoro identity for historical, religious, territorial and governance reasons.²⁸

Since the inception of BARMM in January 2019, the parliament has been working to enact enabling policies guided by the precept of moral governance. Its priority pieces of legislation include the administrative, Indigenous Peoples, internal revenue, civil service, education, local government, creation of offices, and electoral code.²⁹ But the legislative mill is very slow. This snail-paced mode failed to enact important bills such as the Indigenous Peoples' Code. Instead of enacting this code to uphold the rights of NMIP, the Bangsamoro Transition Authority (BTA) passed Resolution No. 38 to stop the delineation and titling process of the ancestral domain of the Teduray and Lambangian people. The leaders of the Timuay Justice and Governance (TJG) were skeptical of BARMM's sincerity to address the legitimate grievances and historical injustices experienced by the non-Moro indigenous peoples. They expressed disappointment with the new autonomous government and rejected the extension of the transition period of the BARMM.³⁰

Meanwhile, some NMIP still joined the appeal of the MILF-led Bangsamoro parliament to extend the BARMM transition period, citing that the delay in crafting the Indigenous People's code was merely due to the COVID-19 pandemic. They fear that without the extension, the parliament would overlook concerns over their ancestral domain and tribal justice system.³¹ On October 28, 2021, then President Former President Rodrigo Roa Duterte signed a law extending BARMM from 2022 to 2025, which postponed the first regional parliamentary election in the region.³²

In the Bangsamoro Organic Law, there are thirteen provisions pertaining to recognizing, protecting, and promoting the rights of non-Moro indigenous



Locally termed as an *afaran* or *dulang*, this raised platform serves as a sacred altar for the Teduray and Lambangian people of Maguindanao which is where offerings to God are placed especially during important rituals. *Sitio Benuan, Kuya, South Upi, Maguindanao, Philippines*

27 Transitional Justice and Reconciliation Commission. "Report of the Transitional Justice and Reconciliation Commission." Makati City, Philippines. 2016.

28 Gempa te Kelindaan ne Kamal. "Position paper of Erumanen ne Menuvu in the Crafting of the Bangsamoro Basic Law." Unpublished. 2015.

29 Punzalan, Noel. "BARMM parliament focuses on 7 priority bills." *Philippine News Agency*. 23 October 2019. <<https://www.pna.gov.ph/articles/1083945>>.

30 Christian Esguerra, of Facts First, sat down with the supreme tribal chief of the Timuay Justice and Governance to talk about land grabbing, harassment, and killings experienced by non-Moro indigenous peoples in the new #Bangsamoro Autonomous Region in Muslim Mindanao. #BangsamoroSeries. <https://www.youtube.com/watch?v=KdGXzjjLPs>

31 Bangsamoro Information Office. "IPs fear reforms on ancestral domain, tribal justice system will be overlooked if BARMM transition is not extended." 29 July, 2021. <<https://bangsamoro.gov.ph/news/latest-news/ips-fear-reforms-on-ancestral-domain-tribal-justice-system-will-be-overlooked-if-barmm-transition-is-not-extended/>>.

32 Bangsamoro Information Office. "Duterte signs law extending transition period in BARMM until 2025." October 29, 2021. <https://bangsamoro.gov.ph/news/latest-news/duterte-signs-law-extending-transition-period-in-barmm-until-2025/>

peoples. These hard-earned provisions through the peace engagements guarantee the entitlement of NMIP over their ancestral domain, self-governance, and other essential rights necessary to build a threat-free, just, and inclusive society. These provisions are products of the protracted struggles for the full inclusion of the indigenous peoples' rights in the Bangsamoro Basic Law, later termed the Bangsamoro Organic Law.³³

Legal measures such as the Bangsamoro Organic Law and BARMM are just part of the important systems that catalyze the creation of violence-free communities in Southern Philippines. Laying down arms and creating a peace accord, such as a Comprehensive Agreement on Bangsamoro, are not guarantees of not reverting to the previous violent situations. The past should be dealt with by knowing and acknowledging the truth about historical injustices and pervasive human rights violations and by serving justice and instituting measures that will guarantee the non-recurrence of violent situations. In the context of BARMM, this process of transitional justice is not just limited to parties directly involved in the peace negotiations but also to other people such as the NMIP who also experience exclusion despite their extensive attempts to engage in the peace processes, both at the local and national levels.³⁴

