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Mindanao (Philippines): Tëdurays welcome Senate probe on ‘forced relocation’ to landslide area in Kusiong

Friday 28 July 2023, by [ARGUILLAS Carolyn O.](#) (Date first published: 10 November 2022).

DAVAO CITY (MindaNews / 10 November) - Tëduray leaders and survivors on Thursday welcomed Senator Robinhood Padilla’s resolution seeking an investigation into the alleged forced relocation of the Tëdurays in December 2020 to a relocation site in Kusiong, Datu Odin Sinsuat in Maguindanao del Norte which was buried by Typhoon Paeng-triggered landslide on October 28, killing at least 27 of them.

In a November 9 press release titled “Did forced relocation to landslide-prone area doom members of Mindanao’s Tëduray Tribe?,” Padilla, chair of the Committee on Cultural Communities and Muslim Affairs, filed Resolution 280 “to look into the deaths of at least 24 members of the Tëduray (tribe)” He said reports indicated that the Tëdurays were “forcibly relocated” from their seaside village to a “landslide-prone” area at the foothills of Mt. Minandar by a “powerful person who wanted to convert the place into a resort.”

The Senate website has yet to upload a copy of SR 280. MindaNews is still waiting for a copy of the resolution from Padilla’s office.

The aftermath of the October 28, 2022 landslide in Barangay Kusiong, Datu Odin Sinsuat in Maguindanao del Norte in this photo taken on Saturday, October 29, 2022.. MindaNews photo by FERDINANDH B. CABRERA

Padilla said he wants “to get to the bottom of the deaths of 24 members of the tribe and the injury to 30 others - and why the Tëduray (tribe’s right to their ancestral domain was not upheld.”

He said he wants to know which agency was remiss in their mandate to protect the Tëdurays — the National Commission on Indigenous Peoples (NCIP) or the Ministry of Indigenous Peoples’ Affairs (MIPA) in the BARMM.

The Tëdurays comprise the majority of Non-Moro Indigenous Peoples (NMIP) in the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM).

According to records consolidated by the Office of Bangsamoro Member of Parliament Froilyn Mendoza, one of two NMIP representatives in the 80-member Bangsamoro Transition Authority (BTA), the landslide killed 27 Tëdurays, four are still missing and 65 were wounded.

Welcome

Mendoza welcomes Padilla’s probe. “I welcome the probe since Congress which enacted Republic Act 11054 (Organic Law for the BARMM), will ensure that the rights of the NMIP in the Bangsamoro

Organic Law are not diminished. In the absence of the Indigenous Peoples Code, the Bangsamoro Organic Law recognizes existing laws to operate.”

Mendoza added that the probe is important especially because 27 of their fellow Tëdurays died in that landslide.

Bangsamoro Member of Parliament Froilyn Mendoza (R) welcomes the Senate probe on the alleged forced relocation of Tëdurays from the seaside village in Kusiong to a landslide-prone relocation site in December 2020. At least 27 Tëdurays were killed and four others are missing while 65 were injured when a landslide triggered by Typhoon Paeng buried the village on October 28, 2022. With Mendoza in her office in Cotabato City on November 3, 2022 were IP leaders, among them Timuay Alim Bandara (L) and Timuay MLeticio Datuwata . MindaNews photo by GREGORIO C. BUENO

Timuay Alim Bandara, a Council member of the Timuay Justice and Governance, also welcomed the probe. He told MindaNews that he hopes the issues on alleged conflicting laws will be resolved, issues that came up during the time of the Autonomous Region in Muslim Mindanao (ARMM) and have yet to be resolved in the BARMM.

“The right to stay in the territory and not to be removed therefrom is a guaranteed right pursuant to Section 7(c) of the Indigenous Peoples’ Rights Act,” Padilla stressed. He noted the provision that where relocation is considered necessary as an exceptional measure, such relocation shall take place only with free and prior informed consent of the concerned Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs), and whenever possible, they shall be guaranteed the right to return to their ancestral domains, as soon as the grounds cease to exist.”

In his resolution, Padilla noted the area where the tribe was relocated at the foot of Mt. Minandar was “prone to landslide.”

He said reports indicate 127 families out of some 300 families in the seaside village of Tinabon “had petitioned the NCIP and protested their transfer, but the agency did not respond.”

He said he wants to know if the Tëdurays’ constitutional rights were violated.

“There is a need to examine and review the IPRA as well as the mandate of the NCIP of protecting the rights and welfare of the IPs, with the end in view of amending the provisions of the IPRA,” Padilla said.

NCIP and MIPA

RA 11054 or the Organic Law for the BARMM gives the autonomous region exclusive rights over “ancestral domain and natural resources.”

It mandates the Bangsamoro Government to “recognize and promote the rights of non-Moro indigenous peoples within the framework of the Constitution and national laws,” that freedom of choice shall be respected, that IPs shall have the freedom to “retain their distinct indigenous and ethnic identity in addition to their Bangsamoro political identity” and that there shall be “no discrimination on the basis of identity, religion, and ethnicity.”

The Bangsamoro Government, it adds, recognizes the rights of the IPs and shall adopt measures for the promotion and protection of their “native titles or fusaka inged; indigenous customs and traditions, justice systems and indigenous political structures, equitable share in revenues from the utilization of resources in their ancestral lands; free, prior and informed consent; political participation in the Bangsamoro Government including two reserved seats in the Parliament; basic

services; and freedom of choice as to their identity.”

