

Exclusion of and Discrimination against the Indigenous Communities: Case Study of the Philippines

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Indian Institute of Dalit Studies


Devoted to Studies on Social Exclusion, Marginalized Groups and Inclusive Policies

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Foreword

Indian Institute of Dalit Studies (IIDS) has been amongst the first research organization in India to focus exclusively on development concerns of the marginalised groups and socially excluded communities. Over the last eight years, IIDS has undertaken several studies on different aspects of social exclusion and discrimination of the historically marginalized social groups such as Scheduled Caste (SC) Scheduled Tribes(ST) and Religious Minorities in India and other parts of the Subcontinent. The Working Paper Series of IIDS disseminates empirical findings of the ongoing research and conceptual development on issue pertaining to social exclusion and discrimination. Some of our papers also critically examine inclusive policies for the marginalized social groups.

The working paper 'Exclusion and Discrimination of the Indigenous Communities: Case Study of the Philippines' is part of the study of Caste-based Discrimination in South East Asia. This paper provides an unflinching account of the issue of discrimination and exclusion of indigenous peoples/communities (Islamised and non-Islamised) in the Philippines. It discusses the history of exclusion and discrimination against the indigenous peoples; their current situation of deprivation; their struggles to counteract these exclusions; the affirmative actions extended by the national government through its policies, including gaps and role of development agencies such as non-governmental organisations (NGOs) and international groups in implementing measures to alleviate the bitter consequences of discrimination and exclusion. Due to focussed advocacy by the NGOs over the last few years to improve the plight of the indigenous communities, the Philippine government, along with its different agencies, has announced the introduction of sustainable programmes and projects for its indigenous peoples. This paper views that proposed development programmes would be inadequate unless these are linked to the restoration of their ancestral domains to the IPs, which constitutes the very foundation of their culture and ethos.

IIDS acknowledges the support of ActionAid for carrying out the study. We hope our working paper will be helpful to academics, students, activists, civil society organizations, NGOs and policymaking bodies.

Rajendra P. Mangan
Director, IIDS

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EXCLUSION OF AND DISCRIMINATION AGAINST THE INDIGENOUS COMMUNITIES: CASE STUDY OF THE PHILIPPINES

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Chona R. Echavez*

1. INTRODUCTION

Discrimination is a common practice in societies that distinguish between minority and majority groups on the basis of various characteristics which are generally not acceptable as they may be perceived to be offensive and/or unpleasant by the group being discriminated against. The majority groups usually signify communities that possess power based on social, economic and political status, while the minority groups are those that suffer exclusion because of their differences from the majority group in terms of race, ethnic origin, language, culture, or religion. Consequently, the minority groups lack both power and social status, which are instead vested in the majority communities. Discrimination has been broadly defined as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing or human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” (International Convention on the Elimination of All Forms of Racial Discrimination, 2000, p. 2). Discrimination/exclusion is, therefore, tantamount to socially constructed behaviour manifested in the form of untoward traits directed at the minority groups, comprising mostly marginalised communities like the indigenous peoples (IPs) or hill tribes and migrants from the under-developed nations, who have traditionally

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suffered deprivation in many ways and for sustained periods. However, as some studies on the effects/consequences of any kind of discrimination have revealed, a backlash can usually be expected by way of a violent reaction against the discrimination from those who are discriminated against. This often leads to conflict between the majority and minority groups, eventually escalating into a large-scale conflict, and often even culminating in episodes of human genocide as seen in Rwanda, Sudan, and Somalia.

This paper presents the result of a short-term research endeavour on the issue of discrimination and exclusion of the indigenous peoples/communities (Islamised and non-Islamised) in the Philippines. It discusses the history of exclusion/discrimination against the indigenous peoples; their current situation of deprivation; their struggles to counteract these exclusions; the affirmative actions extended by the national government through their policies including gaps; and the role of development agencies such as non-governmental organisations (NGOs) and international groups in implementing measures to alleviate the bitter consequences of discrimination and exclusion.

2. WHO ARE THE INDIGENOUS PEOPLES COMMUNITIES?

“Indigenous Peoples” (IPs), according to the Report for the Independent Commission on International Humanitarian Issues, are the “descendants of original inhabitants of lands that boasted of rich cultures...before they were ravaged by colonizers”. Julian Burger adds that the “indigenous peoples are at the frontline of national development programmes, being driven from traditional homelands, sometimes through force and sometimes through the use of alien laws and decrees” (*Report from the Frontier: the State of the World's Indigenous Peoples*, n.d.).

It is estimated that about 70 per cent of the world's indigenous peoples live in Asia (IFAD, 2000-2001). Barnes, *et al.* (1995) point out in the book *Indigenous Peoples of Asia* that the “indigenous peoples first came into existence as a reaction to the legacy of Western European colonialism, [which] has proven especially problematic in post-colonial Asia, where many governments refuse to recognize the distinction sometimes advanced by dissident ethnic groups between indigenous and non-indigenous populations” (1995, p. 2). The Philippines, where around 20 per cent of

the total population is indigenous, is the only Asian country to have adopted the term 'indigenous peoples' (Vinding, 2003, p. 236). In Asia, which has experienced different waves of migration and a succession of colonial experiences, one ethnic group may have longer-standing claims than another without actually being the original inhabitants of an area (Gray, 1995, pp.36-39). Thus, indigenous peoples are often defined as prior rather than original inhabitants (ibid).

3. CONCEPTS OF EXCLUSION AND DISCRIMINATION BASED ON ETHNICITY, RELIGION AND CULTURE

The common practice of discrimination and exclusion against a group has been traced to differences in ethnicity, religion, and culture, which had often led to conflict among nations the world over as seen in past situations, and may still be prevalent despite the advent of modern global trends.

Ethnicity refers to an individual's affiliation to an ethnic group, whose members share a common culture, language, and religion. It extends to race, which is associated with the phenotypes or physical attributes, specifically the colour of the skin (Landis and Boucher, 1987). Members of this group may be excluded from the larger social circle because of differences not only in the colour of their skin, language, and cultural patterns and styles, but also because their lifestyles do not fit into the cultural ethos of the majority or their social or cultural development does not come up to the latter's social level or class. Ethnic discrimination/exclusion has always been one of the causes of conflict in South Asia, Eastern Europe and Africa, which have often resorted to ethnic cleansing through genocide.

Language, as a basic component of ethnicity, is a common theme in inter-ethnic conflict. This issue can cause multiple problems: conflict can arise when an ethnic group's right to speak its own language is threatened. Major conflicts have taken place in Belgium, India, and Canada over the issue as to which language should be chosen as the national or official language to be used in government offices and as medium of instruction in schools. Provencher (1987) cites the case of inter-ethnic conflict in the Malay Peninsula, wherein the government's concern for developing a 'national culture' included the institution of Malay as the national language because of it being the language of the majority. The issue of language usage has

also resulted in problems for the Chinese and contributed to tension between the Malay and Chinese people. In countries where linguistic diversity exists, the exclusion of languages not favoured by those who hold political hegemony is commonplace. In the Philippines, where there are more than 80 languages and sub-languages, *Tagalog* had been chosen through legislation to be the national language and taught in schools throughout the country from the elementary up to the tertiary levels. However, protests by some legislators who were from other ethnic groups led to the modification of the language policy for the use of English as the co-official language and as the medium of instruction in all educational institutions.

The religious beliefs of people, including their tenets and ways of worship have also often been the basis of exclusion and discrimination. Differences in religious beliefs and attitudes have historically been sources of conflict between groups because of discrimination against people of a particular religion. The Tamil-Sinhalese conflict in Sri Lanka has been magnified by the fact that the Tamils are Hindus while the Sinhalese are Buddhists. The *Moro* conflict in Mindanao is between Muslims and Christians. In fact, differences over religion account for several major conflicts throughout the world. However, it must be remembered that the group fuelling the conflict uses religion merely as a tool for attaining political and economic dominance.

Where cultural exclusion is concerned, the members of a society whose cultural rituals and customs are different from those of the majority group or who still adhere to their traditional patterns and practices are socially excluded; they are usually considered primitive or uncivilised. Cultural minorities in many societies have not been able to gain access to basic social services such as healthcare, education, and employment, and do not have a voice in the political process.

4. NATURE OF EXCLUSION AND EXCLUDED GROUPS

The nature of exclusion and discrimination among different societies hinges on how the majority perceives the minority group and in what area or aspect one becomes a threat and/or can be dominated. In the case of the Philippines, exclusion has been relegated towards ethnicity and religion. Like other countries where such ethnic exclusion exists, the indigenous

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people in the Philippines have been discriminated against because they are perceived by the lowland majority to be inferior as their way of life is associated with their traditions, ignorance, and superstition.

Since most of the indigenous people still inhabit the uplands/hinterlands, their contact with the majority lowlanders has been less frequent. Moreover, because the IPs are perceived to be ignorant and uncivilised, they are easily fooled in many ways. Studies pertaining to the discrimination against the IPs in the country have shown that the former lost their ancestral land through the mere exchange of canned goods and pieces of cloth. Many IP groups in different islands lost their ancestral domains because of the unscrupulous dealings of the lowlanders. The IPs used to possess vast natural resources in their ancestral territories but have lost these to mining, logging, dams, and plantations.