Transitional Justice Mechanisms and Structures

There is yet no transitional justice mechanism that is created primarily addresses historical injustices, legitimate grievances and human rights violations, and land dispossession as experienced by the NMIP. However, there are existing structures, commissions, and offices with mandates specific and scope that could mobilize about the NMIP's claims and issues. These mechanisms include the Transitional Justice and Reconciliation Commission (TJRC), Bangsamoro Transition Authority ((BTA), Inter-Governmental Relation Body (IGRB), Ministry of Indigenous Peoples' Affairs (MIPA), and other local justice mechanisms.



Despite having a block grant in the national budget for its funding, the BARMM government has yet to provide support and/or sustain services to remote areas. Here Mr. Edgardo Calantungan Jr., 35, a Lambangian is manually grinding coffee produced and harvested in the community as an entrepreneurial endeavor. *Sitio Benuan, Kuya, South Upi, Maguindanao, Philippines*

The Framework Agreement on the Bangsamoro (FAB) between the Philippines Government and the MILF includes the establishment of the Transitional Justice and Reconciliation Commission (TJRC) as part of the Agreement's Annex on Normalization. TJRC is mandated to undertake a study and to recommend to the Peace Panels the appropriate mechanisms for: 1) addressing the legitimate grievances of the Bangsamoro people; 2) correcting the historical injustices; 3) addressing the human rights violations, and 4) addressing marginalization through land dispossession. After conducting a series of

33 Focus on the Global South. *Groups reiterate the call for full inclusion of their rights in the Bangsamoro Basic Law*. <https://focusweb.org/groups-reiterate-call-for-full-inclusion-of-their-rights-in-the-bangsamoro-basic-law/> on May 25, 2015

34 Europe Solidaire Sans Frontières. "Mindanao (Philippines): Indigenous Peoples demand Independent Voice in the Peace Processes." Retrieved from <https://www.europe-solidaire.org/spip.php?article39325> on 26 October 2016

35 Transitional Justice and Reconciliation Commission. "Report of the Transitional Justice and Reconciliation Commission." Makati City, Philippines. 2016. pp. 6-7.

consultations using the listening process approach,³⁵ the TJRC recommended the establishment of the National Transition Reconciliation Justice Commission on Bangsamoro (NTJRCB) which shall ensure the implementation of the 'dealing with the past framework' (DWP) and promote healing and reconciliation.³⁶ The Philippine Congress adopted a transitional justice bill that sought social healing and reconciliation; however, based on the observation of Timuay Justice and Governance³⁷ (TJG) Leadership, it was not given serious attention in the House.

Another mechanism for transitional justice process is the Ministry of Indigenous Peoples Affairs (MIPA), pursuant to the Bangsamoro Organic Law. This Ministry (MIPA) is mandated to "protect and promote the interest and well-being of Indigenous Peoples within the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) with due regard to their beliefs, customs, traditions, and institutions." The Ministry further "serves as the primary agency responsible for the formulation and implementation of pertinent and appropriate policies and programs in collaboration with the law-making body of Bangsamoro and the National government to carry out policies outlined in the law".³⁸ However, the full operation of the office is dependent on the Indigenous Peoples' Code, which is yet to be enacted by the Bangsamoro Transition Authority.

The Inter-Governmental Relations Body (IGRB) is a mechanism to address grievances between the Bangsamoro and the National Government. It is mandated by the law to coordinate and resolve issues of intergovernmental relations through regular consultation and continuing negotiation in a non-adversarial manner.³⁹

Local initiatives and practices for reconciliation exist but are less utilized at the community levels, particularly in managing traditional territorial boundaries of ancestral domain between the Moro and non-Moro indigenous peoples. This local practice, known as Kakap te Dulunan (revisiting the traditional boundary), aims not only to restore land borders but

also to rekindle the relationships among the people. In 2019, this practice started in the Pegelaten, in Lanoon, Carmen, Cotabato, in one of the territories of non-Moro indigenous peoples adjoining the Bangsamoro areas. However, the government has given little attention to this initiative.⁴⁰

NMIP's contemporary burning Issues, gaps in policies and practices on transitional Justice process, and Recommendations

NMIP contemporary burning issues

Thus far, records and testimonies would show that the needs and claims of the Non-Moro Indigenous Peoples are far from being addressed. Instead of resolving them, the mechanisms and structures most of the time aggravated these interrelated needs and claims. Below are contemporary issues confronted by the NMIPs.