*Ground Zero, Kusiong, Datu Odin Sinsuat in Maguindanao del Norte on 4 November 2022.
MindaNews photo by CAROLYN O. ARGUILLAS*

The Organic Law also provides that the Bangsamoro government has “primary responsibility to formulate and implement policies, plans, and programs to promote the well-being of all” IPs in the BARMM “in recognition of their ancestral domain as well as their rights.”

The law also mandates the BTA to “enact a law to recognize, protect, promote, and preserve the rights of the indigenous peoples in the Bangsamoro Autonomous Region” and that “until the law is enacted, subsisting regional laws on indigenous peoples in the Bangsamoro shall be operational.”

These rights, according to the law, shall be “promoted, protected, and enforced” by the MIPA.

Long struggle

Non-Moro IPs in the autonomous region have been exerting efforts to have their ancestral domains delineated, including the seaside village in Datu Odin Sinsuat that the Tëdurays claim to be part of their domain.

The NMIPs, however, faced a major problem: the Indigenous Peoples Rights Act (IPRA), a national law passed in 1997, could not be applied in the then Autonomous Region in Muslim Mindanao (ARMM) because “ancestral domain and natural resources” had been devolved to the autonomous region when it was established in 1990.

Despite these setbacks, the NMIPs persisted in asserting their rights.

IP LEADERS. Timuay Rene Batitao, chair of the Organization of Tëduray and Lambangian Conference; Timuay Alim Bandara, head claimant of the Tëduray and Lambangian Ancestral Domain Claim (TLADC) and Timuay Leticio Datuwata, the Timuay Labi (Tribal Chieftain) of Timuay Justice and Governance, the Indigenous Political Structure of TLADC and Lambangian Non-Moro Indigenous Peoples (NMIPs) in a meeting on November 3, 2022 to consolidate data on the impact of Typhoon Paen, at the office of Bangsamoro Member of Parliament Froilyn Mendoza, one of two representatives of NMIPs in the Bangsamoro Autonomous Region in Muslim Mindanao . MindaNews photo by GREGORIO C. BUENO

Bandara said the process of delineation started on August 26, 2005, when the Tëduray, Lambangian and Dulangan Manobo Ancestral Domain Conference (TLADMADC) represented by him as Timuay Labi and head claimant, filed a petition for recognition, delineation, segregation and the issuance of a Certificate of Ancestral Domain Title (CADT) covering an area of about 201,850 hectares of the municipalities of Upi, South Upi, and southern portions of the municipalities of Datu Odin Sinsuat, Talayan, Guindulungan, Datu Unsay, Shariff Aguak, and Ampatuan, all in the province of Maguindanao.

Several ARMM administrations attempted to have IPRA implemented in the region but these did not succeed until the ARMM was abolished and replaced with the BARMM in February 2019.

Under the BARMM, the NMIPs continued to work for the delineation of their ancestral domain claims and the issuance of a CADT but the NCIP in Region 12 was stopped by BTA Resolution 38 issued on September 25, 2019 which urged the NCIP to “cease and desist” from proceeding with the delineation process and issuance of CADT.

According to the resolution, the NCIP “has no power and authority to conduct delineation process and issue CADT in the BARMM.”

Minister of Indigenous Peoples Affairs Timuay Melanio Ulama told MindaNews then that Resolution 38 was issued because NCIP in neighboring Region 12 (Soccsksargen) was “trespassing”

On May 25, 2020, the NCIP, through chair Allen Capuyan, in a letter to Finance Secretary Carlos Dominguez, then co-chair of the Intergovernmental Relations Body (IGRP) of the national and Bangsamoro governments, said the processing of the CADT of the claimants “should be allowed to continue,” citing Section 3 of Article IX of the Bangsamoro Organic Law that it “shall not in any manner diminish the rights and benefits” of the NMIPs in the BARMM.

Dominguez had asked Capuyan on the “interrelation or arrangement” between NCIP and MIPA and on BTA Resolution 38.

On December 31, 2021, IGRB co-chair Dominguez noted in a press release that on the powers and functions of the NCIP and the MIPA, “the IGRB deemed the issue of their overlapping as resolved after the two agencies signed a memorandum of cooperation containing their agreements on this issue.”

The Memorandum of Cooperation, however, was couched in general terms and did not specifically address the issue of the delineation of ancestral domains and the passage of BTA Resolution 38.

As of November 10, 2022, the proposed Indigenous Peoples’ Code has not been filed in the Bangsamoro Parliament. Interim Chief Minister Ahod Balawag Ebrahim had said at the inaugural session on September 15 that they “also envision to enact the Bangsamoro Indigenous Peoples Rights Act,” among other proposed laws.

MindaNews tried several times to reach MIPA Minister Ulama but has not he has sent no reply.

Bandara stressed that even without an IP Code, there are available mechanisms that would address their need to have their ancestral domains delineated.

“Bakit hangang ngayon inabutan kami ng kalamidad e patay at mga kasiraan ang aming binibilang tulad noong malakas ang IP killings ay bangkay ang aming binibilang at hindi ang tamang solosyon na hinahanap namin?” (Why did we have to wait for a calamity and again count the dead and see the destruction as we did during the surge in IP killings when we counted the dead, too, instead of being given the right solution to what we have been asking for), he asked.

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P.S.

• MindaNews. NOVEMBER 10, 2022:
<https://www.mindanews.com/top-stories/2022/11/tedurays-welcome-senate-probe-on-forced-relocation-to-landslide-area-in-kusiong/>