The Muslim Filipinos, who occupy the western region of Mindanao, have also experienced exclusion because of their religion, Islam, which is not understood by the Christian majority. The Muslims complain about their being the minority, which has prevented them from gaining access to some of the amenities enjoyed by the majority. On the other hand, the Christians retort that the Muslims have excluded themselves from the mainstream society because of their (the Muslims') belief that the Christians are determined to convert them to the Christian faith. The Christian Filipinos, on the other hand, fear the Muslims because of misconceptions and mistrusts.

5. THE PHILIPPINES: ITS HISTORY OF THE PRACTICE OF EXCLUSION

5.1. Brief Historical Background

The Philippines is an archipelago of 7,107 islands, north of the equator, off the southeast coast of the Asian mainland. It has a total land area of 300,000 sq. km., spanning 1,854 kilometers from North to South. It is bounded on the north by the Bashi channel, on the east, by the Pacific Ocean, on the west, by the China Sea, and on the south, by the Sulu Sea and Celebes Sea. The archipelago is divided into three major island groups: Luzon, Bisayas, and Mindanao (see Map 1). Many of these islands are of volcanic origin and numerous fault lines crisscross the archipelago, making it one of the most earthquake-prone countries in the world.



Map 1. Philippine Archipelago

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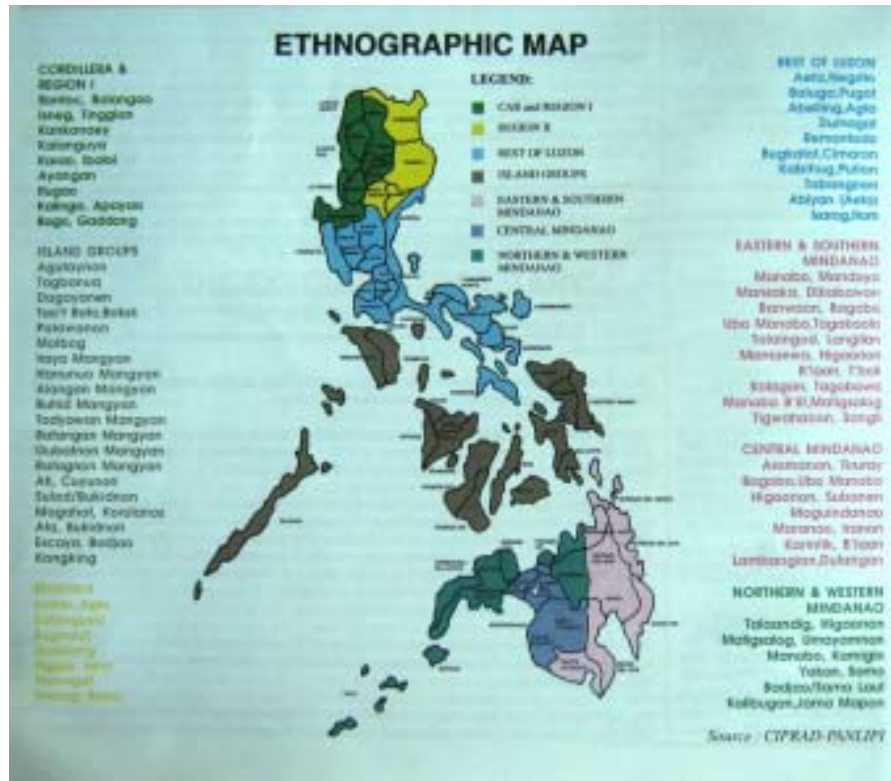
Geological studies have shown that during the Pleistocene period, the Philippine archipelago was once connected to the Asian mainland by a land bridge that served as a corridor for the migrant animal and human populations, which trickled into these islands over a period of time. These human groups came from varied Proto Austronesian groups, who are the ancestors of the present-day Filipino populations, including the indigenous peoples. The existence of these groups is substantiated by archaeological findings throughout the archipelago.

In 1565, forty-four years after the discovery of this archipelago by the Spanish expedition in 1521, the islands were proclaimed as the colony of Spain, which ruled the country for over three centuries (1565-1898). At the turn of the twentieth century, Spain ceded the Philippines to the United States after her defeat during the American-Spanish war in 1898. The Philippines was a sovereign of the United States for forty-six years (1900-1946) until she gained her political independence from the United States on 4 July 1946. The post-war republic was governed by democratic presidents until 1972 when a dictatorship reigned for thirteen years, till it was toppled in 1986.

5.2. Demographic Features

The current population of the Philippines is 85 million, according to the Population Census of 2005 (NSO, 2005). Like the other countries in South and Southeast Asia, the Philippines still has a large population of indigenous communities (ICs). The National Commission on Indigenous People (NCIP) estimated the total population of indigenous peoples in the country in 1998 to be between 12 and 15 million, which is distributed throughout the islands. However, the latest survey of the National Statistics Office (NSO) shows that the IP population might even exceed 20 per cent of the total national population. The NCIP reports that a majority (61 per cent) of the IPs live in the island of Mindanao, while 33 per cent of them thrive in Luzon, and the other groups (constituting 6 per cent of the population) are distributed in the Bisayan islands (see Map 2, Ethnographic Map).

The Philippines is the only predominantly Christian country in Asia wherein a majority of the people (83 per cent) follow the Roman Catholic religion, while the non-Catholics are composed of various Protestant denominations and other Christian sects. The Muslim Filipinos account for about 8 per cent of the country's population.



Map. 2 Ethnographic Map

Most of the IP communities are thriving in the hinterlands of the different islands, living lives similar to those of their forefathers, continuing to practise their age-old traditions and maintaining their indigenous knowledge systems. They are considered to be the most marginalised among the Filipino population. This is because firstly, they are wallowing in dire poverty due to governmental neglect. Secondly, a majority of them have not had any access to education, which is why their illiteracy rate is about 98 per cent. Thirdly, most of them, especially women and children, subsist in extremely poor health and nutrition conditions because of the absence of a proper healthcare delivery system in the region. Fourthly, they do not have the opportunity to participate in local and national political processes. Lastly, they have been subjected to militarisation and conflict because their ancestral lands and domains are rich in natural resources that are keenly sought by both local and international mining and logging companies (Corpus and Alcantara, 2002).

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The indigenous peoples of the Philippines are no different from the current majority population because racially they all belong to the so-called Malay race, though they speak different Austronesian languages and practise cultural traditions that are similar to those of the other cultures in Malaysia, Indonesia and the communities in the Pacific Islands. Some of the intriguing questions commonly asked are, “Why are there Indigenous Peoples/Communities in the Philippines?”, and “Who are considered indigenous or non-indigenous peoples?” The answers to such queries lie in the historical antecedents of the indigenous people.

5.3. The Indigenous Peoples/Communities in the Philippines

In the Philippine context, the indigenous peoples today are variously referred to as tribal Filipinos, ethnic minorities or cultural minorities. Schirmer (1960) described them as ‘uplanders’, who have been largely ignored in the political and social life of the country. Swenson (1960), likewise, described the tribal Filipinos as those who have retained a high degree of cultural, political, and economic independence, and who have withdrawn to live in isolated mountain areas in order to avoid Spanish and American colonial domination. Scott (1982) points out that tribal Filipinos are called ethnic minorities because their ancestors resisted assimilation into the Spanish and American empires and thus retained more of the culture and customs of their ethnos, or tribe, than did their colonised brothers.

This resistance against colonial occupation by the tribal Filipinos is viewed as a struggle to maintain their cultural identity and dignity through the years as distinct peoples. Their ancestral domains and territories located in the remote mountain areas have greatly helped them in maintaining their traditional lifestyles and rituals. In the process, they have evolved a ‘distinct’ way of life and culture, which is indigenous and different from that of the Filipino majority (Tabak 1989).

Presently, the indigenous peoples of the Philippines inhabit the interior and mountainous regions of Luzon, Mindanao, Mindoro, Negros, Samar, Leyte, and the Palawan and Sulu group islands. The Asian Development Bank (ADB, 2002), which has recently formulated a policy focusing on the indigenous peoples/ethnic minority issues, cites the following two characteristics of the indigenous peoples (ADB Report, 2002, p.3):

- Descent from population groups present in a given area, before modern states or territories were created and before modern borders were defined; and
- Maintenance of cultural identities, and social, economic, cultural and political institutions separate from mainstream society and culture.

In 1997, the Indigenous Peoples Rights Act (IPRA) was enacted. It defines the indigenous peoples as follows:

“A group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized community on community 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, become historically differentiated from the majority of Filipinos.

ICCs/IPs (Indigenous Cultural Communities/Indigenous Peoples) shall likewise include peoples who are regarded as indigenous on account of their descent from the populations, which inhabit 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 of their ancestral domains” (IPRA, Chapter II, Section 3h).

The factors inherent in this definition include historical continuity, self-identification, and group membership. Historical continuity is characterised by the occupation of ancestral domains; common ancestry with the original occupants of these lands; culture in general or specific manifestation; and the language and residence of the IPs. The concept of self-identification is definitely related to group membership, identity and history. However, the threads that weave these factors together are the indigenous peoples’ attachment to land and territory (ADB Report, 2002, p. 4).

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The indigenous peoples/communities of the Philippines are divided into the following two categories:

- (a) The Non-Islamised groups, which are distributed throughout the different islands in the archipelago. Generally, they are called *Katutubo* (native) in the Filipino language and *Lumad* (native) in the *Bisayan* language, referring to the IPs in the island of Mindanao.
- (b) The Islamised indigenous people, who are confined in the autonomous region in Muslim Mindanao (ARMM) on the western part of the island and are composed of thirteen ethno-linguistic groups. These groups speak different languages and have different cultural orientations—they follow traditional pre-Islamic culture and have many commonalities with the non-Muslim *Lumad* groups. Islam is mainly the common unifying factor among them. Recently, they have shown a preference for being called *Moros*. The term *Moro* denotes a political identity distinct from that of the peoples of Mindanao and Sulu. The Spanish colonisers originally used the term for the people of Mindanao, who shared the religion of the Moors who had once ruled Spain. It used to be initially considered a derogatory term by the Muslim Filipinos; however, in the 1970s, the term *Moro* was reclaimed in the efforts of the Islamised indigenous people to carve a distinct *Moro* identity for themselves and the consciousness of a nation, the *Bangsa Moro*, an Islamic State.

6. THE HISTORY OF EXCLUSION

6.1. Creation of Cultural/National Minorities

The indigenous communities are also categorised as the ‘cultural minority’ to differentiate them from the lowland Christian majority. Scott (1982) avers that the concept of cultural minority emerged in response to historical processes. In earlier accounts of the Spanish chronicles, there was no distinction whatsoever between the various inhabitants of the Philippine archipelago, except for ethno-social classification and the distinctions between tribal groups. However, the later accounts distinguished the inhabitants of one group from another mainly by the fact as to whether they had submitted to the Spanish rule or not. They were either *infieles* (pagans) or *indios* (Christianised lowlanders).

Thus, what led to this distinction between the minority and majority communities was clearly political and religious subjugation. Those who had submitted to Spain were usually from the coastal lowlands, had converted to the Christian faith, and had adopted the Hispanic culture were known as the 'majority'. On the other hand, those who inhabited the hinterlands, refused to submit or accept the Christian religion, and desired to preserve the culture of their ancestors were designated as the 'minority'.

The United States Government took over the Philippine Islands from Spain at the turn of the twentieth century. On the basis of their experience with the American Indians in their own country, the American colonial administrators classified the Filipinos as 'Christians' and 'Non-Christians' in order to facilitate administrative and social control. In 1901, the Bureau of Non-Christian Tribes was established in order to effectively institutionalise the non-Christian label for differentiating tribal Filipinos from the Christian majority; the Islamised Filipinos, likewise, were labelled as tribal Filipinos. Moreover, the Christian Filipinos, who possessed the wealth of the country and controlled the political system and social services, had finally declared the tribal Filipinos as 'cultural minorities'.

Due to their physical and cultural isolation from the lowland Christians, the cultural minorities became the wards of the American colonial government. This function continued until the onset of the Republic up to the present. The Commission on National Integration (CNI) was organised from the Commonwealth period (1935-1940) up to 1968 but was replaced by the Presidential Arm for National Minority (PANAMIN), which existed until 1985. When the new regime came into existence in 1986 (after the EDSA [Efrapano de los Santos Avenue] revolution), the indigenous communities were placed under a new office—the Northern Cultural Communities (NCC) to take care of the indigenous population of the northern region (Northern and Central Luzon Island), and the Southern Cultural Communities (SCC) to look after the welfare of indigenous peoples in the Visayan and Mindanao regions.

On the basis of linguistic and cultural criteria, the cultural minorities are composed of about 80 ethnic groups as against 20 ethnic groups that constitute the majority. They are, however, numerically fewer and also much less powerful and more vulnerable than their counterparts.

6.2. State Policies Toward Indigenous Peoples/Communities

The concept of 'indigenous people' in the Philippines was a creation of history (Rodil, 1994). Prior to the advent of the Spanish colonisers, the IPs already had customary precepts and practices of land use and ownership. Although they varied in their concepts of the value of land, landownership was based on communal usage (usufruct) and sharing of produce among the kinsmen and neighbours. The different indigenous ethnic groups in the country had developed varying levels of social and political structures to regulate their relations within their communities as well as with outsiders. Thus, because of their strong ties to their lands and resources, if any group enters into or violates their territory, it usually instigates conflict.

During the Spanish colonial period, the government introduced laws that denied the natives their customary precepts of land use and ownership. Through the policy of *encomienda*, the Regalian Doctrine was introduced, wherein land grants were issued by the King of Spain and managed by an *encomendero*. The latter's duty was to collect tributes/taxes and enforce the economic policies of the government on their constituents. Under the Regalian Doctrine, the Maura law was enacted, which stipulated that all *pueblo* lands were protected lands; they could not be alienated because they belonged to the King (Corpuz, 1977).

The most immediate fundamental results of Spanish colonial theory and law were the doing away of the Filipinos' ancestral rights on land and the introduction of the concept of a public domain. The natives were thus stripped of their ancestral rights to land in keeping with the concept that the Spanish king was the owner of everything of value in the Indies or colonies. This rule was imposed upon the natives.

As they increased their foothold in the Philippines, the Spanish colonialists, both civil and religious, classified the Filipinos according to their religious practices and beliefs, and divided them into three types. The first were the *Indios*, the Christianised Filipinos, who generally came from the lowland populations. The second were the *Moros* or the Muslim communities, and the third, were the *infieles* or the indigenous communities. Notwithstanding colonial policies, the unassimilated IPs continued to practise their customary laws and belief systems related to their land and resources.

The American colonial government continued to uphold the Regalian Doctrine of Spain when they took over the Philippines. Like the Spaniards, the Americans pursued a policy of assimilation. In 1903, they passed Act No. 253, creating the Bureau of Non-Christian Tribes (BNCT). The policy of assimilation and integration, however, did not yield the desired result. Like the Spaniards and Americans, the Philippine Government's subsequent attempts at integration too met with fierce resistance from the IPs.

Laws were made to reinforce the State's control over the public domain, for the reason that there was no effective system of land registration during the Spanish period. The following were some of the laws passed during this period:

- (a) The Land Registration Act No. 496 of 1902, which declared all lands subject to the 'torrens' system and empowered the State to issue a parcel of land to any legitimate claimant.
- (b) The Philippine Commission Act No. 178 of 1903 ordered all unregistered lands to become part of the public domain; only the State had the authority to classify or exploit these lands.
- (c) The Mining Law of 1905 gave the Americans the right to acquire public lands for mining purposes.
- (d) The Public Land Act of 1913, 1915, and 1925, through which Mindanao and all other areas of fertile lands considered by the State as unoccupied, unreserved or inappropriate public lands would be available to homesteaders and corporation, regardless of their occupancy by the indigenous peoples.

During the Commonwealth period (1935-1946) in the Philippines, the 1935 constitution mandates gave rise to a number of laws that continued to deny the indigenous people's customary land use and ownership, such as Presidential Decree 705 enacted in 1975, which further delimited ownership among indigenous people, especially those lands which had a slope of 18 per cent or more. Thus, this decree made the indigenous communities of the Cordillera region virtually 'squatters in their own land' because most of these lands are located in the mountainous areas that are within the 18 per cent slope criterion (Tawili-Corpuz and Alcantara, 2005).

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Moreover, the Philippine Constitution of 1987 has retained the Regalian Doctrine, which is stipulated in Section 2, Article XII of the Constitution. Nonetheless, this Constitution also contains provisions recognising the “rights of the indigenous cultural communities within the framework of national unity and development” (Article II, Section 22) and the creation of autonomous regions in Muslim Mindanao and in the Cordillera (Article X, Sec. 15-19).

The State’s constitutional recognition of indigenous rights in the ‘context of national development’ did not, however, alter the situation of the indigenous populace. Despite the promulgation of these laws, from 1974 to the early 1980s, some 100,000 Kalingas and Bontoks of the Cordillera region were displaced by the Chico River dam project of the National Power Corporation (NPC). The Manobos of Bukidnon saw their land bulldozed by the Bukidnon Sugar Industries Company (BUSCO). In Agusan del Sur, the National Development Company was authorised by law in 1979 to take approximately 40,550 hectares of land that later became the NDC-Guthrie plantation in Agusan del Sur; most of these lands were possessed by the Agusan natives. Timber concessions, water projects, plantations, mining, and cattle ranching and other projects of the national government led not only to the eviction of the indigenous peoples from their land but also to the reduction and destruction of their natural environment.

A number of government policies and programmes were also implemented on the IP territories such as the reforestation programme, the National Integrated Protected areas System (NIPAS) Act of 1992, the Mining Act of 1995, and Overseas Development Assistance (ODA) projects. Although the objectives of these projects were noble, as they were especially aimed at the protection of the forests and assisting the IPs in their livelihood to combat poverty, they had a negative effect as they limited the access of the IPs to their own lands/territories for the purpose of carrying out subsistence activities.

