

CSO Fact-Finding Mission to the Ancestral
Domains of Teduray-Lambangian in
Maguindanao Province

REPORT

November 2014



EXECUTIVE SUMMARY

The CSO-led Fact Finding Mission to Upi and South Upi in Maguindanao province from September 6 to 7, 2014 found proof reinforcing concerns that —

- 1) Illegal mining exploration activities took place in the ancestral domains of Teduray and Lambangian in the municipalities of North Upi and (parts of) Datu Blah Sinsuat as early as April 23, 2014 until September 5, 2014;
- 2) The illegal mining exploration activities violated the sanctity and integrity of the cultures of the Teduray and Lambangian tribes;
- 3) The Office of the Maguindanao Provincial Governor, the Office of the Mayor of Datu Blah Sinsuat, and the Offices of the Captain and of the Sanggunian of Barangay Rempes of North Upi municipality, and Barangays Nalkan, Tubuan and Tambak of Datu Blah Sinsuat municipality, have some, if not sufficient, information on these mining exploration activities;
- 4) Information on mining exploration activities and initiatives were concentrated among selected local government officials only, and community members were not duly informed about these activities;
- 5) The exploration activities caused anxiety and conflicts between and among family, clan, and community members;
- 6) The mining-related presence of armed men in the ancestral territory made the communities feel anxious, threatened, and fearful;
- 7) Division in the communities is already apparent — between those who favour the exploration activities and those who do not.



I. INTRODUCTION

Between July and August 2014, indigenous communities of North and South Upi in the province of Maguindanao expressed growing concern over apparent mining explorations in their ancestral territories. Local media reported contrasting information, however. According to community statements, soil samples were taken from community areas, while government authorities merely denied any such activity took place. The Secretary of the Department of Environment and Natural Resources in the ARMM was also heard over the radio saying that no mining permit has been issued by his office.

Acting upon the community concerns, the Kilusang Maralita sa Kanayunan (KILOS KA) –Maguindanao and Cotabato City clusters organized a fact-finding mission together with the Legal Rights and Natural Resources Center, Inc. – Kasama sa Kalikasan/Friends of the Earth Philippines (LRC-KsK) to probe deeper into the alleged mining exploration activities being done within the ancestral domains of Teduray and Lambangian in Maguindanao Province. From September 6-7, 2014, the Fact-Finding Mission went to Upi to validate the information reported by community members and local residents of Barangays Tambak and Nalkan of Datu Blah Sinsuat municipality, Barangays Ranao Pilayan, Rempes, Renti, Rifao and Bantek of Upi municipality, and Barangay Looy of South Upi, and to come up as well with a documented report about the alleged mining exploration activities.

KILOS KA is a Mindanao-wide movement of peasants, fisherfolks, farm workers and relevant advocacy groups who are committed to promoting environmental protection and sustainable development. Environmental issues like indiscriminate mining is among KILOS KA's priority concerns.

LRC-KsK is a not-for-profit organization established in 1987, which provides technical and legal research support to indigenous or rural poor communities in relation to the rights to land and natural resources. LRC also assists these communities in terms of capacity-building, campaigns, and policy advocacy.

II. FINDINGS

1. Illegal mining exploration activities took place in the ancestral domains of Teduray and Lambangian in North Upi and parts of Datu Blah Sinsuat municipalities as early as April 23, 2014 until September 5, 2014.

Helicopters were first seen around 3:00 in the afternoon of April 23, 2014 at Sitio Lahangkéb, Barangay Rempes, North Upi – one landed at the rice field of Mr. Orting Pablo while the other helicopter merely hovered in the air.

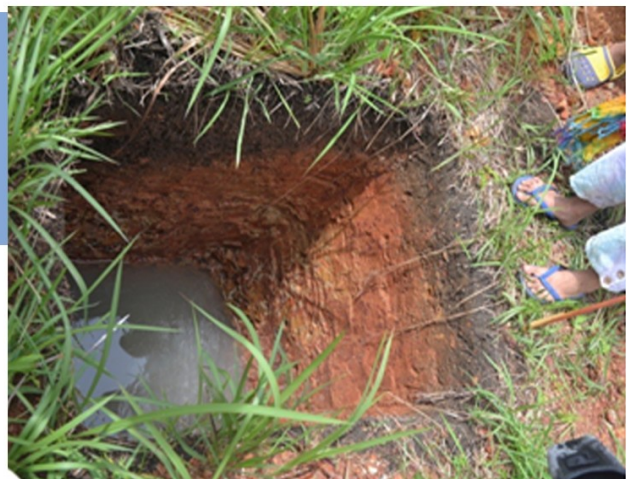
Next, on July 10, 2014, community witnesses attest that a helicopter landed at the rice field of barangay kagawad Rogelio 'Boy' Indong where digging was made. Kagawad Indong is a member of the Barangay sanggunian of Tubuan in Datu Blah Sinsuat. According to community members, Kagawad Indong said that the presence of helicopters in the area had something to do with mining under Governor Toto Mangudadatu of the province of Maguindanao.

