

Policy Dialogue



DAR Secretary Nasser Pangandaman (fourth from left), presiding over the Policy Dialogue; ANGOC Chairperson Fr. Francis Lucas (third from left), NAPC Convenor Zamzamin Ampatuan (second from left)

The “Policy Dialogue on Finding Common Ground for Land Partnerships between Indigenous Peoples and Farmers” was convened by ANGOC, PAFID and AR Now! on 31 August 2006. Top government officials participated in the dialogue, among them DAR Secretary Nasser Pangandaman, National Anti-Poverty Commission (NAPC) Lead Convenor Datu Zamzamin Ampatuan,

Director Joyce del Rosario of the NAPC Basic Sector Unit, NCIP Commissioner Lagtum Pasag, and COSLAP Associate Commissioner Lawyer Lina General. IP and ARB group representatives from Don Carlos and Bongabong, Oriental Mindoro also came out in full force, as did representatives from NGOs and other support groups, such as the LRC, Sentro ng Alternatibong Lingap Panligal (SALIGAN, an alternative law group), TEBTEBBA (Baguio City), and Mediators Network for Sustainable Peace, Inc. (MedNet).

The dialogue started with the presentation of the Joint Declaration of Indigenous Peoples and Farmers, ratified at the August 6-7 National Consultation. NAPC Sectoral Representatives Artiso Mandawa (for the Indigenous Peoples Sector) and Romy Rubion (for the Farmers Sector) read the document to the group assembled there.

This was followed by a brief account of the events that led up to the current conflict in Bukidnon and Bongabong, and thereafter by a presentation of the respective groups’ recommendations to the concerned agencies.

Specifically, the ARBs in Don Carlos requested, among others, that:

46 IN SEARCH OF COMMON GROUND

- ▶ No more CLOAs be issued in Don Carlos;
- ▶ A new screening of beneficiaries be conducted to ensure that the actual tillers are prioritized;
- ▶ The CARL (Section 22) be observed in identifying beneficiaries;
- ▶ The leaseback arrangement (agreed between an ARB group and a private corporation-DAVCO-soon after the issuance of the CLOAs) be cancelled; and
- ▶ Plans to put up a subdivision in the estate be scrapped.

The Manobos asked that:

- ▶ The processing of their CADT would continue;
- ▶ The NCIP would work towards the cancellation of the CLOAs within the Manobos' CADC area; and
- ▶ The DAR would support the Manobos' CADC application.

On the other hand, the Buhid Mangyans put forward the following requests:

- ▶ Support for the NCIP's processing of the Buhid CADT;
- ▶ Grant of autonomy to the Buhid Mangyans to decide on the management, distribution and use of their ancestral lands;
- ▶ Moratorium on the issuance and awarding of CLOAs in the Buhid CADC; and
- ▶ Better coordination between the DAR and the NCIP.



Participants at the Policy Dialogue

Government's Response: Unavailing Status Quo

On Don Carlos

DAR Secretary Nasser Pangandaman reiterated only what Bukidnon PARO Celestiano had said at the Bukidnon consultation in February 2006: that the CLOAs that had been issued

in Don Carlos are considered valid and that no ancestral domain claim would prosper in that area. Furthermore, the two DAR officials merely repeated the arguments put forward earlier, i.e., that the DAR makes no distinction between IPs and non-IPs in screening ARBs; that the IP claimants either did not take the CARP seriously, or did not want to pay land amortization, and this is reflected in their non-participation in the ARB screening process.



ANGOC Chair Fr. Francis Lucas (above left) facilitating the Dialogue

Secretary Pangandaman likewise stood pat on the DAR's interpretation of Section 56 of the IPRA, which states that lands over which there are prior claims (such as that represented by a CLOA) are exempt from coverage of the IPRA.

He also insisted that it is the NCIP's responsibility to coordinate with the DENR in delineating ancestral domains. PARO Celestiano followed up by saying that there is already a Joint Memorandum Circular issued by the DAR and the NCIP on the areas to be covered by the respective agencies.

On Bongabong

Speaking on behalf of the DAR, Director Martha Salcedo offered the following responses to specific requests made of the government in the Joint IP-Farmer Declaration:

- ▶ All titled lands are automatically under the jurisdiction of the DAR and can not be subjected to ancestral domain claims. Should a situation merit the cancellation of a CLOA, she said, the same can only be done by court order. Otherwise, the DAR's hands are tied.
- ▶ Overlapping policies on land are being addressed through legislation, particularly through a National Land Use Act (NLUA), which has already been submitted to the Congress.
- ▶ The DAR and the NCIP have already drafted a joint memorandum circular on the establishment of a database. The NCIP has reportedly not yet acted on this.
- ▶ The DAR is already at work on launching an information campaign among its personnel to raise awareness on CARP and IPRA.

Mindoro ARPT Ophelia Radovan insisted that no CLOAs have been issued for lands within the Buhid CADC, contrary to Mangyan claims. The Mangyan representatives acknowledged that they have no proof that CLOAs have already gone out, but requested the DAR to make a categorical denial anyway, since such rumors are stirring up trouble between the Mangyans and the farmers. COSLAP Assistant Commissioner Lina General

48 IN SEARCH OF COMMON GROUND

affirmed that a status quo order had been issued by her agency in the disputed area in 2005.