6.3. Exclusion and Conflict

The practice of exclusion and discrimination towards the cultural minority groups in the Philippines instigated feelings of animosity between the ethnic groups, on one hand, and the Christians and Muslims, on the other, which eventually led to conflict. Such conflict due to exclusion is more pronounced and evident in the island of Mindanao in southern Philippines (Burton,

1992). It was considered as the last frontier in the country because of its vast rich natural resources: fertile lands, and the presence of metallic minerals, and lush timberlands. Moreover, it was the place of destination for migrants during the Spanish and American colonial periods. The migrants were the Christian populations from the different islands of the country, who settled along the coastal regions and river valleys, thus encroaching into the traditional ancestral domains of the indigenous communities, both non-Muslim and Muslim.

Thus, religious conflict between the Christian settlers and the Muslim natives flared and brought havoc to their communities. The Muslim communities had been accusing the Christians and the national government (run mostly by Christian Filipinos) of practising a kind of 'cultural genocide' against them. The negative attitude of the Christian Filipinos towards the Muslims had been attributed to the slave trading days when the Muslim warriors would raid communities to acquire slaves, and the usual victims were the Christianised IPs (Casino, 1987). Today the Christians fear the Muslims because certain Muslim groups (like the *Abu Sayaf* and others) have been involved in kidnapping and terrorism activities such as planting bombs in significant places like churches, plazas, airports, and shipping liners. Fear and intimidation are exacerbated by the intended plan of the Muslim communities to take over Mindanao Island and secede from the Philippine sovereign and establish an Islamic republic.

Indigenous populations that are racially different from the Malay racial stock to which most of the Filipinos belong are also distributed in different islands including Mindanao. They are short-statured and dark-skinned people referred to as *negritos* (little Negroes) because of some negroid features. Generally, they are known as *Aetas* in the northern region but those in Mindanao are known as *Mamanua*. Anthropological studies have shown that they were the descendants of the earliest population that reached the islands. Today they still inhabit the mountain forests, practise their traditional culture, are engaged in hunting and gathering, and live a nomadic life, though some of them who were converted by the missionaries who brought them down to settle in lowland communities.

Among the indigenous peoples' groups, the *Aeta*, the *Mamanua* and the *Badjaos* (sea 'gypsies') have been the most discriminated and excluded economically, socially, and politically. Their ancestral territorial domains

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had been expropriated by the government to give way to mining exploration, logging, and trawl fishing, thereby depriving them of the use of natural resources for their existence. Thus, many families, in order to survive, had to migrate to the urban centres or towns to beg for food and other things, which they could use. They slept in temporary and makeshift dwellings under the bridge and around street corners. They have now become urban foragers scavenging in dumpsites to find things, which might help temporarily alleviate their poverty-ridden situation.

The main problem for the other indigenous ethnic communities in the other islands like Mindanao was the loss of their ancestral domains to the migrant settlers and the business entrepreneurs, which deprived them of their source of subsistence. Lacking the will to fight back, many of these victimised groups merely retreated farther into the interior hinterlands. However, they are now also confronted with the problem of not being able to practise their traditional way of farming (*swidden*/shifting cultivation) because of the forest policy on environmental conservation. Because of the tremendous pressure imposed on them, some of the IPs in the country had joined the rebel groups known as the National People's Army (NPA), with leftist orientation, to fight the government and investors who are depriving them of their rights.

7. NATURE OF DEPRIVATION

The loss of their ancestral domain was the main cause of the deprivation among the IPs. The policies of the Philippines for the indigenous peoples discussed above were responsible for their displacement, which led to poor access to their own resources. However, among the indigenous peoples in the archipelago, the IPs in the Cordillera region inhabited eight provinces, but the different ethnic groups were able to push for autonomy, that is, they can now practise self-governance based on their customary laws. Moreover, they had been sedentary because their subsistence pattern was based on intensive farming (rice terracing). The underlying reason for the autonomous status is that the provinces are territorially contiguous and had cultural inter-relations in the past. The other IP groups in some regions of the country like Mindanao Island, on the other hand, were sparsely and widely distributed due to their semi-nomadic way of life and because of the nature of their subsistence pattern, which is mainly based on *swidden* cultivation (slash/burn).

The loss of the ancestral domain of the IPs in the country could be traced back to the lowland landless populations in some islands, who were forced to migrate to other areas in search of lands and other opportunities. The Philippine Government, while trying to resolve the problem of insurgency caused by the clamour of landless peasants, initiated resettlement programmes in some islands, which were deemed as public domains under the Regalian doctrine. Mindanao Island was chosen to be the destination of these landless peasants migrating from Luzon Island and other islands in the Bisayan region. Two resettlement programmes were established: the Koronadal Valley in southern Mindanao and the NARA settlement in north central Mindanao (Lanao del Sur, and Bukidnon provinces).

Beside the mass migration into Mindanao by landless farmers, logging and mining concessionaires were enticed to explore the island for timber and mineral, which the island was still famous for. Consequently, the arrival of migrants and entrepreneurs had great implications for the indigenous inhabitants of Mindanao. In the first place, the chosen resettlement sites were within their ancestral domains. The IPs were coerced to move somewhere else because the migrant people had cleared their assigned area. Secondly, the logging and mining concessions operated in timberlands (part of the public domain leased to the concessionaires by the government) areas, which the IPs considered their ancestral domains. These people, who practised swidden farming, moved around their domain, which was also the source of their resource base—water, wild flora and fauna, etc.—and livelihood. Thus, since the government had already leased the concessions to private concerns, the native occupants had to vacate the area and move into the interior mountain forests, where they are not allowed to use the local resources because this area is under the National Integrated Park System (NIPAS).

The above-cited factors have led to the displacement of the indigenous communities from their ancestral domain. This massive land grabbing and consequent dispossession have had destructive consequences for the IPs. Malnutrition and diseases have taken a heavy toll on the people because of their vulnerability to infectious diseases caused by unsanitary conditions, lack of potable water sources, and the extremely low level of food security. Moreover, because of the remoteness of their communities, social services, specifically health cannot be accessed, which is why the morbidity of infants and children cannot be checked, while adults who

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usually suffer from various diseases like malaria, tuberculosis, and beriberi cannot avail of treatment because of financial problems.

Another consequence is that a majority of the indigenous children are not able to attend school because it is far from their habitations and, therefore, not accessible to them. Thus, many of them have become adults without having the opportunity to learn to read and write. However, certain non-governmental institutions have established schools for indigenous children and adults in areas where the IPs do not have access to education, such as the Summer Institute of Linguistics (SIL). Although the IPs have tried to assert their rights to education, the education they are actually receiving is inadequate and unsuitable because its curriculum is based on the Western system of education. It is obvious that the Government has neglected its duty of designing an educational curriculum that would be attuned to the particular necessities of the people, and would help enrich their ethnic culture and combat prejudice and discrimination/exclusion (Burton, 1989).

The socio-economic condition of the IPs is the poorest among the other Filipino communities. Moreover, since they have been deprived of access to their resources due to loss of their ancestral domain, they have also lost the opportunity to generate income from these resources. Thus, in order to survive, many IPs have opted to work as farm labourers in agricultural plantations in Mindanao, while others among them work for mining companies for minimal incomes.

8. ECONOMIC, SOCIAL, POLITICAL AND CULTURAL FALLOUTS

The consequence of exclusion has led to under-development of the indigenous communities all over the country, which has had adverse repercussions for their economic, social, political, and cultural progress. The reports of NGOs working with the IP communities have revealed the sheer neglect of the Government of the welfare of the IPs, especially in terms of their economic and social well-being. Two main factors are cited in these reports. These are delineated below.

8.1. High Incidence of Poverty

According to the reports of the NGOs, the indigenous people account for approximately 31 per cent of the total poverty in the country. This is substantiated by information from various studies, which show that in

provinces suffering from the acute poverty, the population of the indigenous people is also the largest. For instance, in Western Mindanao, which ranks second nationwide in terms of the incidence of rural poverty, the population in 1995 was 1.1 million, of which roughly 46 per cent were indigenous peoples.

The results of the Family Income and Expenditure Survey in 2000 show that the incidence of poverty in the Autonomous Region of Muslim Mindanao (ARMM), where most of the IPs are found, is higher than the national average of 40 per cent. Further, a study by Asian Development Bank (ADB, 2002), which is based on the income measure, reveals that all the regions with the highest incidence of poverty are located in Mindanao. Poverty, according to the study, continues to be a rural phenomenon with the rural areas contributing a whopping 74 per cent share to the total poverty in the country.

Moreover, armed conflicts between the government forces and the insurgents usually take place in areas inhabited by the IPs, which has led to their dislocation and caused them the problems of hunger, poor health and high incidence of morbidity, while also depriving them of economic opportunities. The fact-finding studies conducted by some NGOs, which focused on the health of IPs in the country, have revealed that women and children are vulnerable to morbidity and mortality, due to factors such as poor sanitation, lack of access to healthcare delivery, and malnutrition. Since most of the IP communities live in remote areas that are far from the town centres, they are unable to avail of health services and most of them do not even have the financial means to seek such services.

