

National Consultation



The National Consultation held in Marikina City, Metro Manila

The National Consultation of Indigenous Peoples and Farmers was conducted by ANGOC, PAFID and AR Now! on 7-8 August 2006. Some 70 participants, composed of IP and farmer representatives, NGO, government and donor representatives, participated in the consultation. The Mediators' Network for Sustainable Peace, Inc. documented the

proceedings and helped coordinate with the NAPC Basic Sectors in regard to their participation in the consultation

The first part of the consultation consisted of presentations from the NAPC, NCIP, and DENR; a review of the findings of the Land Partnership Study; sharing of past struggles of IPs and farmers concerning their land claims; a clarification by the Legal Rights and Natural Resources Center (LRC) of relevant provisions of the CARL and IPRA and of overlaps between these laws.

NAPC Basic Sectors Director Joyce del Rosario talked about the role of the NAPC in convening the various basic sectors to maximize people's participation, particularly in support of land related programs and projects of the government.

Speaking on behalf of NCIP Commissioner Lagtum Pasag, Myrna Caoagas provided an update on the status of CADC and CADT applications in the country. Of 181 CADCs that have been issued by the DENR, 26 have been converted into CADTs, and the rest are awaiting conversion. A total of 46 CADTs have been distributed to 206,388 ancestral domain claimants for an area of about 891,000 hectares. Ms. Caoagas also presented



Manobo Datu Marcial Tahuyan shares their tribe's struggles and ancestral claims over the Don Carlos estate in Bukidnon

two cases where the NCIP had been able to assist in the resolution of land disputes between farmers and IPs: the case of Hacienda Madrigal in Rizal, Kalinga, and that concerning 400 hectares of Buhid Mangyan lands covered by CADC 130.

Joey Austria, Chief of the Indigenous Community Affairs Division, Special Concerns Office of the DENR, reported on the status of the agency's land distribution operations (i.e., issuance of Free and Homestead Patents for public agricultural lands). The DENR

complements the DAR's land distribution program: the DAR is mandated to move 4.29 million hectares (54% of the total), while the DENR is tasked to move 3.7 million hectares (46%). As of June 2006, the DENR has been able to meet 78% of its target, having moved three million hectares (1.65 million hectares of alienable and disposable lands, and 1.34 million hectares covered by the Integrated Social Forestry/Community Based Forest Management Program).

Mr. Austria said that to avert disputes arising from DENR's land distribution operations, it is necessary to pass a law that provides for a clearer delineation of forest lands. Ambiguous interpretation of the law has led to land conflicts between IPs and farmers, he added.

The sharing of local struggles was provided by both farmer and IP representatives. Datu Marcial Tahuyan and Mercedita Tahuyan related the incidents of harassment suffered by the Bukidnon Manobos; ARB leader Franklin Labial of Makabayan-Bukidnon and Rogelio Sacote, of the Actual Tillers Association, also from Don Carlos, took the DAR to task for its improper screening of beneficiaries in Don Carlos; Renato Penas, representing the Sumilao, Mapalad farmers, told of his group's near success in securing their land rights as ARBs and the gains they have made despite the DAR's inadequate intervention in the case; Gil Layag and Inggid Yayauma testified to the unwarranted intrusion of the DAR into the ancestral domains of the Buhid Mangyans.

Lawyer Ria Muhi of the LRC summarized the various provisions in the Philippine Constitution which seek to protect the rights of IPs to their ancestral domains. She also pointed out that the CARL itself (particularly Section 9) exempts ancestral lands from coverage of the CARP, while the IPRA provides for clear remedies (Section 62 and 63) should conflicting claims arise. She disagreed with the DAR's interpretation of Section 56 of the IPRA, arguing that there are no *prior* vested rights that could invalidate an IP group's AD claim since IPs have owned their lands since time immemorial.