Diggings were also witnessed by Barangay Rempes community members on July 15, 2014 around 11:00 in the morning. Two (2) men, identified as one "Junior Uham" and one "Jaime Olubalang" were seen digging a hole in the ground approximately seven (7) feet deep. When asked why they were digging, the two men reportedly responded that they would take soil samples. The two men reportedly did not provide further details or explanation.

Meanwhile, about one (1) kilometer from where Mr. Uham and Mr. Olubalang were seen digging, two other men identified as one "Eddie Indong" and one "Rogelio Espera" were also seen digging holes in the ground. When told that they did not ask permission from the land owner, the two men replied that there would be no problem because they would only dig a hole of about seven (7) feet deep and would take soil samples one (1) foot apart and mix the soil so they could identify the minerals found therein. When asked about the identity of persons who asked them to dig, the two men replied that the order came from Mayor Marshall Sinsuat of Datu Blah Sinsuat municipality. According to community witnesses, Mr. Indong and Mr. Espera were accompanied by two (2) armed men who appeared to act as security personnel. The two (2) armed men were identified as one "Boy" from Kinime of Datu Blah Sinsuat, who was reportedly holding a "Garan", and one "Lordy Molantong", who was seen holding a M14.

The community members of Barangay Rempes reported that they have documented twenty-nine (29) holes in their barangay. The Fact-Finding Team, meanwhile, saw and documented two (2) of these holes.

About a kilometer from the Tribal Justice Hall, a hole of approximately seven (7) feet deep and 3x3 feet wide was seen. About 50 meters from this hole, another one was located measuring around the same width and around five (5) feet deep.



On August 5, 2014 at around 1:00 in the afternoon, two (2) helicopters were seen at Barangay Renti, North Upi. A white helicopter landed while a green one merely hovered in the air. Community members said that the white helicopter is marked with the sequence number R 44 APC 3686 on its body. Upon the helicopter's landing, three (3) men alighted. The pilot was heard referring to one of the passengers as "engineer." Community witnesses reported that in less than thirty (30) minutes, the visitors dug up a six (6) feet deep hole and took about one (1) kilogram of soil. Community members heard the men speaking in an unfamiliar language described as either Chinese or English. The three men reportedly ignored or did not address the barangay chairperson, who was present then.

The white helicopter with the same sequence number reportedly flew to Barangay Rifao on September 5, 2014 and then headed towards the direction of Sinepak in Datu Blah Sinsuat.



Another digging was reportedly done at Barangay Renti, Upi, Maguindanao on August 17, 2014. At around 2:00 PM, a helicopter landed at a spot identified as a solar dryer. Five persons alighted from the helicopter. When asked why they were there, one person replied that they would just take soil samples. Four of the men were seen carrying round shovels. After digging, witnesses report that two cellophane-packed soil of about one (1) kilogram each were taken by the men back to the helicopter. Weeks later, on September 5, 2014, a helicopter with five (5) unidentified persons inside was seen to have landed at Sitio Serenet, Barangay Renti. The men from the helicopter took soil samples from two (2) different sites -- one sample was taken from a "cliff" just beside the road around six (6) feet long and two (2) inches deep while the other one was from a "cliff" near the Renti barangay hall.



Aside from barangays Renti and Rempes where holes were dug and soil samples were extracted, a helicopter reportedly landed in Sitio Bulawan in Barangay Ranao Pilayan, North Upi on July 27, 2014 at around 11:00 in the morning. It stayed on the ground for about three to five (3-5) minutes. An unidentified person was said to have alighted from the helicopter and then headed towards the direction of the woods. The same person was seen emerging from the forest carrying two (2) sacks of soil that were about half-full.