A recent study on literacy in the Philippines has found that the literacy rate of IPs in the country is lower as compared to that of the lowland majority. Further, the literacy rate of the IPs in Mindanao is much lower as compared to the Muslims and other IPs in other parts of the country. Several factors have contributed to this state of affairs. These are as follows: (1) Most public schools are located in a *barangay* (village) and are distant/remote from areas where IP communities live, which take several hours of hiking and fording rivers to reach; (2) The public school curriculum is not culturally sensitive, and the children get confused due to being exposed to the Westernised educational system, which replaces their indigenous knowledge, and cultural traditions and values. This has led to a high drop-

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out rate of children from school; (3) Financial problems caused by poverty have compelled many of the IP children to stop their schooling, as a result of which most of them have not completed even elementary education, and only a few of them reach the secondary or the tertiary level. Although scholarships are offered to bright IP children, their parents do not permit them to push through their education because the children are needed to help in the family chores, especially in the hunt for food.

According to the study of Ahmed, *et al.* (2007) on the characteristics and causes of extreme poverty and hunger in the world, the reason for the latter is the “systematic exclusion of certain groups from access to resources and markets...” (p. xvi). The ethnic minorities and tribal peoples in the Philippines have traditionally been excluded from institutions and markets that would empower them to look after their welfare and free themselves from the bondage of poverty.

8.2. Environmental Degradation and Depletion of Resources

Most IP communities have chosen to inhabit the uplands close to their resources upon which they have depended for their existence for generations. The advent of logging, mining, and plantations has destroyed the forests and totally degraded their environment, leading to the depletion of their resources, the source of their sustenance and livelihood; it has also had repercussions on the total ecosystem.

Moreover, the intrusion of landless lowland settlers, who came up to the uplands and employed lowland farming technology (the use of draft animals and the plough), has also contributed to intense soil erosion and further degradation of the mountainside. Unfortunately, this wanton destruction of the mountain forests was attribute to the IPs’ practice of shifting agriculture, which is believed to be destructive by the government. However, Conklin (1954), in his study of the *Hanunoo* agriculture in Mindoro Island, the Philippines, has found this practice to be ecologically friendly and more viable than intensive agriculture because the former allows the farm to lie fallow for years. Also, there has been a lack of understanding on the part of the government agencies of the IPs’ cultural precepts pertaining to the environment. These people have for generations inculcated in their cultural values a great love for their natural environment, including the forest, rivers, and soil, for it is not only the source of their

existence but also the abode of the *diwatas* (nature spirits) believed to be their providers and protectors, who must therefore be respected. Thus, taboos, which are embedded in their customary laws, are imposed to ensure protection and care of their environment, and any breach of these entails devastating repercussions.

The forestry policies enacted by the government prohibiting the IPs from using their traditional farming methods have threatened the survival and subsistence of these communities, as they do not have any lands to till nor have they adapted to the lowland farming method, which necessitates the use of certain tools and equipment that they cannot afford to procure. The government, on the other hand, has failed to offer alternative livelihood strategies to compensate for the loss of their lands. Reports of Church-related NGOs assisting the impoverished IPs in Mindanao have also revealed the deplorable state of food security of these people, especially in the areas of conflict.

The IPs, in general, have been excluded from the political sphere because the government does not recognise their traditional political system (governance and laws). The IPs' way of governance has been construed by the government to be 'primitive' and based more on superstitions than on the rules of governance. This misconception, however, has been corrected by the studies of anthropologists on indigenous governance and resolution of conflicts among different IP groups in the country (Barton, 1919; Burton, 1991; Dozier, 1967; Frake, 1963; Garvan, 1931; Schlegel, 1970). The government has formulated policies on the local government code, which now accepts and respects the traditional governance and laws to be legitimate and culturally appropriate for the IPs. In communities inhabited by the IPs, the chieftain and some of his constituents may sit in the council to represent the IPs. However, lowland politics usually come into play to influence some IP leaders, who may be influenced and thereby neglect the concerns of their community. An example that can be cited in this regard is that of the Matigsalug Manobo, an ethnic community in northern Mindanao, many of whose members are illiterate, and consequently cannot properly exercise their rights of suffrage. They have thus become victims of unscrupulous lowland politicians, who misuse their names as voters (using thumb-marks opposite the names) for a minimal fee (Personal Communication with the Chieftain during the 2007 local election).

9. PEOPLES' ORGANIZATIONS AND STRUGGLE AGAINST EXCLUSION

An article by Rorie Fajardo, "Strangers in their Own Land" (pcij.org report/2007/indigenous peoples) highlights the travails and sufferings of the indigenous people. In spite of the fact that the ground-breaking Indigenous Peoples' Rights Act (IPRA) has been formulated, the country's IPs continue to become more marginalised and to be deprived of their rights in their own land. However, the formulation of the IPRA, which is the only enactment of its kind in Southeast Asia, has brought about a positive development, as a number of peoples' organisations have now started working to assist the IPs.

The International Work Group for Indigenous Affairs (IWGIA) has listed major national, regional and local indigenous organisations in the Philippines, which are working with the IPs. These include Consultative Assembly of Minority Peoples of the Philippines (CAMPP), Pambansang Lupon ng mga Nakatatanda sa Tribu or National Council of Tribal Elders (PLANT), Koalisyon ng Katutubong Samahan sa Pilipinas (KKASAPI) or the National Coalition of Indigenous Organisations in the Philippines, the Indigenous Peoples Human Rights Watch, Association of Tribal Councils of the Philippines (ATCP) and Tribal Communities Association of the Philippines (TRICAP). However, the struggle of these organisations has been centred around protecting land and environment rights of IPs.

The outright disregard of the collective right of the IPs over their ancestral land and its resources, and the adverse impacts of destructive projects have often prompted the affected IP communities to mount protest actions. During one such protest, Macliing Dulag, a tribal leader of the Kalingas, was killed by members of the Armed Forces of the Philippines (AFP) on 24 April 1980, as he was leading a successful opposition to the Chico Dam project in the late 1970s and early 1980s.

In mid-2000, members of the Subanon community in Mindanao were ejected from their homes, which were then bulldozed. They were forcibly removed from their ancestral lands to make way for an open pit-mining operation. The *Alyansa Tigil Mina* (ATM) has taken up this issue as one of its causes. The ATM is a coalition of like-minded organisations and groups, who have taken a stand against the manner in which the government is

pushing large-scale mining and projecting it as the economic future of the Philippines. In the process, a number of people, especially the IP communities, are being further excluded and discriminated against.

The various IP groups can be broadly categorised into the following two major groups: The Non-Islamised Indigenous People and the Islamised Indigenous People (*Moros*). The initiatives and movements being undertaken by each of these two groups are discussed below.

9.1. Non-Islamised Indigenous People

The movement for self-determination of the non-Muslim indigenous peoples had been a burning issue among the more militant and conscientious groups of IPs, who were inspired and influenced by the more radical national and international entities. The main thrust of this movement, according to Rodil (1994), is to win the fundamental recognition of their rights to their lands/domains and resources found therein, and respect for their culture and cultural heritage. The clamour for these rights has, in fact, been brewing for a long time, and has also influenced recent legislations, specifically the Constitution in 1987 and the IPRA in 1997.

The struggle for self-determination has been realised for the IPs of the Cordillera region in northern Luzon, which is now known as the Cordillera Autonomous Region (CAR), and is composed of the eight ethnic groups occupying the Cordillera territory. However, similar success has eluded the *Lumads* of Mindanao, and though there have been attempts by the different *Lumad* groups to organise themselves into alignments such as the *Lumad* Alliance for Democracy in southern Mindanao, with support from some church-based and other NGOs, yet their movement has not really enthused a majority of the *Lumad* population, which is still not aware of such opportunities for development and assertion of their rights.

Self-determination for the Mindanao *Lumads* may still be a remote goal to achieve, but as more of them are acquiring education and getting exposed to modernization, they have two options before them: to go along with the mainstream majority communities, or to remain a minority among the majority. They are, however, a self-contained, and self-determined people, who would continue to retain their cultural traditions and follow their customary laws.

9.2. Islamised Indigenous People (*Moros*)

The Islamised indigenous peoples of Mindanao, collectively known as the *Moros*, are currently aspiring for the creation of an Islamic republic. This has, in fact, become a formidable problem for the country because of its serious implications and repercussions for the Philippine hegemony. Its effects on the other inhabitants of the island, specifically the majority Christian settlers and the *Lumad* (IPs), would be devastating and may even culminate in a civil war.

The *Moro* problem originated during the Spanish colonial period, as the Spanish rulers were determined to conquer the obstinate *Moros*. While the Spanish were later successful in their endeavour, they continued to face vehement resistance from the *Moros*, both in mainland Mindanao and the outlier islands of Sulu. When the Americans assumed colonial rule after the Spaniards, they also met with similar resistance. However, the Americans, with their better arms and conquering strategies, were able to subdue the Muslim Filipinos through education and development programmes.