AR Now! Coordinator Ernesto Lim Jr. pursued the matter further, inquiring if CLOAs have been processed, if not released. In response, Ms. Radovan stated that the COSLAP order has been observed by the DAR and that “no CLOAs have been released”. This was greeted by applause among the group.

Luz Mendoza, representing the DENR’s Indigenous Communities Affairs Division, informed the group that a joint DENR-NCIP memorandum circular, providing a common interpretation of “existing prior rights”, is already in the works.

The prospects for the passage of a NLUA, however, are still uncertain. Lawyer Rudy Gabasan, of SALIGAN, reported that the bill continues to languish in both Houses of Congress.



Ophelia Radovan of DAR Mindoro (top, extreme right); PARO Salustiano of DAR Bukidnon (top, second from left); Dir.Bueno of DAR National Office; Datu Marcial Tahuyan (above, extreme right); Yaum Sumbad of the Buhid Mangyans (above, second from left); Lawyer Ria Muhi of LRC (above, extreme left)



NAPC Lead Convenor Zamzamin Ampatuan (second from left)

The Way Forward

The group reached consensus on the need for an inter-agency mechanism to lead the dispute settlement process. The NAPC, which represents the basic sectors, including IPs and farmers, was the unanimous choice to take on this role.

Soon after the policy dialogue, a memorandum order reactivating, strengthening and expanding Task Force 63 was drafted for approval by President Arroyo. The Task Force would have the following functions:

- ▶ Conduct fact-finding missions to emergency situations or conflict areas and take appropriate action;
- ▶ Implement Special Temporary Measures to respond to emergency situations;
- ▶ Facilitate the harmonization of overlapping laws, policies and programs; and
- ▶ Serve as a venue for inter-agency dialogue.

The Memorandum Order has been submitted to the Office of the President as of June 2007. (See Annex B for the text of this Memorandum Order.)

Insights from the Project*

ANGOC and its CSO project partners derived the following insights from the experiences and views of the IPs, farmers, government officials and NGOs who participated in the local and national consultations convened:

1. Appreciating cultural differences. The need for common understanding between indigenous peoples and farmers over their claims to land is crucial for a peaceful and lasting solution to land conflicts. There are cultural differences on how land ownership is viewed by each sector which may not be easy to accept. Collective analysis is needed among organized farmers and IP groups, NGOs, the DAR and the NCIP of their issues and

*Derived from a revision of the Land Partnership Study retitled "Land Partnerships: The challenges to developing inclusive land policies and reforms in the Philippines" and presented at the 26th Executive Committee Meeting of the Centre on Integrated Rural Development for Asia and the Pacific (CIRDAP) last May 30, 2007, Manila, Philippines.

corresponding solutions they might work on together to prevent or resolve further land conflicts.

2. Need for local dialogue. Creating a local mechanism or venue for the IP and farmers sector to discuss their issues is a vital first step. However, this does not resolve the conflict per se. But it helps prevent cases of violence. Resolution will still depend on how the agencies and the sectors work together and agree on acceptable terms.

3. Need to create awareness within the bureaucracy. There is need for cross-agency awareness raising, education and appreciation especially of the property rights for indigenous people in the bureaucracy given the cultural nuances on land ownership or stewardship that IPs have that is different from other private land ownership schemes.

4. The pressure of accomplishment by numbers. A notion arose that DAR may be covering ancestral domains over the more difficult Private Agricultural Lands (PALs) which are among the original CARP targets. These are vast tracts of hectareage usually owned by powerful and even political families and comprise the most contentious lands for distribution under CARP. Agrarian reform NGO and PO groups fear that should the DAR mainstream the implementation of Proclamation 2282, the Department may abandon the distribution of the more difficult Private Agricultural Lands owned by the landed elite and the Untitled Private Agricultural Lands (UPALs) in favor of these ancestral domains.

5. Strengthen IP negotiation capacity. The power or capacity of IP groups to negotiate for their land rights is only as strong as the agency enforcing the law and advocating for better policies or resources. NCIP receives a meager budget which is not enough to expedite the processing of CADCs. It also has difficulty in securing the cooperation of other government agencies or branches to protect ancestral domains.

6. Need for a Land Use policy. The passage of a National Land Use Policy is integral in resolving present and future land conflicts between multistakeholders. Government must have a national framework to analyze the usage of land and other common property resources and ensure that the rights of marginalized sectors depending on these resources are respected.

7. Need to continue land reforms and address second generation issues. Finally, these land reform programs are prerequisites to equitable development. Past assessments show these have contributed to alleviating poverty and improved peace and order in the countryside. However, second generation questions have arisen, such as overlapping property regimes, land reconsolidation, etc., some of which cannot be resolved by mere administration. Some issues involve basic policy questions. These need to be addressed at (a) policy level, where sectors are engaged to discuss policy options and arrive at agreements, and (b) local or community level, where venues for dialogue are created to address open conflicts that have erupted.