BTA suspended the Certification of Ancestral Domain Title (CADT) application process of the Teduray



Only a keloid remains from the bullet that pierced the leg of an elder during an encounter in relatively peaceful Sitio Benuan many years ago. *Sitio Benuan, Kuya, South Upi, Maguindanao, Philippines*

³⁶ Ibid. pp. XVII.

³⁷ Alim Bandara, Nature of the Timuay Justice and Governance in Central Mindanao, Philippines, <http://www.europe-solidaire.org/spip.php?article5255> in October 2002.

³⁸ Organic Law of the Bangsamoro Autonomous Region in Muslim Mindanao/RA11054, 2018, retrieved from <https://www.officialgazette.gov.ph/downloads/2018/07jul/20180727-RA-11054-RRD.pdf>. pp. 34.

³⁹ Ibid. pp. 11.

⁴⁰ Initiative for International Dialogue, Transitional Justice and Reconciliation: In and Beyond the Bangsamoro" (Research Study on Community Narratives of Resilience and Truth-telling), Bangsamoro Transformative Justice Initiatives Project (2017-2019). Initiatives for International Dialogue (IID). Davao City. 2019. pp. 64.

and Lambangian groups. Since 2014, the Timuay Justice and Governance (TJG) leadership was hopeful that their application for CADT which started in 2005 will be sped up due to the essential IP rights provision in BOL. The survey and delineation of the Ancestral Domain were completed with the assistance of the Philippine Association for Intercultural Development (PAFID).⁴¹ The survey returns were transmitted by the National Commission on Indigenous Peoples (NCIP) - Region 12 to the Ancestral Domain Office Central Office on September 2, 2019, and was ready for deliberation and issuance of CADT. Unfortunately, the Bangsamoro Transition Authority (BTA) issued Resolution No. 38 to stop the CADT application process. Instead, the MIPA issued Administrative Order 003, Series of 2021, which provided guidelines for delineating and titling ancestral domains and lands within BARMM. By this order, MIPA started administering the delineation and monumentation processes over the same areas previously claimed, surveyed, and delineated. The TJG leadership shared that the process was confusing to many Teduray and Lambangian AD claimants because, aside from duplicating the process and shrinking the areas previously surveyed, it was made without proper information and consultation. The process created further tension and division among the Non-Moro Indigenous Peoples.⁴²

The TJG leadership averred that the Certificate of the Ancestral Domain Title (CADT) is an essential legal document in protecting the ancestral domain and can be used as legal proof against land grabbers. It strengthens their position to defend, develop and manage their land and resources. Native Title is good but not enough basis for their claims as it can hardly be understood by the people who are not NMIP. CADT could have mitigated and managed multiple land claims in favor of NMIP.

Slow legislation process of the Indigenous Peoples' Code by the Bangsamoro Transition Authority.

The first parliament of the Bangsamoro Transition Authority (BTA) failed to enact appropriate legal measures to respond to the unbearable state of exclusion and massive human rights violations such as displacement, killings, and harassment experienced by the NMIP. No enabling law was passed despite the

strong demand of the peoples in the communities, particularly on the Indigenous Political Structure (IPS). The Cabinet Bill 40 entitled, "An Act to Recognize, Protect and Promote and support the rights of Indigenous Peoples, Creating the Ministry of Indigenous Peoples Affairs, establishing the implementing Mechanisms, Appropriating Funds therefor, and for other purposes" was lodged in the parliament. This promising bill was just received by the Office of the Secretary General of the BTA on January 23, 2020, but was not deliberated. There were schedules for a public hearing but it was not realized. This bill was introduced by the two ministers of Parliament representing the NMIP, MP Melanio Ulama and MP Romeo Saliga. The second Parliament of BTA through the representation of MP Froilyn Mendoza and MP Ramon Piang – all belonging to NMIP -- is expected to accomplish the passage of the IP Code that reflects the true desire and aspiration of the NMIP. The IP Code requires multiple consultations and dialogues among the NMIP in the communities. The TJG cautioned that BTA should not simply just pass the law but ensure that this law shall uphold their right to self-determination.