The failure of the national government to respond to the basic social and economic needs of the *Moro* people during the post-republic period, however, instigated the *Moro* people to contest the legitimacy of the Philippine government's occupancy of what they considered their homeland (Mastura, 1984; Glang, 1969 cited in Mercado, 1992). In the 1950s, there was an insurrection by the *Moros* but it was put down; and in the 1960s, the Muslim Independence Movement (MIM) articulated the *Moro* people's dream of independence—"an aspiration to secede from the republic in order to establish an Islamic state that would embody their ideals and aspirations, conserve and develop their patrimony, their Islamic heritage under the blessings of the Islamic brotherhood and the regime of the laws of nations" (Glang, 1969, p. 1).

In the 1970s, the *Moro* National Liberation Front (MNLF) was organized. Initially, it was a separatist movement, and championed the establishment of an Islamic Republic in MINSUPALA (Mindanao-Sulu-Palawan). The MNLF adopted both a political struggle as well as an armed struggle against the Central Government. Thus, during the period 1971-1976, violent

encounters between Muslim militias and Christian paramilitary groups escalated into a major conflict. There was massive movement of military troops throughout the *Moroland* and also extensive evacuation of Christians, *Lumads* and Muslims.

After five years of armed confrontation, the Philippine government and MNLF signed an agreement in Tripoli, Libya, in December 1976, accepting the principle of peaceful negotiation in resolving conflict. The Tripoli agreement also provided for the establishment of an autonomous region, comprising the 13 provinces in Mindanao and Sulu, within the constitutional processes. In partial compliance with the agreement, Regions 9 and 12 were declared as constituents of the autonomous region by the Marcos regime. After the fall of the Marcos dictatorship in 1986, the Aquino government took over the reigns. A new constitution was ratified in 1987, which mandated the creation of an Autonomous Region in Muslim Mindanao (ARMM), but the MNLF refused to recognise the new Philippine constitution.

By then, the MNLF had been split between its two Muslim founders. One of them headed the MNLF, while the other formed another group, which became known as the *Moro* Islamic Liberation Front (MILF). Under the Ramos administration, a new peace accord, starting with the 1995 GRP–MNLF Interim agreement, was initiated to resolve two basic issues: the question of autonomy and self-governance in local and regional affairs and all local government units; and the need for ensuring peace and development in the region. This was followed in 1996 with the establishment of the Southern Philippine Council for Peace and Development (SPCPD), which took the place of the provisional government, as stipulated in the Tripoli Agreement.

During the period 1998-2002, the MILF and the Philippine military troops had a number of encounters, which affected the lives of the Christians, Muslims and *Lumads* residing in the areas of conflict and put them at constant risk. The government made several attempts to draw the MILF to the negotiating table to discuss the peace process and the resolution of conflict. However, these attempts proved futile because the ultimate objective of the group was separatism.

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The resolve of the MILF to form a separate sovereign in Mindanao is bound to adversely affect the large population of non-Muslim IPs as also the Christian majority. There are many ethnic IPs who are not Muslims, residing within the ARMM, which is composed of four provinces. However, if the Tripoli Agreement were to be followed, it would include nine more provinces where most of the IP inhabitants are thriving.

In case the Islamic separatists succeed in getting a separate homeland, how would their government deal with the needs and demands of the IPs within the Islamic framework, specifically their right to ancestral domain and self-determination? This is a crucial problem for the IPs, as they believe that their future hinges on their gaining access to their ancestral domains, much like what the Muslim IPs are also demanding.

10. GOVERNMENTAL AND CONSTITUTIONAL PROVISIONS FOR IPS

Following the mandate of the 1987 Constitution, mandate, the Republic Act (RA) 88371, also known as the Indigenous People Rights Act (IPRA), was enacted in 1997. This was believed to be a landmark piece of legislation and a milestone in the struggle of the IPs for winning rights over their ancestral domain, a right that they claim to uphold.

No one expects the IPRA to be the magic pill that will eventually solve all the problems of the IPs. However, many hope that it would at least give the IPs the respect and attention they deserve but are being deprived of.

The Indigenous Peoples' Rights Act (IPRA)

In the enforcement of the 1987 constitution, the IPRA law mandates that the State should create a policy to “recognize and promote the rights of indigenous peoples within the framework of national unity and development” (The Philippine Constitution, Sec. 22, Act II) and to “protect the right of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being (The Philippine Constitution, 1987, Sec. 5, Act XIII and Sec. 17, Act XIV).

There are four key elements of the Indigenous People’s policy, along with the various programmes and projects being developed for them. These are detailed below.

(a) Right to Ancestral Land/Domain

The law restores the rights of IPs over their ancestral lands and domains. Ancestral lands under IPRA refer to lands occupied by individuals, families, and clans, who are members of indigenous cultural communities including residential lots, *swidden* farms, rice terraces, private forests and tree lots. These lands must have been occupied, possessed and utilised by them or their ancestors from time immemorial continuously right up to the present (Section 3b, IPRA). Ancestral domains are defined as areas that generally belong to cultural communities including lands, forests, pastures, residential and agricultural lands, hunting grounds, worship areas, and lands that are no longer occupied exclusively by indigenous communities but to which they had traditional access, such as home ranges of IPs who still lead nomadic lives or are shifting cultivators. Domains also include inland waters and coastal areas, and the natural resources found therein, which had been held and possessed by the IPs and their ancestors in the past.

The IPs have the right of ownership over these lands/domains as also the rights to develop and manage lands and natural resources, to stay/reside in territories and not to be displaced therefrom, and to resolve conflicts according to their customary laws. Moreover, the law stipulates that IPs and their communities have the responsibility to maintain the ecological balance of their lands, to restore the denuded areas, and to manage the resources in their domains.

(b) Right to Self-governance and Empowerment

The law further defines the range of these rights and the extent to which the IPs can exercise them, which includes the rights to: pursue economic, social and cultural development; use commonly accepted justice systems, conflict resolution strategies, peace-building processes, and customary laws; participate in decision-making; maintain and develop indigenous political structures; have mandatory representation in policy-making bodies; determine their own priorities for development; establish their tribal *barangay* (villages); and form People's Organisations (POs).

It is believed that the law can be used by the IPs as a vital instrument for their empowerment—the principle of Free and Prior Informed Consent (FPIC), which stipulates that:

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“The IPs shall, within their communities, determine for themselves policies, development programs, projects, plans to meet their identified priority needs and concerns; they shall have the right to accept or reject a certain development intervention in their particular communities. Their decision to accept or reject a proposed policy program, or plan shall be assessed in accordance with their development framework and their value system for the protection of land and resources” (Section 3, Part III, IPRA Law).

(c) Right to Cultural Integrity

Several provisions are incorporated in this agendum such as the constitutional and legal framework, and the conceptual framework for cultural integrity. This also includes procedures for the recognition of other rights including the right to follow an indigenous culture, customs and traditions; the right to establish and control educational learning systems; recognition of cultural diversity; the right to a distinct identity and name; the right to community intellectual property; protection of indigenous sacred places; right to protect indigenous knowledge; and the right to gain access to scientific knowledge and human rights.

(d) Right to Social Justice and Human Rights

The IPRA laws have instituted safeguards in recognition of and respect for the fundamental human rights of the IPs. The specific provisions of the law ensure that the IPs enjoy the same rights as other human beings such as the right to life; right to development and civil liberties, and political rights; freedom of association; right to equal protection; and right to peace and social justice. Moreover, the law also guarantees the IPs the right to basic social services; and the right to employment, healthcare, housing, social security, infrastructure, transportation and communication.

Following the constitutional mandate (Art. 16, Sec. 12), the IPRA created the National Commission on Indigenous Peoples (NCIP) designated as the “primary government agency for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the IPs and their ancestral domains” (IPRA, Sec 38).

11. STATUS OF IMPLEMENTATION OF THE AFFIRMATIVE POLICIES AND THE GAPS

11.1. Ancestral Domain and the IPRA Law

Four years after the enactment of the Indigenous Peoples' Rights Act (IPRA), an assessment of its implementation, however, yielded dismal results. It was found that the National Commission on Indigenous Peoples (NCIP), the government body mandated to implement the laws, was unable to perform its task efficiently. Following are the findings of the assessment of the NCIP:

- (a) There was a lack or absence of clear leadership that led to the poor performance of the agency's policy-making and adjudication duties, and of coordination in the delivery of basic services.
- (b) NCIP's present structure and staff have obstructed the institution from carrying out its duties/functions.
- (c) NCIP officials are, by and large, not qualified or trained with the necessary skills to meet its mandate under the IPRA.
- (d) There were indications that the processes of issuing titles and certifications to allow mining and other activities in the IP domains have been compromised, if not corrupted.
- (e) Past policies and decisions have been prejudicial to the operations of NCIP and should be identified and changed to better serve the indigenous communities (Agoncillo, 2001).

One of the concrete evidences of the NCIP's incompetence has been its laggardness in processing and approving the certificate of the Ancestral Domain Title (CADT) and the Certificate of Land Title (CALT) applications. In northern Mindanao, there were eighty applications, but only nine CADT applications were processed, out of which merely two were approved. Reports claimed that several CADT/CALT applications were haphazardly approved and circumvented procedures that were mandated by law.

