

The 1987 Constitution of the Philippines calls for the state to recognize, respect, and promote the rights of indigenous peoples over their ancestral domains, including their cultures, traditions, and institutions. It calls for the state to consider these rights in the formulation of national plans and policies.

Republic Act 8371 or the Indigenous Peoples Rights Act (IPRA) was enacted to fulfill this recognition and respect. IPRA is the embodiment of the rights and aspirations of indigenous peoples to ancestral domains, to self-governance and empowerment, to social justice and human rights, and to cultural integrity.

Government policies support the entry of development projects, especially into ancestral territories. Where development projects impact on ancestral territories, IPRA requires their Free Prior and Informed Consent (FPIC) be sought in accordance with customary laws and practices. However, the 2006 FPIC Guidelines do not reflect the true intention of the IPRA in its recognition and respect of the rights of the indigenous peoples.

The Subanen communities and ancestral territories in Zamboanga Peninsula have long been existing before the advent of a government structure that defines management and control of land and resources, to which indigenous peoples are dependent of. The members of these Subanen communities are still in effective possession and occupation of these ancestral territories, and continue to protect and preserve these territories for their future generation.

As members of these Subanen communities, we have initiated the discussion on the impacts of these laws and policies to our rights as indigenous peoples. Thus, in a conference called for this purpose, we have come up with this document that embodies our aspirations and assertions to protect our lives, our land and resources, and our rights to exist as peoples with a distinct culture.

SUBANEN CONFERENCE ON FREE PRIOR AND INFORMED CONSENT

Casa Emsa, Pagadian City, Zamboanga del Sur

22 November 2009

MANIFESTO

We, members of the Subanen communities across Zamboanga Peninsula, regard and recognize our ancestral territories as sacred and important because this is where our life began. We value our land as it is the source of our life, the beginning of our existence and the integral connection to our culture, customary laws, traditions and practices. It is our past, our present, and our future, thus, we need to protect it.

Our ancestors have taught us the important value of respect to sustain our dignity as persons. We believe that a person will not be whole if he does not know how to respect. As such, this value had ingrained in us our tradition of asking permission and acquiring consent before doing anything that involves other people, their rights, their property, and most importantly, the unseen spirits who are believed to be guardians of the land and territories and the resources therein, for fear of being cursed. Asking permission and acquiring consent is a manifestation of upholding the dignity and rights of the members of the communities in the territories. We are bound to this culture of respect towards people, to our land and its resources.

Our customary laws will show that resources within the territories which are not taken care of personally by certain persons are owned by community members. Thus, everyone is consulted and be involved in the decision-making. This is our manifestation of respect towards one another and the common rights we have over common resources.

However, nothing in our tradition has exposed us more vulnerably to the disintegration of this matter of respect than the law that has allowed other people to enter our territories which caused chaos rather than development. We have been caught unprepared in the context of consent involving large-scale development projects. Different experiences of Subanen communities have shown the different aspects and ways of getting consent that the law provides than what we have been dealing with through our customs and traditions.

The 2006 Guidelines on Free Prior and Informed Consent to which we, as inhabitants of the state, are bound by law to adhere to has become the source of conflict between what is legal and what is customary. We believe that the provisions of the 2006 FPIC Guidelines in relation to obtaining proper consent do not respect Subanen customary laws and processes for these run counter to how we see the inter-relatedness of people, nature and the spirits within the ancestral territories and the role it plays in the decision making process.

We believe that the implementation of the 2006 FPIC guidelines had negatively affected the culture and traditions of Subanen communities across Zamboanga Peninsula. Therefore, we call on the government, especially the National Commission on Indigenous Peoples (NCIP), to impose a moratorium on the implementation of the FPIC processes in Zamboanga Peninsula and resolve the issues concerning it, and adopt a new set of guidelines to regulate the entry of large-scale development projects affecting ancestral territories which are culturally appropriate to the Subanen communities.

We call on the government to respect our rights as indigenous peoples, to uphold the primacy of our customary laws within our ancestral territories. To sustain our tradition and practices, and as our strong assertion for the NCIP to respect our customary processes relative to consent, we are pushing for the adoption of the following guidelines for the regulation of the entry of large-scale development projects within Zamboanga Peninsula :

For application of Certification Precondition:

- A. For purposes of identification, location and recognition of indigenous communities and respective leaders who will be consulted whenever a proposed plan, program, project or activity is sought to be introduced within ancestral territories in the Zamboanga Peninsula, indigenous communities shall submit to the NCIP and other relevant government agencies including local government units, a list of leaders who are duly recognized by members of communities in their respective ancestral territories, including their genealogy. The submission shall be conducted in a traditional ceremony called for the purpose, to be attended by the NCIP Regional Director or his representative, who shall receive the list as submitted. The ceremony shall be documented by the NCIP for official record purposes.
- B. Applicants shall refer to the NCIP for determination whether indigenous communities are present in areas to be applied for. NCIP shall provide the list of leaders of concerned indigenous communities which will be affected by a proposed plan, program, project or activity.
- C. Having determined the presence of indigenous communities in areas to be applied for, applicants shall apply for the CP directly at the indigenous community through their leaders. If the proposed plan, program, project or activity overlaps two or more ancestral territories, application shall be presented before each of the territories affected.

Steps to be taken to secure FPIC:

- D. The FPIC process shall be required whenever a proposed plan, program, project or activity, whether large or small scale in scope or impact, is sought to be introduced within ancestral territories, or a portion thereof.
- E. If the proposed plan, program, project or activity overlaps two or more ancestral territories having its own set of council of elders, separate FPIC process shall be conducted in each of the affected ancestral territories. Consultation must be conducted per territory based on the traditional boundaries that were defined by their ancestors, and to which communities had taken cognizance of, having made them an integral part of their culture, history and identity.

Conduct of the Traditional FPIC Process:

- F. Applicants shall make preliminary presentation of the proposed plan, program, project or activity before the respective leaders as identified in the list submitted to the NCIP.
- G. After a certain period of time as agreed upon by the leaders and proponents, a community assembly composed of all members of the concerned community shall be called for by the Timuay or Gonotan (Traditional Chieftain) in the community, to be held at the tribal hall or a venue specifically designated, for the purpose of presentation of the plan, program, project or activity to the community. Presentation shall include the profile of the plan, program, project or activity, which shall include, but not limited to the i) name of the applicant; ii) address/es of the applicant; iii) proof of juridical personality for juridical person; iv) nature and purpose of the

project; v) location with indicative map; vi) duration of the plan, program, project or activity; vii) socio-economic, cultural and environmental impacts; viii) impact areas; ix) operational plans and activities; x) and other relevant documents.

- H. Within a period of three months after the presentation by proponents, leaders and members of community shall consult, deliberate and discuss among themselves their views on the proposal, including the conduct of a ritual to include the spiritual and other unseen elements in considering the proposed plan, program, project or activity. After a reasonable period to be determined by the Timuay or Gonotan in which the members of the community shall have been consulted by the leaders or the Timuay or Gonotan himself, he shall call for another assembly represented by at least one member, of legal age, of each household in the community, to discuss and share respective views regarding the proposal, and to make a collective decision.
- I. Communities not directly affected but impacted by the proposed plan, program, project or activity shall be informed of the same, including its effects to the impacted areas.
- J. After a decision shall have been reached, a community assembly shall be called for the purpose of announcing the decision of the community to the plan, program, project or activity to the proponents. The Timuay or Gonotan shall announce the decision of acceptance or rejection. The NCIP, to be represented by its Regional Director or Provincial Officer, shall witness the assembly. The NCIP shall also document the same for official record purposes.
- K. Whenever the plan, program, project or activity is accepted by the community, a traditional sacred ritual called “sahpa” shall be conducted to seal the agreement, including its terms and conditions, between the community and the proponent. Such ritual shall be witnessed by members of the community, representatives of the proponent, the NCIP through its concerned Regional Director, concerned Provincial Officer, and other relevant government officials as determined by both parties. The NCIP shall make proper documentation of the sacred ritual for record purposes.
- L. A written agreement signed by the community as represented by their Timuay or Gonotan and official representative of the proponent, and witnessed by the concerned Regional Director, may be made stating the terms and conditions agreed upon during the sacred ritual for additional record purposes only.
- M. Whenever the plan, program, project or activity is not accepted by the community, the proponent shall be called upon to attend a community assembly called for the purpose of relaying to the proponent the decision to reject the proposal. Such meeting shall be attended by the members of the community, including the members of the council of elders, the representatives of the proponent, the NCIP through its concerned Regional Director and concerned Provincial Officer. The Timuay or Gonotan shall announce the decision to reject the proposal, in behalf of the community.

N. There shall be no appeal to the decision to reject the proposal.

OTHER CONCERNS:

O. Military and police forces shall not be allowed to enter the ancestral territories unless concerned community gives consent. The FPIC processes as outlined for plan, program, project or activity sought to be introduced in the ancestral territories shall be followed, except when urgent matters of security is affected, to which consent from the leaders shall be given in a meeting urgently called for the purpose.

This is the voice of the Subanen across Zamboanga Peninsula. We demand that you hear us.

TIMUAY SEMION P. CODIUM Vincenzo Sagun, Zamboanga del Sur

DATU MANGURA PROF. ROSELITO BALA Pitogo, Zamboanga del Sur

TIMUOY MARCELINO LUMANJAL Pito Kodolungan Territories (Zamboanga Sibugay/Zamboanga
del Norte)

TIMUAY FELIMON OYAG Ramon Magsayasay. Zamboanga del Sur

TIMUAY LOCENIO MANDA Bayog, Zamboanga del Sur

GONOTAN EDWIN ENDING Ginsalugan Territories (Misamis Occidental/Zamboanga del Norte)

BAE LABI MARJORIE PAULIN Kumalarang, Zamboanga del Sur