40 IN SEARCH OF COMMON GROUND

Farmer leader Oscar “Ka Oca” Castillo and Gilbert Hoggang, of KASAPI, a national federation of IP groups, recounted their respective sectors’ recent experience in trying to secure their land rights. Ka Oca acknowledged that the CARL has flaws, and stressed the need for coalition building on various fronts, namely, advocacy for laws and policies favoring small and landless farmers, and better implementation of laws and programs. Mr. Hoggang meanwhile urged CSOs to continue assisting IP groups to secure their rights as provided for in the IPRA. He noted that the law has yet to be fully implemented, and would likely be undermined by the Mining Act of 1995.

Workshop Discussion

Workshop I

Workshop I called on the participants to propose measures to forestall conflicts (“Prevention”); to manage existing conflicts (“Conflict Management”); and to resolve conflicts (“Resolution”). These measures could take the form of relational/cultural change, policies or laws, structures or mechanisms, or processes to be undertaken. (See Table 2 on page 42 for the results of Workshop 1)

Workshop II

Workshop II consisted of identification by the two groups of steps that need to be taken immediately. Their combined outputs are as follows:

- ▶ Awareness raising and wider information dissemination on customary laws, human rights, and entitlements provided for in CARL and IPRA;
- ▶ Establishment of dispute settlement mechanisms;
- ▶ Strengthening of the two sectors’ leadership, organization and structures;
- ▶ Formal coordination between the IP and Farmers Council of the NAPC;
- ▶ Harmonization of policies for the implementation of CARL, IPRA, NIPAS and other land related laws;
- ▶ Documentation of the conflict, including the history, and the intervention by both sectors and the government;
- ▶ Appointment of an IP party-list representative in Congress; and



IP workshop group

- ▶ Memorandum of Understanding recognizing the rights of IPs to their ancestral domains while allowing farmers to remain in (but not lay claim to) IP land.

Joint Declaration

The National Consultation provided for the drafting and ratification by representatives of the two sectors of a joint declaration between the farmers and IP groups where they called for the establishment of mechanisms that could facilitate dialogue towards the peaceful resolution of land conflicts; renewed efforts to promote understanding and consciousness of customary laws, human rights, and the rights of farmers and indigenous peoples as stated in the agrarian reform law and the indigenous people's rights act; and formal coordination between the NAPC IP and Farmers Councils in order to promote the orderly resolution of land conflicts.

The declaration issued the following demands to the DAR, NCIP, the DENR, local government units and to the country's lawmakers:

- ▶ Improve the implementation of the indigenous people's rights act and the agrarian reform law through a number of concrete measures:
 - ▷ a clear interpretation of land related laws;
 - ▷ better coordination among the DAR, DENR, NCIP and local government units;
 - ▷ consultations between farmer beneficiaries and indigenous groups;
 - ▷ orderly listing of beneficiaries of land distribution programs; and
 - ▷ clear delineation of the area coverage of the agrarian reform program and indigenous land claims.

The declaration also demanded that all land related laws that are in conflict with each other be harmonized through an executive order or by the passage of a National Land Use Act.

The two sectors also approved a draft resolution calling on the Philippine Government to fast-track the adoption of the UN Declaration of the Rights of Indigenous Peoples which was ratified on 27 July 2006 in Geneva, Switzerland.

The participants also identified immediate steps to be taken, such as communicating with the NAPC, which was considered to be the best arbiter of land conflicts between the two groups; advocacy for legal measures that could clarify existing land laws; and documentation of conflict cases.