Another important and controversial issue that emerged was the provisions in Sec. 5 (6) Rule 2, which states that the "IPs shall have the right to suspend or stop any project or activity that is shown to have violated the

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process of securing free and prior informed consent or have violated the terms and conditions of such granted consent.” The mining industry has expressed apprehensions over this rule for members of the industry perceive it to be biased towards the IPs and their priority claims over the natural resources, and they (mining industry members) view this as rather detrimental to their industry. Consequently, there were attempts on the part of the mining industry to bring its issues against the IPRA to the Supreme Court (De Lange, 1998).

In 1998, the NCIP issued an Administrative Order No. 313, exempting all leases, licences, contracts and other forms of concessions within the ancestral domain of the IPs existing prior to the announcement of Implementing Rules and Regulations (IRRs), from the coverage of IPRA’s provision on free and prior informed consent. The Administrative Order, likewise, declared that all written agreements with and/or resolutions by indigenous communities prior to the IRR would be considered as “free and prior informed consent”.

Intense reactions from the Indigenous People’s Organisations (IPOs) and advocates emerged and censured this new Administrative Order for being ‘onerous’ and a ‘sellout’ to the interests of the mining companies. These IPOs declared that ‘property rights’ as defined in the Order seem to have been interpreted in favour of the mining interests.

The greatest challenge against the IPRA, which took both the NCIP and the IPs by surprise, came up when a retired associate justice of the Supreme Court filed a petition in 1998 before the Supreme Court. The petition contained the following three major points: (1) The law violates the constitutional principle that all natural resources belong to the State. (2) The law deprives the State of control over the exploration and development of natural resources; and (3) The law threatens to strip private owners of their properties.

However, after thorough deliberation, the Supreme Court voted on December 2000 to dismiss the petition for lack of merit and substantiation. Nevertheless, in a separate decision of the Supreme Court, the justices expressed substantive points that upheld the Regalian doctrine. They emphasised that the IPRA merely gave the IPs surface rights over their

ancestral domains but the resources found therein are still owned by the State.

A fundamental contradiction in the laws in the Philippines lies in the exercise of “the power of eminent domain”, which may be invoked and exercised for “the entry, acquisition and use of private lands” (Sec. 1, Presidential Decree 55). This totally nullifies the protection of ancestral domains provided for in the IPRA as “prospectors, claimants of mineral lands shall not be prevented from entry into private lands, surface owners and occupants when prospecting or exploring therein” (Sec 1, Presidential Decree 55). These propositions not only negate the intent of the IPRA, but also demonstrate how the government can invoke the Regalian doctrine to protect private interests in the exploitation of mineral resources. Examples of this would be the large-scale underground and open-pit mines in ancestral domains in Mindanao and the Northern Luzon Cordillera region.

11.2. Impact of the IPRA

The enactment of the IPRA had mixed effects on the indigenous communities. Some of the repercussions were advantageous for the IPs, while others were negative and adversely affected the IPs’ perceptions of IPRA.

The long years of legislative action, which preceded the enactment of the IPRA and the several debates that took place during its implementation have, however, served to increase the awareness of the public including the IPs themselves about their rights. They have also drawn the attention of the State and the civil society, churches, NGOs, and academic institutions to the plight of the IPs, who have consistently been denied a space in Philippine society and the exercise of their human rights.

Many new IP organizations and national federations and alliances were formed during the period leading up to the enactment of the IPRA. One of these is the Coalition for Indigenous People’s Rights and Ancestral Domain (CIPRAD), which is a network of fifteen IPOs and five NGOs. Another supporter of the IPRA is the Coalition of Indigenous Peoples of the Philippines (NCIPP), which was spearheaded by the Davao-based *Lumads* (native) of Mindanao.

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At the community level, the IPOs were organised and community solidarity was enhanced due to the efforts of the IP communities to describe or delineate ancestral domain/land. However, the IPRA also had certain negative effects such as an unchecked proliferation of IPOs and NGOs. This engendered disunity among the IPs. Some of the IPOs and NGOs supporting the IPs approved of the IPRA and argued that notwithstanding the imperfections of some of the provisions in the law, they believed that this legal instrument could be used as a stepping stone towards a “more progressive level of political discourse” (Leonen, 1998). Other IPOs, however, did not share this view and labelled the IPRA as a “master act of deception.” They censured the persistence of the Regalian Doctrine in the law (CPA and DINTEG, 1997).

It is at the community level that the negative effects of the IPRA were felt the most. Many community level disputes took place among the different IP groups, specifically over boundaries of ancestral domain such as in the Cordillera region in northern Luzon. In northern Mindanao, there was conflict over the claim to an ancestral domain in a protected area which was inhabited by tribal communities; the issue was contested by the local government. Moreover, some groups have also used the IPRA to legitimise a claim of ‘imagined’ ethnic identities in order to enjoy the rights stipulated under the law.

Some experts, on the other hand, view the IPRA as an instrument that would lead to the privatisation of the ‘commons’ (Lynch, 1999). In Agusan del Sur, Mindanao, for instance, a certain Datu (chieftain) applied for some 76,000 hectares of ancestral domain for his own ends (Gatmaitan, 1996). Also, the IPs are apprehensive that privatization would facilitate the entry of corporations and entrepreneurs who can easily negotiate with an individual to be able to enter the domains of the indigenous communities (CPA and DINTEG, 1997).

12. DEVELOPMENT INITIATIVES FOR THE INDIGENOUS PEOPLES

Development programmes for the rural areas in the past had barely reached the indigenous communities. This lack of inadequate assistance by the government towards these people had been compensated for by the NGOs

and church-based agencies by implementing programmes/projects that would help in uplifting many IP groups who had not been reached until the present.

The IPRA's provision on social justice and human rights clearly stressed the right to their development, though the development programmes/projects would have to be determined by the communities to fulfil their identified priorities, needs and concerns. Thus, a community has the option to accept programmes that are congruent with its cultural precepts and aspirations, and reject those that are not within the purview of its frame of reference.

12.1. Government Programmes and Projects

Over the past few years, the Philippine government did not have a concrete agenda for the so-called minority groups such as the IPs and the Muslims. It is only recently that the government devised the Medium Term Philippine Development Plan for 2001-2004 with poverty reduction as its primary objective. This is the first time that a national government plan has a chapter on the IPs in different regions.

The strategic plans for economic development and social reconstruction listed in the government's development agenda were deemed to bring about changes in the lives of the IPs and Muslim groups. Some of these proposals are as follows:

- i) Provision of basic services and livelihood opportunities, and fulfilment of psychosocial and other needs;
- ii) Implementation of culturally-sensitive programmes. In the field of healthcare, the proposed approach would entail inter-sectoral collaboration to sensitise the various stakeholders to the needs of the IPs and to enable them to conform to cultural norms and practices. As regards education, the indigenous concepts are proposed to be integrated into the mainstream. The basic educational curricula for Muslims and IPs would also be revised to make them more relevant in the present context.
- iii) Execution of institutional reforms to address the issue of political inequity and to broaden the participation of the IPs and Muslims in decision-making.

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- iv) Focusing on the return of ancestral lands/domains to the IPs for their use, as part of the enforcement of the IPRA.
- v) Ensuring relief and rehabilitation to the areas affected by ethnic conflicts, including the relocation and resettlement of the families hit by the conflicts.
- vi) Encouraging academic institutions to incorporate the concept of peace in their education curricula from the elementary to the tertiary levels.

The government agencies responded to the mandate for fulfilling the needs of the IPs by implementing the following measures:

- i) The Department of Health issued Policy No. 142 mandating provisions for the concerns of IPs. It also created the Indigenous Peoples' Health Development Programme (IPHDP), which includes water system development, nutrition, community development training, environmental health sanitation and prevention, and control of local endemic disease.
- ii) The Department of Education is embarking upon two major activities to increase its responsiveness to the needs of the IPs, specifically in terms of preserving their cultural heritage: indigenisation of elementary and secondary curricula, and development of an equitable non-formal educational system. The Basic Education Assistance Programme has been developed with the objective of expanding educational opportunities for the poor and disadvantaged population groups such as the IPs, Muslims, and poor lowland settlers.
- iii) The Department of Social Welfare and Development is currently implementing the Comprehensive and Integrated Delivery of Social Services (CIDSS), which aims to extend culturally appropriate projects to indigenous communities in 100 CADC villages to ensure their welfare and development. This would be realised by building their capabilities in managing community-based services, preserving their ancestral domains, and cultivating their cultural heritage by converging the resources, experts and technology of the government, non-government, and other sectoral agencies.
- iv) The Department of Environment and Natural Resources undertakes regular activities involving the IPs, specifically in the

management of ancestral claims and the Community-Based Forestry Management Programme (CBFMP). This agency is also currently implementing projects to address IP concerns including biodiversity management and conservation, and forest and watershed management with an emphasis on community participation and self-help projects.

