

Briefer — Indigenous Peoples and the Bangsamoro Basic Law

FAB and IPs

The Framework Agreement on the Bangsamoro or “FAB” says that “Indigenous peoples’ rights shall be respected.” The FAB, however, currently does not define to whom it refers as “indigenous peoples”.

Identity under the FAB

The FAB recognizes Bangsamoro identity. It says that “[t]hose who at the time of conquest and colonization were considered natives or original inhabitants of Mindanao and the Sulu archipelago and its adjacent islands including Palawan, and their descendants whether of mixed or of full blood shall have the right to identify themselves as Bangsamoro by ascription or self-ascription. Spouses and their descendants are classified as Bangsamoro. The freedom of choice of other Indigenous peoples shall be respected.” The FAB recognizes that there are indigenous peoples other than the Bangsamoro.

Identity under the IPRA

Republic Act No. 8371 or the Indigenous Peoples Rights Act of 1997 (“IPRA”) defines² indigenous cultural communities or indigenous peoples as referring to a “... group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on communally bounded and defined territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. ICCs/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the



populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains...”

Self-ascription by, and as, the Teduray, Lambangian and Dulangan Manobo

Teduray, Lambangian and Dulangan Manobo — among other indigenous peoples in the island/s of Mindanao — identify as such Teduray, or Lambangian, or Dulangan Manobo. They identify as indigenous peoples who are not necessarily Bangsamoro.

ON IDENTITY — proposed language to be included in the Bangsamoro Basic Law:

“The rights of indigenous peoples other than the Bangsamoro shall be respected. The identity of non-Bangsamoro/non-Moro indigenous peoples is distinct from their sisters and brothers Bangsamoro.”

¹ Framework Agreement on the Bangsamoro (“FAB”), VI. Basic Rights, no. 3.1

² FAB, I. Establishment of the Bangsamoro, no. 5.2

³ R.A. No. 8371, Sec. 3, (h)



FAB and Territory

The FAB says that “The core territory of the Bangsamoro shall be composed of: (a) the present geographical area of the ARMM; (b) the Municipalities of Baloj, Munai, Nunungan, Pantar, Tagoloan and Tangkal in the province of Lanao del Norte and all other barangays in the Municipaliteis of Kabacan, Carmen, Aleosan, Pigkawayan, Pikit and Midsayap that voted for inclusion in the ARMM during the 2001 plebiscite; (c) the cities of Cotabato and Isabela; and (d) all other contiguous areas where there is a resolution of the local government unit or a petition of at least ten percent (10%) of the qualified voters in the area asking for their inclusion at least two months prior to the conduct of the ratification of the Bangsamoro Basic Law and the process of delimitation of the Bangsamoro as mentioned in the next paragraph.”⁴

FAB: Option of areas contiguous to the core territory

The FAB also says that “[a]reas which are contiguous and outside the core territory where there are substantial populations of the Bangsamoro may opt anytime to be part of the territory upon petition of at least ten percent (10)% of the residents and approved by a majority of qualified voters in a plebiscite.”⁵

FAB: Territory includes land mass, waters, and aerial domain, and atmospheric space

The FAB also says that “[t]erritory refers to the land mass as well as the maritime, terrestrial, fluvial and alluvial domains, and the aerial domain and the atmospheric space above it. Governance shall be as agreed upon by the parties in this agreement and in the sections on wealth and power sharing.”⁶



IPRA and Ancestral Domains

IPRA defines ancestral domains as referring to “...all areas generally belonging to ICCs/IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare. It shall include ancestral lands, forests, pasture, residential, agricultural, and other lands individually owned whether alienable and disposable or otherwise, hunting grounds, burial grounds, worship areas, bodies of water, mineral and other natural resources, and lands which may no longer be exclusively occupied by ICCs/IPs but from which they traditionally had access to for their subsistence and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or shifting cultivators.”⁷

IPRA and concept of ancestral lands/domains

IPRA says that “[a]ncestral lands/domains shall include such concepts of territories which cover not only the physical environment but the total environment including the spiritual and cultural bonds to the areas which the ICCs/IPs possess, occupy and use and to which they have claims of ownership.”⁸

⁴ FAB, V. Territory, no. 1.

⁵ FAB, V. Territory, no. 3.

⁶ FAB, V. Territory, no. 5.

⁷ R.A. No. 8371, Sec. 3, (a).

⁸ R.A. No. 8371, Sec. 4.