Mining exploration and agribusiness plantations trespassed the Ancestral Domain without FPIC.

The TJG leadership is alarmed that there are mining explorations in Barangay Kuya in South Upi, Maguindanao, and other areas entering and operating the ancestral domain without proper Free Prior and Informed Consent (FPIC) as stipulated in the Indigenous Peoples Rights Act. Banana plantations have also intruded on the ancestral domains with no regard to the collective rights of the Teduray and Lambangian. The unilateral intrusion of mining and agribusiness plantations is in cohort with local politicians. The TJG leadership anticipates that it will aggravate displacement, militarization, and human right violations in the communities.

Conflicting and overlapping land tenurial instruments within the AD.

The Integrated Forestry Management Agreement (IFMA) and other tenurial instruments awarded to

41 PAFID is working with Indigenous Communities in securing their traditional territories with the office address located at 71 Malakas Street, Central District Diliman, 1101 Quezon City, Philippines.

42 Ministry of Indigenous Peoples Affairs, Administrative Order No. 003, 2021.

settlers deprived the NMIP of effective access and utilization of their ancestral land. IFMA is a tenurial instrument and a production-sharing agreement wherein the Department of Environment and Natural Resource grants the qualified applicant the exclusive right to develop, manage and protect a specific area of forestland and utilize the forest resources in this area. This means that a vast tract of land is owned and managed by a single person, usually a non-indigenous person.

Blatant human rights violations like killings, threats, and red-tagging among the NMIP Rights Defenders.

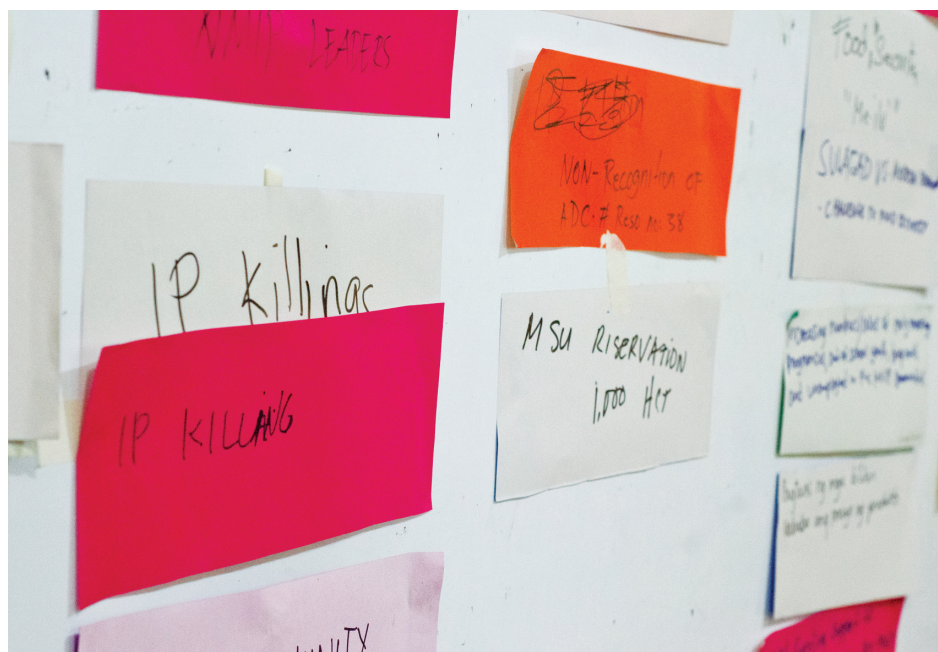
On August 9, 2020, during the celebration of the International Day of the World's Indigenous Peoples celebration, the TJG leadership issued a statement exposing their unbearable situation in BARMM due to armed conflicts. The Teduray and Lambangian are suffering from the impact of 11 armed conflicts in different sites within their ancestral domain leading

to the displacement of 3,300 families. The killings, massive threats and harassment have transpired without proper investigation and action from the BARMM and Philippine State. The TJG also raised complaints about the inaction of the State on their ancestral domain claim. They declared that their Ancestral domain is under siege or “Gubuten”.⁴³