Table 2. Results of Workshop 1

	RELATIONS/CULTURE	POLICY/LEGAL REMEDY	STRUCTURE	PROCESS
Prevention				
➔ IPs	<ul style="list-style-type: none"> ▶ Awareness of land administration among IPs and non-IPs ▶ Mediation between IPs and ARBs by concerned agencies ▶ Consultation with IPs prior to the implementation of programs that concern them ▶ Respect for IP culture, human rights, prior rights to land ▶ Creation of a task force to address land conflicts ▶ Assistance from the Philippine National Police (PNP)/Department of Interior and Local Governance (DILG) and Armed Forces of the Philippines (AFP), some of whose personnel have been implicated in land disputes 	<ul style="list-style-type: none"> ▶ Harmonization of laws (IPRA, CARP, NIPAS, Mining Code, Wildlife Act, etc.) ▶ Resolution of policy overlaps ▶ Better integration of land related laws ▶ Memorandum of Understanding between IPs and farmers 	<ul style="list-style-type: none"> ▶ Strengthening of existing tribal structures ▶ Strengthening of the tribal council in each barangay ▶ Establishment of a consultative council at the barangay to municipal levels ▶ Strengthening of tribal leaders to enable them to speak as one ▶ Creation of an IP paralegal team for all ethno regions 	<ul style="list-style-type: none"> ▶ Establishment of a NAPC monitoring and evaluation system ▶ Regular consultation/dialogue between the NAPC-IP Council and the NAPC consultative body ▶ Broad information dissemination on IPRA and CARL at the sitio, barangay, municipal and provincial levels ▶ Sustained campaign by line agencies to inform the public of their programs ▶ Regular forum at all levels among IPs and farmers ▶ Joint workshops on land laws and issues ▶ Awareness raising among IPs and farmers on their respective land rights

	RELATIONS/CULTURE	POLICY/LEGAL REMEDY	STRUCTURE	PROCESS
Prevention				
➤ Farmers	<ul style="list-style-type: none"> ▸ Respect for the rights and culture of tribes ▸ Willingness of the two sectors to work towards a win-win solution to the conflict 	<ul style="list-style-type: none"> ▸ A comprehensive land use plan ▸ Passage of a national land use act 	<ul style="list-style-type: none"> ▸ Barangay level orientation on the relevant laws ▸ Intersectoral forum on land conflicts/claims in conflict areas 	<ul style="list-style-type: none"> ▸ Coordination among the relevant line agencies
Conflict Management				
➤ IPs	<ul style="list-style-type: none"> ▸ Cancellation of CLOAs issued to non-IPs for ancestral lands ▸ Memorandum of Understanding between migrant settlers and the NCIP on the terms on which the migrants would be allowed to stay on IP lands ▸ Respect for the culture, beliefs, and way of life of IPs within their ancestral domains 	<ul style="list-style-type: none"> ▸ Creation of a local Ancestral Domain Coordinating Council composed of the IP group, LGU, DENR, DAR, NCIP, Department of Agriculture (DA) ▸ Recognition of NGOs supporting IPs and farmers by line agencies ▸ Appointment of an IP representative to the Barangay Development Council ▸ Review and strengthening of basic laws 	<ul style="list-style-type: none"> ▸ Appointment of an IP representative to the Barangay Development Council ▸ Implementation of the Local Government Code provision for basic sector representation in the BDC, MDC, PDC, as well as in Local Special Bodies ▸ Creation of an Arbitration Board composed of law experts on IPRA and CARL, IP leaders and farmer leaders 	<ul style="list-style-type: none"> ▸ Basic sector representation at all levels of government, and in the executive and legislative branches of government ▸ Clarification and information dissemination on customary laws and land laws ▸ Application of traditional/customary conflict resolution mechanisms ▸ Continuing dialogue and coordination among the implementing agencies

	RELATIONS/CULTURE	POLICY/LEGAL REMEDY	STRUCTURE	PROCESS
Conflict Management				
<ul style="list-style-type: none"> ➤ IPs 		<ul style="list-style-type: none"> ▸ Intervention by the NAPC between the DAR and NCIP in the resolution of land conflicts 	<ul style="list-style-type: none"> ▸ Formation of a multi-stakeholder task force at all levels composed of the LGU, NGOs, IP leaders, the church, government agencies, POs, etc. 	<ul style="list-style-type: none"> ▸ Intervention by the government and CSOs in IP-farmer conflicts, upon the invitation of these sectors
Resolution				
<ul style="list-style-type: none"> ➤ IPs 	<ul style="list-style-type: none"> ▸ Farmers abiding by the tribal justice system 	<ul style="list-style-type: none"> ▸ Recognition of alternative dispute settlement systems ▸ Greater accountability from government employees 		<ul style="list-style-type: none"> ▸ An IP party-list representative in Congress ▸ Speedy response by the President and line agencies to issues put forward by the NAPC ▸ Turnover to NCIP of all CBCs, CADCs for conversion to CADTs ▸ Third-party mediation between IPs and farmers