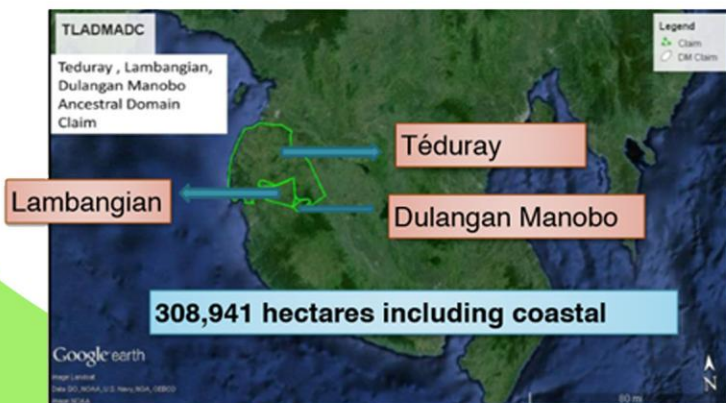
IPRA says that the indigenous concept of ownership sustains the view that ancestral domains and all resources found therein shall serve as the material bases of their [IPs'] cultural integrity. This concept holds generally that ancestral domains are the ICC's/IP's private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed. It likewise covers sustainable traditional resource rights.⁹

Teduray, Lambangian and Dulangan Manobo ancestral domains

Since time immemorial or before the inroads of colonization and non-indigenous religions and cultures, there have been peoples and communities occupying, possessing, and utilizing territories in what is now Mindanao. Among these are various indigenous communities that self-ascribe as Teduray, Lambangian, and Dulangan Manobo. Prior to enactment of IPRA, they petitioned government to formally recognize their ancestral domains under the DAO 2. Then when the IPRA took effect, the Teduray, Lambangian and Dulangan Manobo Ancestral Domains Claimants (TLADMADC) also filed a formal petition for the recognition of their ancestral domains in 2005 with the National Commission on Indigenous Peoples. Government has yet to act on the indigenous peoples' petition.

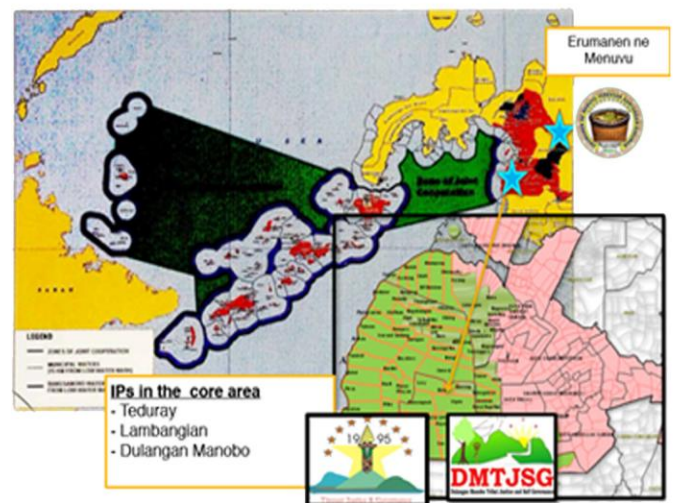
TLADMADC Ancestral Domains by the numbers

Based on data from Timuay Justice and Governance, the Institute for Autonomy and Governance (IAG) and IPDev:



- ★ LADMADC ancestral domains cover 308, 941 hectares of land including coastal areas
- ★ Estimated land area is 201,850 hectares
- ★ TLADMADC ancestral domains overlap with the areas of 84 barangays in portions of 8 municipalities, and the whole of 3 other municipalities in the province of Maguindanao

The ancestral domains of the Teduray, Lambangian and Dulangan Manobo are within the areas of the Autonomous Region in Muslim Mindanao (ARMM), and are included in the identified core territory of the ancestral domains of the Teduray, Lambangian and Dulangan Manobo are within the areas of the Autonomous Region in Muslim Mindanao (ARMM), and are included in the identified core territory of the Bangsamoro as stated in the FAB.²



⁹R.A. No. 8371, Sec. 5

¹⁰Maps courtesy of TJG, IAG and IPDev



ON ANCESTRAL DOMAINS - proposed language to be included in the Bangsamoro Basic Law

“The ancestral domains of non-Bangsamoro/non-Moro indigenous peoples are recognized, and shall be immediately delineated.”

Inclusion of Indigenous Peoples’ rights in the Bangsamoro Basic Law

The Bangsamoro Basic Law drafted by the Bangsamoro Transition Commission is with the Office of the President for review and is expected to be certified as an urgent bill when passed to Congress.

Pursuant to the guarantees of the FAB on “basic rights already enjoyed” and that the rights of 11 indigenous peoples shall be respected; as well as to build on victories achieved through the passage of the Indigenous Peoples’ Rights Act — considered a piece of social justice legislation and intended to correct historical injustices and alleviate suffering borne by the first inhabitants of the land and domains; and to change the ‘unacceptable status quo’, the following are proposed to be included in the Bangsamoro Basic Law:

ON RIGHTS ALREADY ENJOYED - proposed language to be included in the Bangsamoro Basic Law

“The rights of non-Bangsamoro/non-Moro indigenous peoples provided for in existing laws and international instruments shall be respected. These rights include the Right to Ancestral Domain; Right to Self-Governance; Right to Social Justice and Human Rights; and Right to Cultural Integrity.”

Another suggested formulation:

“Nothing in this Basic Law shall be construed to allow derogation from rights already existing or enjoyed by non-Bangsamoro/non-Moro indigenous peoples, and also of women, and youth, under law before the ratification of this Law.”

¹¹ FAB, VI. Basic Rights, no. 1.

Disclaimer: Unless otherwise stated, this Briefer is based on present laws and policies, and is not the policy proposal of LRC-KsK/FoE Philippines.



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