One unresolved case was the murder of Timuay Lencio Arig. He was a leader of TJG known as Mitted sa Inged (MSI) and a defender of IP rights against mining. On October 2, 2014, he was shot dead in Sitio Keninan, Barangay Ramongaob, South Upi town by at least two gunmen as he walked home with his wife and young daughter.⁴⁴ The motive for the killing was his involvement in the campaign against mining in Maguindanao. Some IP rights advocates and defenders are victims of red-tagging. They are accused by the government agents or armed forces of belonging to the Communist Party of the Philippines-New People's Army (CPP-NPA) only because they are asserting their human rights. They expressed dissenting views against State policies because they are deprived of

their human rights. One TJG leader shared that he was red-tagged and experienced a threat to his life. For instance, after his television interview about the plight of the Non-Moro Indigenous Peoples which resulted in a heated debate with one high-ranking official of the BARMM, he later received a text message saying: “Why are you still alive”.

The TJG leaders analyzed that one motive for tagging them as members of the NPA or Bangsamoro Islamic Armed Forces (BIFF) is simply to drive them away from their ancestral lands and resources. If they cannot withstand the security threat, they will transfer with their families to an unknown place for security purposes leaving their ancestral land idle. It is an opportunity for the outsiders to come and occupy their places. If they need to bear and withstand the security threat, which is not the usual case, they



A workshop with Timuay Justice and Governance (TJG) Minted Sa Inged (Council of Leaders) representatives highlighted several key issues Non-Moro Indigenous Peoples (NMIPs) are facing in the implementation of the Bangsamoro Organic Law, including killings of indigenous peoples and land-grabbing. The Philippines has consistently been one of the top countries with most land or environment-related killings according to Global Witness.- Awang, Datu Odin Sinsuat, Maguindanao, Philippines

43 Timuay Justice and Governance, Statement during the Celebration of the International Day of the World Indigenous Peoples, August 9, 2020.

44 Institute of Autonomy and Governance. Tribe Council: Murder Of Teduray Chieftain 'Meant To Silence Lumad Struggle For Rights. <https://www.iag.org.ph/blog/27-ipdevcontent/1586-tribe-council-murder-of-teduray-chieftain-meant-to-silence-lumad-struggle-for-rights> retrieved on September 25, 2022.



Non-Moro Indigenous Peoples (NMIPs) have seemingly been forgotten in the ensuing transitional justice process of the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM) as they clamor for the approval of a genuine Indigenous Peoples Code that amplifies the acknowledgement, respect, and protection of NMIPs in the region. Awang, Datu Odin Sinsuat, Maguindanao, Philippines

need to take up arms and fight, which means the displacement of the family and clans.

After the normalization aspect of the peace agreement was signed in 2014 and the TJRC report was submitted to the peace panels in 2016, the non-Moro indigenous peoples continue to suffer from conflicts, killings, and massive displacement in Maguindanao and Sultan Kudarat. Based on the fact-finding mission conducted by civil society organizations in 2020, the rate of internal displacements of NMIP is increasing. According to the United Nations High Commissioner for Refugees (UNCHR), 1,274 families (5,443 individuals) were displaced in 2020 with most of them were from South Upi and Ampatuan in Maguindanao.⁴⁵

Gaps in the Policies and Practices of implementing the TJ process

There are gaps and limitations in the policies and practices to effectively implement the transitional justice process according to the TJG.