2. Interviewees from the areas visited by the Mission Team were unanimous in saying that the digging activities and taking of soil samples in barangays Rempes, Renti and Ranao Pilayan were done without going through the process for Free and Prior Informed Consent (FPIC). Further, DENR-ARMM Secretary Kahal Kedtag reportedly informed a community member that no application for minerals explorations was filed with, nor any permit was granted by, his office. This reasonably leads to the conclusion that such exploration activities done within the ancestral domain of the Teduray are illegal.

The right to FPIC is guaranteed under Republic Act No. 8371 otherwise known as the Indigenous Peoples Rights Act of 1997. In particular, Section 59 of this statute provides that:

“Sec. 59. Certification Precondition. — All department and 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 certificate shall only be issued after a field-based investigation is conducted by the Ancestral Domain Office of the area concerned: Provided, That no certificate shall be issued by the NCIP without the free and prior informed and written consent of the 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 pending application [for] 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.”

Republic Act No. 7942, “An Act Instituting a New System of Mineral Exploration, Development, Utilization and Conservation,” otherwise known as the Philippine Mining Act of 1995 requires a permit before any mining exploration may be conducted by any person. According to this law, an exploration permit grants the right to conduct exploration for all minerals in specified areas and that the Mines and Geosciences Bureau shall have the authority to grant an exploration permit to a qualified person.

Meanwhile, the ARMM is reportedly still in the process of crafting its own regional mining law.

3. The illegal mining exploration activities violated the sanctity and integrity of the culture of the Teduray and Lambangian communities.

Apart from the fact that the explorations were done without the community's free, prior and informed consent, a specific hole was found by the Fact-Finding Mission team located near the Tribal Justice Hall and about five (5) meters from a burial ground where some of the indigenous members were reportedly buried.



Also, the hole in Barangay Renti, Upi allegedly made on August 17, 2014 as narrated above is located fifteen (15) meters from a tribal cemetery. Community members likened the holes to graves, which they dig only to bury their dead.

In brief, the diggings were conducted and the holes were made at the Mt. Fakal Range – considered by the Teduray and Lambangian as sacred territory.



Community members also reported other mining-related activities within their indigenous territories. They said that armed men went to their area between July 20 and 21, 2014. The armed men were described and identified as a mixed group of known commanders from the Moro Islamic Liberation Front (MILF), the Moro National Liberation Front (MNLF), members of Citizens Armed Forces Geographical Units (CAFGUs), and a member of the Armed Forces of the Philippines known as one "Lt. Baylon".

Because of this visit by the armed group, community members met with Mayor Piang of Upi at his residence on August 9, 2014 to ask questions and seek clarification. Mayor Piang reportedly explained that Mayor Marshall Sinsuat of Datu Blah Sinsuat municipality called him up and requested for security because of alleged threats against the life of Mayor Sinsuat from or by Mr. Gaspar Mosela -- a fasandalan or tribal clan organizer.

Meanwhile, community members also reported that sometime in August this year at Sitio Santa Fe, Barangay Looy, South Upi, more than thirty (30) individuals were seen walking towards the direction of Malibakaw Falls. Around fourteen (14) of these men were carrying firearms. Community members also reported that they heard guns being repeatedly fired – around six rounds – from somewhere near the area of the Falls, which seemed to them as test fires from a M14 (300 rounds). Afterwards, when community members went to the Falls area to see what took place, they saw a wristwatch-like object lying at a rock near the falls, which they described as a "tester". They also reported that the anti-mining campaign posters hanging near the Malibakaw Falls was riddled with multiple bullet holes.

Community members also reported that the latest visit or presence by armed men in the community areas prior to this CSO Fact-Finding Mission was on September 4, 2014. The armed men reportedly stayed at the area near the Teduray and Lambangian Tribal Justice Hall. According to them, at around 11:00 in the morning of September 4, seventy-three (73) men arrived at the Tribal Justice Hall. More than thirty (30) of these men were seen carrying firearms. The men represented or introduced themselves to the community members as "Engineers McNiel Gaila" and "Nathaniel Novero" from Manila, and the others as members of Barangay Peacekeeping Action Teams (BPATs), Citizens Armed Forces Geographical Units (CAFGUs), and local officials of Barangay Nalkan, Datu Blah Sinsuat. The men also introduced themselves as members of an "Independent Fact-Finding Mission Team" whose purpose was allegedly to confirm whether or not minerals could be found underground. From the Tribal Justice Hall, this group of men hiked about half a kilometre. Later, community members found holes in the area where the armed group went. Witnesses said that as the hole filled up with water while it was being dug, two men from the group were instructed to dig another hole near this first hole, and the men later took soil samples when the digging was done. Soils were also taken from the other three (3) holes already dug up. One of the engineers was overheard saying that the area was "negative" with mineral content. He was also heard mentioning that soil testing and its result would take up to three (3) weeks and that information regarding the result would only be confined to the Office of Mayor Marshall Sinsuat.