12.2. Development Initiatives of NGOs and IPOs

Today, NGOs and the POs working as their partners are at the forefront of innovation and social change in the Philippines (Racellis, 2000). POs and NGOs have also played the role of mobilising and undertaking the groundwork for ensuring that the government adheres to its promises. Representative groups of small farmers, the urban poor, IPs, women, and other such marginalised groups have planned their presentations, articulated their views, hammered out agreements, honed leadership skills, and interacted directly with top officials to try and secure their rights. This process of trying to safeguard the interests of the underprivileged groups initiated by the POs and NGOs in the mid-1980s opened up opportunities for new kinds of collaborations and networking with each other and with the government. The negative effects of globalisation on the IPs' rights over their ancestral domains, food security, and agricultural policy also dominated the NGOs' criticism of APEC.

The breakthrough in terms of intercultural solidarity as far as Mindanao is concerned was the formation of the Bishop–Ulama Forum in 1996 (Polestico, 2001). As far as the Christians, *Lumads* and Muslims are concerned, it was inconceivable for them to envision that their leaders would forget their differences and sit together while trying to focus on the peace-seeking aspects of their respective religions.

Grassroots efforts like the formation of the Basic Ecclesial Communities (BECs) have also been found to be effective in promoting local, intensive efforts to protect the indigenous lifestyles.

Some NGOs and IPOs that have been associated with the welfare of IPs undertake varied activities, but their main concern is to prioritise the protection of the ancestral domains of the IPs. Following is a list of some of these key organisations, along with brief descriptions of their activities and agendas:

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- i) The Philippine Association for Intercultural Development (PAFID) has participated in the campaign for tenurial and self-management aspect of ancestral domains in more than 600 indigenous communities throughout the country, since as far back as 1974. PAFID offers assistance in resolving the urgent issues that affect IPs.
- ii) ANTHROWATCH, organised in 1994, is building equipment for the mapping and delineation of ancestral domains. It also conducts community organisation and capacity building campaigns, cultural sensitivity training, research on the health situation among IPs, and facilitates study tours for IPs to ensure their exposure to similar communities that are better organised.
- iii) Tanggawang Panligal ng Katutubong Pilipino (PANLIPI) and Legal Resource Centre (LRC) handle the legal aspects of land issues. They are both active in advocacy and promotion of awareness generation with reference to Indigenous Peoples' Rights Act (IPRA).
- iv) Pambansang Lupon ng mga Nakakatanda sa Tribu (Council of Elders) is an IPO operating in different regions, which offers para-legal training on issues related to ancestral domains and the strengthening of IPOs.

Apart from the issues pertaining to ancestral domains, some of the NGOs and IPOs have also taken up other important issues confronting the IPs. Some of these organisations and their activities are described below.

- i) In the area of education, NGOs such as the Asian Council for Peoples' Culture has advocated the creation of indigenous schools (or culturally responsive primary schools for indigenous children). SENTRO NG GANAP NA PANAMAYAN is currently conducting a policy review and analysis, and documentation of indigenous knowledge for proposed integration into the government's education curricula.
- ii) The Church-based NGO, the Episcopal Commission on Indigenous Peoples (ECIP) is providing general assistance to 16 different dioceses and 40 IPOs, and is active in undertaking relief and rehabilitation work for IPs in coordination with other NGOs.

- iii) The National Federation of Indigenous Peoples in the Philippines (NCIPP), composed of various IPOs, responds to the need for livelihood opportunities among IPs, and provides technical and organising assistance to IP groups. Its main aim is the assertion, protection, and promotion of the IP's rights.
- iv) The Tribal Communities Association of the Philippines (TRICAP) is active nationwide, especially in terms of advocacy, and linking up with local agencies to address the problems of the IPs. It also provides legal assistance to IPs whose members have been charged with criminal activities such as illegal logging, and for resolution of conflicts arising from claims to ancestral domains.
- v) The experiences of NGOs and IPOs in the spheres of community-based education, health, livelihood and socio-political activities/programmes are quite valuable. The current challenge is to coordinate their initiatives so that they can contribute to the more sustainable development of IPs in the country.

13. WAY OUT: SOLUTIONS AND SUGGESTIONS

The following solutions and suggestions are being recommended for resolving the pressing problems of exclusion and discrimination of the indigenous people:

- i) Full implementation of IPRA including the mapping and delineation of ancestral domains for the different IP communities.
- ii) According of national priority to the economic development of the IP communities including the development of agriculture, promotion of micro-enterprises, creation of the requisite infrastructure, and protection for the environment.
- iii) Promotion of education through enforcement of the following measures:
 - (a) Indigenisation of the curriculum by using a 'ladder' approach, (starting with non-formal education); encouraging community and LGU partnerships; and mainstreaming of IP education for LGUs in the municipal plan to facilitate allocation of the required budget.

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- (b) Generation of greater awareness among the non-IPs about IP culture in order to bridge the gap between the two and to debunk any misconceptions that the former may have regarding the IPs.
- iv) Preservation of the cultural traditions and customs of the IPs through various means including establishment of a school for dissemination of knowledge on IP traditions.
- v) Recognition of the indigenous governance and customary laws of the IPs, which would also ensure fairness in the settlement of disputes and conflicts concerning the IPs.
- vi) Pushing for self-determination to help address the issue of loss of ancestral domain for the IPs due to development.
- vii) Initiation of a participatory development approach for the IPs in order to empower them, build their capacities and promote leadership qualities among them.
- viii) Other affirmative actions such as introduction of scholarship programmes for deserving IP students, which would help build a new generation of educated and competent youth among the IPs.

14. SUMMARY AND CONCLUSION

In this increasingly globalised and complex world, there still exist sections of human populations, widely known as indigenous communities, which have preserved their traditional cultures and elected to live in their ancestral lands and domains rather than migrating to the urban and developed areas. Due to this uncompromising adherence to their traditions and customs, and their refusal to integrate into the mainstream culture of the majority, they have often been categorised as 'savages' and 'primitives', which has made them vulnerable to discrimination, exclusion, and exploitation by the more privileged communities.

In the Philippines, the various indigenous communities are distributed in the uplands of the different regions of the country. They speak different languages and practise their traditional cultural patterns. The distinction between the indigenous communities and the majority of the Filipinos is not based on race, but rather stems from the isolation of the IPs, who live exclusively in the hinterlands and steadfastly pursue their different cultures, lifestyles, and languages. Even today, many of the IPs still practise

shifting agriculture, supplemented by hunting and foraging. They also continue to revere and worship nature deities whom they believe to be their protectors and providers; and their social lives and values are inextricably interlinked with their lands and surroundings.

Likewise in many other regions of the world where the indigenous peoples/communities continue to exist but are treated like objects of exploitation and exclusion, the IPs in the Philippines are also experiencing similar discriminatory attitudes, exploitation, and total exclusion from the majority. Their suffering has been magnified due to governmental neglect, which has only exacerbated their state of poverty and deprivation. Further, they also suffer from high morbidity due to disease and malnutrition, and the rate of adult illiteracy among them is almost 100 per cent as they have no access to education or even to other social services.

However, due to advocacy by the Non-governmental Organisations (NGOs) over the last few years to improve the plight of the indigenous communities, the Philippine government, along with its different departmental lines and agencies, has announced the introduction of sustainable programmes and projects for the IPs and a policy of making the latter partners in development. But the proposed development programmes would be implausible if these are not linked to the restoration of ancestral domains to the IPs, which constitutes the very foundation of their culture and ethos. Without their own land, the IPs can never attain self-sufficiency.

Contrary to the claims of many that the indigenous communities are against development, most IP communities have instead declared that they are not opposed to development for they themselves are suffering from extreme poverty and are as keen to improve their socio-economic standing as the majority of the Philippine populations. However, because of their bitter experiences with government agencies and unscrupulous elements in the past, they are afraid to participate in such programmes. Therefore, unless a bridge of trust and confidence is established between the IPs and the government, any intervention programme for their development is most likely to fail.

The premise of this paper is that all programmes/projects extended to the indigenous peoples would be unsustainable if they do not take into account their basic cultures and traditions, and the need for restoring their ancestral

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domains (land and natural resources) to them. This has been reiterated in reports on the experiences of many indigenous groups all over the world. Some of these reports also indicate that the proposed development of the indigenous communities is merely another means to exploit the natural wealth found in their domains in the form of minerals, oil and forest resources.

Land is an essential element in the existence of the indigenous people, and there is a direct relationship between their cultures and their lands or immediate environment. Land or the physical environment constitutes the material foundation of the indigenous culture, and the people are an intrinsic part of this culture, which also entails their interaction with deities and spirits. It is land which provides the symbols and raw materials for their arts and crafts, songs, dances, and literature. The process of integration into their culture is also not only undertaken on the land but is actually nurtured by it. The ancestral domain of each IP community is thus a territorial base that is indispensable as the living space for the community, and as the provider of its sources of food and other needs (Fernandez, 1983).

Land is, therefore, an essential element in safeguarding the survival and unique identity of indigenous communities, and the possession of land facilitates the preservation of culture, language, values, lifestyles, and laws of the IPs. Any proposed programmes for uplifting the IP communities from their stark poverty must thus be anchored or tied to the people's culture and resources. Only such an approach would promote self-reliance among them and help build their integrity as a people.

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