These include, inter alia:

- 1) The absence of an institutionalized independent investigating body, truth commissions, or fact-finding team mainly to examine the historical injustices, legitimate grievances, and human

rights violations experienced by the NMIP. Most of the fact-finding missions are organized by civil society organizations with limited scope, purpose, and logistical support.

- 2) There are only two out of 80 members of parliament who represent the NMIP. There is a big challenge then in legislating an IP Code that truly represents the interest, welfare, and aspiration of NMIP in the parliament. This legislative set-up hinders the transformation of the essential IP rights provisions of the BOL into enabling policies, programs, and services for the NMIP. The number of votes of the representatives in the parliament is already a minority which means requiring massive lobby work to gather more votes



Ms. Tristessa M. Saavedra, a young Teduray lady in full indigenous attire as she peeks through the window. A college student, she is among the few Non-Moro Indigenous Peoples (NMIPs) who are able to go to school, considering that many of them reside in communities that are too far from the city center where secondary and tertiary schools are located. Sitio Benuan, Kuya, South Upi, Maguindanao, Philippines

⁴⁵ Report to the National Commission on Indigenous Peoples: Situation of the Indigenous Peoples in the Bangsamoro Autonomous Region in Muslim Mindanao amid the Ongoing Armed Conflicts and Threats of COVID-19 . reports the members of the "Solidarity Mission to Conflict-Affected Tri-people Communities in Lebak, Sultan Kudarat and South Upi, Maguindanao" September 11, 2020.

- 3) The BOL is a good law that upholds the rights of Bangsamoro and Non-Moro Indigenous Peoples. However, there is an observable conception among the local Bangsamoro communities that BOL and BARMM are for the Bangsamoro only. They argued that would be no BARMM and BOL without the Bangsamoro struggle spearheaded by the MILF, thus, the interest and welfare of the non-Bangsamoro or Non-Moro is just but secondary. This mindset commands their action to take the NMIP's Ancestral land as part of their MILF Camp.
 - 4) The apparent collusion of the Inter-Governmental Relations Body (IGRB) and MILF-led BTA to delay the CADT process. The Teduray and Lambangian claimants wrote to NCIP asking for the agency's stand on BTA Resolution No. 38. Mr. Allen Capuyan, the Chairman of the NCIP, clearly expressed that NCIP still has legal jurisdiction over the process of delineation and titling of the ancestral domain in Maguindanao. However, the TJG leadership has not heard any response from the IGRB for two years now since they asked for a response on May 25, 2020.
- Consult and involve the NMIP in crafting the Indigenous Peoples' Code and allow them to analyze the implications for their rights, welfare, and well-being. Encourage them to participate in the policy-making platform to counter the positional superiority of the decision-makers who habitually impose decisions and actions by ignoring the NMIP's interests and sentiments.
 - Intensify and strategize the lobby and advocacy effort among the BTA members in crafting the IP Code. Building allies and supporters for the enactment of the Bangsamoro IP Code. There is also a need to organize a committee to spearhead the study sessions to enrich Cabinet Bill No. 40 with relevant provisions.
 - Take necessary legal measures to amend Resolution No. 38 and follow up and comply with the CADT application requirements. Engage in a dialogue and lobby work with the Inter-Governmental Relation Body (IGRB), MIPA, and NCIP to speed up the deliberation and approval of Ancestral Domain Title.
 - On community development intervention for NMIP
 - Campaign for BARMM to mainstream a rights-based and need-based approach to development for the NMIP. There shall be

RECOMMENDATIONS

Given the preceding context of the unaddressed claims, gaps, and challenges in the implementation of the transitional justice process among the NMIP, the following activities are hereby recommended:

- On community education, consultation and IP Code
 - Enhance the NMIP's capacity engagement in the transitional justice process. Building their capacity involves education and consultation strategies. Education and consultation for the NMIP at the community levels who are directly affected by the structural change such as Camp Transformation will reinforce their active and meaningful participation.



While it is the government's duty to provide basic services to its constituents, it does not automatically mean that everyone gets equal access to them. Indigenous peoples, especially those in the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), Philippines, find it difficult to access such fundamental rights that they usually have to do without, continuously lobby for, or manifest on their own. Sitio Benuan, Kuya, South Upi, Maguindanao, Philippines

effective and meaningful participation of the NMIP in the formulation, implementation, and monitoring of the development programs and services for their communities. Delivery of self-determined development programs and services shall include the peripheral areas of the ancestral domains.

- On women's peace and Transitional Justice engagement.
 - Expand and intensify women's effectiveness engagement in all phases and dimensions of transitional justice processes. It is beyond doubt that NMIP women have the capacity in implementing the peace process, mediating conflicts, and responding to cases related to human rights violations, and working with the special bodies and commissions to articulate and redress NMIP's collective issues and concerns.
- On the establishment of a truth and reconciliation commission
 - Work on the establishment of a truth and reconciliation commission via enabling policies to conduct a deeper and comprehensive investigation of the historical injustices, legitimate grievances, and human rights violations among the NMIP in a free, safe and secured environment. Ensure effective participation of NMIP in the local communities to generate appropriate recommendations and proposals which will be addressed through a strategic whole of society approach.

REFERENCES

- Alejo, A. (2014, December 2). PEACETALK: "IPRA itself is a peace agreement". Retrieved from Mindanews.: <http://www.mindanews.com/mindaviews/2014/12/peacetalk-ipra-itself-is-a-peace-agreement/>
- Ambangan, R. (2021). Inclusive Peace, Indigenous peoples' Experience of Engagement with the Bangsamoro and the Government of the Philippines. Research Dissertation Presented to the Academic Faculty of the Pannasastra University Cambodia. PUC, Cambodia: Unpublished.
- ARMM Legislative Assembly. (2008). Muslim Mindanao Act 241 also known as Tribal Peoples Rights Act in the ARMM.
- Bandara, A. (2002, October). Nature of the Timuay Justice and Governance in Central Mindanao, Philippines, Retrieved from <http://www.europe-solidaire.org/spip.php?article5255>
- Bangsamoro Information Office. (2021, October 29). Retrieved from Bangsamoro Information Office. "Duterte signs law extending transition period in BARMM until 2025." October 29, 2021.: <<https://bangsamoro.gov.ph/news/latest-news/duterte-signs-law-extending-transition-period-in-barmm-until2025/#:~:text=COTABATO%20CITY%E2%80%A2>
- Bangsamoro Information Office. (2021, July 19). Retrieved from "IPs fear reforms on ancestral domain, tribal justice system will be overlooked if BARMM transition is not extended: <https://bangsamoro.gov.ph/news/latest-news/ips-fear-reforms-on-ancestral-domain-tribal-jus>
- Conciliation Resources. (n.d.). TEDURAY LAMBANGIAN WOMEN'S ORGANIZATION (TLWOI). Retrieved from <https://www.c-r.org/organisation-profile/teduray-lambangian-womens-organization-tlwoi>, retrieved on September 10, 2022.
- Conflict Alert. (2020). Conflict's Long Game: A Decade of Violence in the Bangsamoro. Retrieved from <https://conflicalert.info/>
- Damao, M. (2022). In search of Independence from Moro Revolt to the Remaking of Bangsamoro. Republic of Moldova: LAP LAMBERT Academic Publishing.
- End Local Communists Armed Conflict E.O. 70. (2018). Government of the Philippines.
- Esguera, C. (2021, June 1). International Alert Philippine. Retrieved from Non-Moro Indigenous Peoples in BARMM: <https://www.youtube.com/watch?v=KdGXzjjLPs>
- Esguerra, C. (2020). Facts First, Non-Moro Indigenous Peoples in BARMM. Sits down with the supreme tribal chief of the Timuay Justice and Governance on land grabbing, harassment, and killings experienced by non-Moro indigenous peoples in the new #Bangsamo. Retrieved from Conflict

- Alert: <https://www.youtube.com/watch?v=KdGXzjjLPs>
- Europe Solidaire Sans Frontières. (2016, October 26). "Mindanao (Philippines): Indigenous Peoples demand Independent Voice in the Peace Processes. Retrieved from. <https://www.europe-solidaire.org/spip.php?article39325>
- Focus on the Global South. (2015, May 25). Groups reiterate the call for full inclusion of their rights in the Bangsamoro Basic Law. Retrieved from <https://focusweb.org/groups-reiterate-call-for-full-inclusion-of-their-rights-in-the-bangsamoro-basic-law/>
- Gempa te Kelindaan ne Kamal. (2015). Statement: Position paper of Erumanen ne Menuvu in the Crafting of the Bangsamoro Basic Law.. Unpublished.
- GMA News Online. (2008, October 14). Retrieved from Supreme Court Rules Domain "Unconstitutional": <http://www.gmanetwork.com/news/news/nation/126956/supreme-court-rules-domain-agreement-unconstitutional/story/>.
- Herbolzheimer, K. (2015, December). "The peace process in Mindanao, the Philippines: evolution and lessons learned." Norwegian Peacebuilding Resource Center. . Retrieved from <http://www.c-r.org/downloads/a6c4f7339db9c90cd15a63c85405404e.pdf>.
- Initiative for International Dialogue. (2019). Transitional Justice and Reconciliation: In and Beyond the Bangsamoro" (Research Study on Community Narratives of Resilience and Truth-telling), Bangsamoro Transformative Justice Initiatives Project (2017-2019). Initiative for International dialogue. Davao City: IID.
- Institute of Autonomy and Governance. (n.d.). Tribe Council: Murder Of Teduray Chieftain 'Meant To Silence Lumad Struggle For Rights. Retrieved from <https://www.iag.org.ph/blog/27-ipdevcontent/1586-tribe-council-murder-of-teduray-chieftain-meant-to-silence-lumad-struggle-for-ri>
- Jubair, S. (1999). Bangsamoro: A Nation Under Endless tyranny. Malaysia: IQ Marin SDN BHD.
- Loyukan. (2015). Our call for inclusion: A Collection of Articles on Peace, Indigenous Peoples rights, and Bangsamoro Basic Law. . Quezon City: Loyukan.
- Madew, M., Schulz, C., Dhakal, P. (2015). Discourse on Social Cohesion. Germany: VEG.
- Ministry of Indigenous Peoples Affairs, Administrative Order No. 003. (2021).
- OHCHR. (n.d.). Transitional Justice and Human Rights. Retrieved from <https://www.ohchr.org/en/transitional-justice>
- Organic Law of the Bangsamoro of the Bangsamoro Autonomous Region in Muslim Mindanao/R.A 11054. (2018). Retrieved from <https://www.officialgazette.gov.ph/downloads/2018/07jul/20180727-RA-11054-RRD.pdf>
- Philippine Constitution. (1978).
- Pimentil, M. (2021). The Indigenous Peoples Rights Act, Commentaries and Guide in Practice. Manila Philippines: Rex Bookstore.
- Punzalan, N. (2019, October 23). "BARMM parliament focuses on 7 priority bills." Philippine News Agency. Retrieved from <https://www.pna.gov.ph/articles/1083945>
- Rodil, R. (2003). A Story of Mindanao and Sulu in Question and Answer. Davao City: Mincode.
- Ruivivar, P. B. (2016, October 2). "PEACE TALK: Indigenous Peoples' Peace Table." Minda News. Retrieved from <http://www.mindanews.com/mindaviews/2016/10/peace-talk-indigenous-peoples-peace-table>.
- Solidarity Mission Report. (2020). Report to the National Commission on Indigenous Peoples: Situation of the Indigenous Peoples in the Bangsamoro Autonomous Region in Muslim Mindanao amid the Ongoing Armed Conflicts and Threats of COVID-19. reports the members of the "Solidarity Mission t. Unpublished.
- Timuay Justice and Governance. (2020). Statement of TJG during the Celebration of the International Day of the World's Indigenous Peoples. Maguindanao: Unpublished.
- Transitional Justice and Reconciliation Commission. (2016). Report of the Transitional Justice and Reconciliation Commission. Makati City, Philippines: Transitional Justice and Reconciliation Commission.
- United Nation. (2019). Tripoli Agreement. Retrieved from UN Peacemaker: <https://peacemaker.un.org/philippines-tripoliagreement76> on September 07, 2022