4. The mining-related activities conducted within the community areas as well as the presence of armed men in relation to these activities caused fear, anxiety, conflict, division and dissonance between and among community members.

Three (3) other persons who visited the communities via helicopters were identified as "Alezie Alvin C. De Leoz", "Angelo Ting Cabaron" and "Jimmy Trapal". One of them said they were engineers and gave their names to a community member when once they were at the house of Mr. Indong and the latter was confronted about the mining activities and his involvement therein. The engineer said his group was associated with a certain "Green Process, Incorporated". This engineer then reportedly offered to buy parcels of land from individuals willing to sell at the price of a million pesos per hectare.

5. Information about the mining exploration activities and initiatives were concentrated among some local government officials only. The indigenous and local community members were not duly informed by authorities about these activities.

On July 26, 2014, a discussion on mining issues reportedly took place at Barangay Rempes, North Upi where Barangay Chairperson Ariel Layson allegedly offered a profit-sharing mechanism for local officials and clan leaders.

A discussion among barangay officials and clan leaders also reportedly took place at Barangay Tambak, Datu Blah Sinsuat on July 29, 2014. Some attendees expressed their opposition to mining and some their agreement to it. Those who were against mining were reportedly persuaded to agree by the barangay officials on the explanation that alleged "orders from high-ranking government officials" have already been issued. Positive benefits of mining were also enumerated in the meeting, which appeared to have influenced some of those present to agree. However, community members reported that there remained individuals who were steadfast in their opposition.

As certain personalities and identities and their alleged involvement keep coming up when the issue of mining is being discussed by community members from Barangay Rempes, North Upi and Barangay Tambak, Datu Blah Sinsuat, explanation and clarification are being sought from the Office of the Maguindanao Provincial Governor, Office of the Mayor of Datu Blah Sinsuat municipality, and Offices of the Barangay Captain and Sanggunian of Barangay Rempes of North Upi municipality and Barangays Nalkan, Tubuan and Tambak of Datu Blah Sinsuat municipality.

III. RECOMMENDATIONS

- 1) For the National Commission on Indigenous Peoples (NCIP) to immediately conduct an INVESTIGATION on the violations and abuses committed against the Teduray and Lambangian communities;
- 2) For the NCIP to immediately ISSUE a NOTICE to all government offices, agencies, and departments to comply with the requirements of R.A. 8371 including the requirements of Free, Prior and Informed Consent, in particular, within the ancestral domains of the Teduray and Lambangian, for which the said communities have formally filed a petition for CADT in 2005;
- 3) For the Office of the President of the Republic of the Philippines, the Department of Environment and Natural Resources (DENR), the Department of Interior and Local Government (DILG) and other relevant agencies to immediately conduct an INVESTIGATION into these mining activities done without the State's permit;
- 4) For the Office of the President of the Republic of the Philippines, the DENR, or the DENR-ARMM, to immediately ISSUE a CEASE AND DESIST ORDER to stop all mining explorations and activities within the Teduray and Lambangian ancestral domains, in particular, and within the municipalities of Upi, North Upi and Datu Blah Sinsuat and within the province of Maguindanao in the Autonomous Region of Muslim Mindanao;
- 5) For the Office of the President of the Republic of the Philippines to immediately ORDER an INVESTIGATION on and to hold to account government officials and public officers and offices identified as being involved in the reported illegal mining exploration activities;
- 6) For Local Government Units and/or Sanggunian especially those of North Upi, South Upi and Datu Blah Sinsuat, Maguindanao to immediately DECLARE their territories as NO GO ZONES FOR MINING or TERRITORIES FREE FROM MINING pursuant to laws and policies such as Executive Order No. 79, series of 2012; the Indigenous Peoples' Rights Act (IPRA) of 1997; the National Integrated Protected Areas System (NIPAS) Act of 1992; the Local Government Code of 1991; and other relevant laws and policies because the community areas and indigenous territories being illegally explored are prime agricultural lands, and lands traditionally and historically being cultivated for food; are watershed areas and sources of water for the province and the region; are ancestral domains of indigenous Teduray and Lambangian, who have the right both under local and international law to be asked their consent before any project or activity within their domains may be undertaken by government and/or other entities;
- 7) For the Commission on Human Rights (CHR) to investigate the deployment of CAFGUs and BPATS as private security to entities conducting mining explorations and activities in the indigenous territories in Maguindanao province; and,
- 8) For the Office of the President of the Republic of the Philippines, or the Armed Forces of the Philippines, to ORDER an immediate investigation into the involvement of a certain Lt. Baylon in the mining explorations conducted without FPIC and exploration permit.

III. RECOMMENDATIONS

- 1) For the National Commission on Indigenous Peoples (NCIP) to immediately conduct an INVESTIGATION on the violations and abuses committed against the Teduray and Lambangian communities;
- 2) For the NCIP to immediately ISSUE a NOTICE to all government offices, agencies, and departments to comply with the requirements of R.A. 8371 including the requirements of Free, Prior and Informed Consent, in particular, within the ancestral domains of the Teduray and Lambangian, for which the said communities have formally filed a petition for CADT in 2005;
- 3) For the Office of the President of the Republic of the Philippines, the Department of Environment and Natural Resources (DENR), the Department of Interior and Local Government (DILG) and other relevant agencies to immediately conduct an INVESTIGATION into these mining activities done without the State's permit;
- 4) For the Office of the President of the Republic of the Philippines, the DENR, or the DENR-ARMM, to immediately ISSUE a CEASE AND DESIST ORDER to stop all mining explorations and activities within the Teduray and Lambangian ancestral domains, in particular, and within the municipalities of Upi, North Upi and Datu Blah Sinsuat and within the province of Maguindanao in the Autonomous Region of Muslim Mindanao;
- 5) For the Office of the President of the Republic of the Philippines to immediately ORDER an INVESTIGATION on and to hold to account government officials and public officers and offices identified as being involved in the reported illegal mining exploration activities;
- 6) For Local Government Units and/or Sanggunian especially those of North Upi, South Upi and Datu Blah Sinsuat, Maguindanao to immediately DECLARE their territories as NO GO ZONES FOR MINING or TERRITORIES FREE FROM MINING pursuant to laws and policies such as Executive Order No. 79, series of 2012; the Indigenous Peoples' Rights Act (IPRA) of 1997; the National Integrated Protected Areas System (NIPAS) Act of 1992; the Local Government Code of 1991; and other relevant laws and policies because the community areas and indigenous territories being illegally explored are prime agricultural lands, and lands traditionally and historically being cultivated for food; are watershed areas and sources of water for the province and the region; are ancestral domains of indigenous Teduray and Lambangian, who have the right both under local and international law to be asked their consent before any project or activity within their domains may be undertaken by government and/or other entities;
- 7) For the Commission on Human Rights (CHR) to investigate the deployment of CAFGUs and BPATS as private security to entities conducting mining explorations and activities in the indigenous territories in Maguindanao province; and,
- 8) For the Office of the President of the Republic of the Philippines, or the Armed Forces of the Philippines, to ORDER an immediate investigation into the involvement of a certain Lt. Baylon in the mining explorations conducted without FPIC and exploration permit.

IV. MEMBERS OF THE MISSION

The members of the Mission represented the following organizations:

1. Kilusang Maralita sa Kanayunan (Kilos Ka)
2. Legal Rights and Natural Resources Center, Inc. – Kasama sa Kalikasan/Friends of the Earth Philippines (LRC-KsK/FoE Phils.)
3. Mindanao Tri-people Women Resource and Service Center, Inc.
4. Tri-peoples' Organization against Disaster (TRIPOD) Foundation, Inc.
5. Kaagapay Overseas Filipino Workers Resource and Service Center, Inc.
6. Tri-people Youth for Change
7. Electoral Reform and Development Assistance Center (ERDAC)
8. Mindanao Tri-people Youth Center (MTPYC)
9. Sumpay Mindanao
10. Teduray-Lambangian Youth and Students Association (TLYSA)
11. Soodoroy de Kelebulan deb Sitio Maguid (SDK)



Door 5, Dimaukom Apart., Rosary Heaight 6, 9600 Cotabato City Mindanao Philippines



Legal Rights and Natural Resources Center-
Kasama sa Kalikasan/Friends of the Earth Philippines

24A Malingap St., Teachers Village, Quezon City 1101
920-7172/441-08-58
lrcksk@lrcksk.org
www.lrcksk.org

This publication is made possible with support from:

