

Is the Concept of “Free and Prior Informed Consent” Effective as a Legal and Governance Tool to Ensure Equity among Indigenous Peoples? (A Case Study on the Experience of the Tagbanua on Free Prior Informed Consent, Coron Island, Palawan, Philippines)¹

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EXECUTIVE SUMMARY

The Free and Prior Informed Consent is a process established under Philippine law which seeks to guarantee the participation of indigenous communities in decision making on matters affecting their common interests.

This paper looks into the experience of the Tagbanua indigenous community of Coron Island, Palawan, Philippines on the application of the concept of Free Prior and Informed Consent (FPIC). The study area focused on the two Tagbanua communities in Coron Island - Barangays Banuang Daan and Cabugao. Coron Island is home to the seafaring Tagbanua tribes and has been identified as one of the country’s important areas for biodiversity.. The Tagbanua community has managed to secure their tenure on the island and its surrounding waters through the issuance and recognition by the government of an ancestral domain title, one of the first examples of its kind in the Philippines.

The study concludes that the exercise of Free Prior and Informed Consent by the Tagbanua community is an important and fundamental tool to ensure that the indigenous peoples will benefit from the resources within their ancestral territory. Among others, it has given them a new tool to protect their environment and to obtain an equitable share of the economic benefits of their natural resources. The study also shows that the exercise of Free Prior and Informed Consent by the Tagbanua communities of Barangays Banuang Daan and Cabugao was recognized by government and non-government stakeholders, although in varying degrees. The study also notes the need to strengthen the overall capacity of the Tagbanua organization in terms of resource management as this would be critical to attaining an equitable distribution of benefits among community members. Finally, the study describes the Tagbanua community’s continuing struggle to gain sympathy from the local government units and from other stakeholders in Coron and to confront and constructively interact with major development issues obtaining in its domain such as the development of tourism in the area affecting Coron Island.

¹ This study was carried out by the Environmental Legal Assistance Center, Inc. (ELAC) with the support of the World Resources Institute (WRI) through its Equity, Poverty and Environment Initiative (EPE) program. Under its EPE program, WRI seeks to reduce poverty and promote sound environmental management by ensuring equitable access to ecosystem goods and services and fair distributions of natural resource benefits.

In summary, FPIC has been good for the community and for the environment but it has also created challenges to the Tagbanauas – in their dealings with outside stakeholders and in their relationship with others.

The study proposes three recommendations:

One is the proposal to conduct a systematic information and education campaign to increase awareness on the Certificate of Ancestral Domain Claim/Certificate of Ancestral Domain Title (CADC/CADT) issue both among the Tagbanua population and the other stakeholders of Coron including the local government unit. Increasing local awareness of the Free and Prior Informed Consent tool will help minimize conflict and misunderstanding among the stakeholders.

Another proposal is to undertake an assessment of the capacity of the Tagbanua community in dispensing management responsibility over the ancestral domain and implementing a capacity building program to address the gaps in their management capacity. The assessment process will elevate the capability of the indigenous peoples in managing their ancestral domain specifically on the aspect of tourism (eg. the management of Kayangan Lake and beaches) and minimizing the illegal and destructive activities which threaten the coastal/marine resources within the domain.

Finally, the study identifies a need to undertake an immediate conflict resolution process within the community in order for them to gain a common appreciation of priority concerns and projects in the community. The conflict resolution process will foster the openness of the involved entities in the area and strengthen the partnership of the indigenous peoples with the local government units, national government agencies, and other stakeholders relative to the management of the resources within the ancestral domain.

I. The Philippine Legal Framework on Free Prior and Informed Consent

The introduction of the doctrine of Jura Regalia into the Philippine legal system by the Spanish colonizers had virtually converted most, if not all of the indigenous peoples (IPs), to squatters in their own traditionally owned and possessed lands which by virtue of native title was already vested in them. Due to the IPs' lack of documents or papers coming from the government, their lands were overtaken by developers and mining firms which literally displaced them from the territory to which they had cultural ties.

It is worth noting that not all lands in the Philippines became a property of the state. As early as 1909, in the landmark case of *Cariño vs. Insular Government*², the court has recognized the long occupancy of land by an indigenous member of the cultural communities as one of private ownership, which in legal concept is called “native title”. Based on this concept, the pre-conquest right to property of the indigenous peoples in all the conquered or colonized territories are respected and recognized and the only variation would be on the substance of this right.

² *Cariño vs. Insular Government* (41 Phil 935, 1909)

Notwithstanding this settled jurisprudence however, the government failed to accord the indigenous peoples the propriety rights and recognition they deserve. Such government neglect was articulated by Senator Juan M. Flavio, in his sponsorship speech of Senate Bill No. 1728 on October 16, 1996, thus:

“But the executive department of the government since the American occupation has not implemented the policy. In fact, it was more honored in its breach than its observance, its wanton disregard shown during the period of the Commonwealth and the early years of the Philippine Republic when government organized and supported massive resettlement of the People to the land of the Indigenous Cultural Communities.”

For several decades since the Spanish colonization, the indigenous peoples’ plight was virtually unheard of amidst their struggles. Though there were several laws and similar instruments enacted by the government expressly or impliedly recognizing indigenous peoples’ rights in the Philippines, said laws were never observed nor implemented. Government’s indifference to the cause of the indigenous peoples, especially in the recognition and protection of their ancestral domain, had caused the lives of many members of indigenous peoples in the Cordillera and Mindanao region.

Although the struggle of the indigenous peoples in the Philippines in asserting their right to their ancestral domains/lands is centuries old, it was only in recent years that the current generations of indigenous peoples have participated in the legislative process. In 1986, the Cordillera Peoples’ Alliance (CPA), caught at that time by a dominant fervor towards establishing a Freedom Constitution, led the aggressive lobbying that resulted in the 1987 Philippine Constitution’s provisions on the Indigenous Cultural Communities’ (ICCs) rights to their ancestral domains.

Section 22, Article 2 (on Declaration of Principles and State Policies), Section 5, Article 12 (on National Economy and Patrimony), Section 6, Article 13 (on Social Justice and Human Rights), and Section 17, Article 14 (on Education, Science and Technology, Arts, Culture, and Sports) of the 1987 Constitution provide the legal framework to protect the rights of indigenous cultural communities. The 1987 Constitution also provides for the application of customary law in determining ownership and extent of ancestral domains.³ These constitutional and legal safeguards protecting the rights of, and giving preferential treatment to indigenous peoples, exist as a necessary measure of social justice and equity.

In light of the Constitutional provisions, ancestral lands are not part of the lands of the public domain. They are private and belong to the ICCs/IPs. No Filipino citizen, regardless of tribal affiliation, shall *“be deprived of life, liberty, or property without due process of law, nor shall any person be denied equal protection of the laws”* (Section 1, Article 3, 1987 Philippine Constitution). Additionally, Section 5, Article 12 of the Constitution guarantees that *“The State, subject to the provisions of this Constitution and national development policies and programs,*

³ Florence Umaming Manzano, MSW, An analysis on the current status of the IPRA implementation, p. 66 on Guide to R.A. 8371

shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being.”

While the recognition of the rights of the indigenous peoples in their ancestral domain and cultural integrity is explicitly provided under the Constitution, the lobby for an enabling statute to implement the Constitutional mandate was a very long and difficult process. It took a decade to pass the Indigenous Peoples’ Rights Act (IPRA). IPRA was first filed in the Congress sometime in 1987 during the 8th Philippine Congress, and was finally enacted in October 1997 during the 10th Philippine Congress.

During the 8th Philippine Congress, Senate Bill No. 909 was filed as a response to the Constitutional mandate to Congress to enact a law that will protect the rights of the indigenous peoples. The bill was subjected to deliberation in the Senate floor but was not enacted into law. Subsequently, during the 9th Philippine Congress, Senate Bill Nos. 1029, 1849 and 2056 were successively introduced. These bills, however, were never sponsored and deliberated upon.

Finally, the 10th Philippine Congress, through the sponsorship of Senator Juan M. Flavies, introduced Senate Bill No. 1728. After exhaustive deliberation, both houses passed the bill into law. Republic Act No. 8371 or IPRA was signed into law by the President Fidel Ramos on October 29, 1997. It became effective on November 22, 1997. Its Implementing Rules and Regulations were approved on June 9, 1998.

IPRA defines the indigenous concept of ownership as basically one that is private but communal and cannot be disposed of or sold. This concept of ownership covers ancestral domains and sustainable traditional resource rights. From these definitions, the claim of ownership that any indigenous cultural community may make on a particular area extends to the total physical and spiritual environment, including portions thereof that have been used by them for their subsistence like fishing or hunting grounds. Such claim of ownership is in the form of a Certificate of Ancestral Domain Title (CADT).

Essentially, indigenous peoples enjoy a far better right to the utilization, management and ownership of the land and water resources covered by their CADT claim than any other individual or corporation on the strength of both constitutional and statutory provisions safeguarding the rights of indigenous communities.

IPRA provides the framework for implementing the Constitutional guarantees on the right of ICCs/IPs to their ancestral domains and lands by virtue of native title. The category of ancestral lands and domains as privately owned and outside of the public domain is evident from the provisions of Section 12 of RA 8371 which gives the option to secure title under Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended, or the Land Registration Act 496. Moreover, even in instances where the ancestral domain forms part of a government reservation, the rights of the IPs to their ancestral territory is recognized and protected. In this case, the Chairperson of the National Commission on Indigenous Peoples (NCIP), the agency tasked to implement and give policy direction to IPRA, shall issue a certification that the portion of the reservation is an ancestral land or domain. Under Paragraph (i), Section 52 of RA 8371, the NCIP certification and the notification made by the Chairperson of the NCIP to the

government agency concerned shall terminate the legal basis for the jurisdiction of said government agency over the portion certified as ancestral domain. Where the government agency having jurisdiction over the ancestral land or domain need the area for the “common good”, Section 64 of RA 8371 provides for expropriation as a remedy.

The Free and Prior Informed Consent or FPIC⁴ provision is one of the most important features of the IPRA Law. This legal concept gave the IPs’ the right to deny or allow entry of development projects into their ancestral domain. By virtue of such right, the IPs now have the prerogative of determining their development priorities and assert their right to self-determination and recognition of their cultural integrity.

The FPIC process does not only provide IPs’ with an avenue for deciding the acceptability of projects or programs that may affect the community, financially, economically or culturally, but also enjoins the NCIP to refrain from issuing certification to any project proponent without the FPIC of the IPs concerned. On the other hand, all government agencies or departments are strictly enjoined from issuing, renewing, or granting any concession, license or lease or entering into any production sharing agreement with any person without the certification from the NCIP that the area where the project is to be introduced does not overlap with any ancestral domain.

Moreover, the ICCs/IPs’ are also expressly granted the right to stop or suspend any project that has not satisfied the requirement of the FPIC process. Under the FPIC process, the following are mandatory activities.

- *Notices: Posting of Notices in conspicuous places in and around the area of the concerned ICC/IP community by NCIP that a preliminary consultative meeting will be held.*
- *Validation of the List of Elders/Leaders: NCIP shall facilitate the convention of these elder/leaders for the purpose of validating the authenticity of the names of elders/leaders as appearing in the list.*
- *Preliminary Consultative Meetings: The participants are the identified council of elders, the representatives from the project proponent, the NCIP, the collaborating non-government organizations (NGOs) and civil society operating in the concerned area.*
- *Consensus Building: Elders/leaders shall complete the conduct of their own consultation meetings with members of the community employing their own traditional consensus building processes in order to further discern the merits and demerits of the proposal as presented on the preliminary consultative meeting. Only NCIP is allowed during this period to document the community proceedings that are being had.*
- *Community Assembly: NCIP shall cause the conduct of an Assembly of all the members of the community as represented by the household heads. It is on this occasion that the decision of the ICC/IP with respect to the proposal/project will be determined by counting the number of raised hands who would vote for or against the project.*

⁴ Section 59, R.A. 8371

IPRA created the NCIP to carry out the policies enshrined in the law. NCIP was mandated to protect and promote the interest and well-being of the ICCs/IPs' with due regard to their beliefs, customs, traditions and institutions. NCIP was likewise tasked to formulate and implement policies and plans for the recognition of the IPs' ancestral domains and their attendant rights.

The NCIP shall be an independent agency under the Office of the President and is composed of seven (7) commissioners belonging to the ICC's/IP's, one of whom shall be the Chairperson. They must be natural born Filipino citizens and bona fide members of the ICC's/IP's. They shall hold office for a period of three years and may be re-appointed, but they cannot serve for more than two terms. They may be removed from office by the President.

The NCIP is composed of different offices, to wit: 1) Ancestral Domains Office; 2) Office on Policy, Planning and Research; 3) Office of Education, Culture and Health; 4) Office on Socio-Economic Services and Special Concerns; 5) Office of Empowerment and Human Rights; 6) Administrative Office, and 7) Legal Affairs Office. In addition to the aforementioned offices, the NCIP has also Regional and Field Offices.

In the Province of Palawan, the National Commission on Indigenous Peoples and the Palawan Council for Sustainable Development has signed a Memorandum of Agreement relative to the implementation of the FPIC process in August 2005.

II. Coron Island

Covering about 7,320 hectares, Coron Island is bounded by Mindoro Strait in the east, Municipality of Busuanga in the west, Apo West Pass in the north and Cuyo West Pass in the south. It is one of the three main islands comprising the Calamianes Group of Islands in the province of Palawan.

Coron Island is a limestone island with mountains and narrow valleys. Its topography is different from the nearby islands. It is characterized by karst limestone cliffs forming a rugged terrain. According to Manny Bate, geologist and environmental management specialist, "Coron Island is part of a continental slab that drifted off mainland Asia some 90 million years ago and then collided with the Philippines some 10 million years ago. Geological findings estimate that the limestone of Coron was formed some 180 million years ago."⁵

Other descriptions are as follows:

"xxx this island is of different geological formation from the others. It consists of a series of excessively sharp ridges and projections or pinnacles which form a ring around what appeared to be a central crater. This rim ranged from about 1,000 feet to a peak of about 2,000 feet at the

⁵ Bautista, N. 2005. Lessons from Coron Inquirer News Service. Date Accessed September 2005.
http://www.inq7.net/globalnation/sec_phe/2004/may/26-01.html

northeast end xxx the face of this peak appeared almost perpendicular, for perhaps 1,000 feet. It was partly covered with bejuco and other vines...”⁶.

“...this island was an important source of supply of birds’ nests, which were in great demand in China”⁷

Coron Island is one of the few places on earth, “*where a native culture could live in harmony with its natural surroundings.*”⁸

A lot of foreign researchers have attested to the uniqueness of Coron Island, especially the inland lakes that are found in the island may it be brackish or freshwater.⁹ Zoologists from the University of Georgia describe the beauty of the island and lake as “Neither of us has seen anything like Coron Island....the lakes...have virtually no counterpart in the world”.

Several lakes can be found in the island. Most famous of these are the Kayangan Lake which has been claimed as the cleanest lake in the country since 1997 up to 1999 and Luluyuwan Lake (also known as Barracuda Lake) which is believed to have barracudas dwelling in the area. Lake Cabugao is the largest lake and it is where the highest point can be found.

The Tagbanua community has restricted visitations to Coron Island. Only Kayangan and Luluyuwan Lakes were opened for tourism. The Tagbanuas considered these lakes sacred and have avoided going there unless necessary. They believed that spirits dwell in the area and they sought permission from the elders and or *baquaylan* (shaman) who gave them *uliquatbat* (words of permission) to utter while within the lakes to avoid harm. One such typical occasion is reported as follows:

“...Willie Weidlich, one of our officers, went ashore to make arrangements to have materials taken to the summit for the erection of a survey signal. He returned stating that the natives refused to climb to the peak, claiming there were monsters in the lake in the center of the island. Next day Max Steinberg went ashore to offer high compensation. They were still adamant in their refusal...”¹⁰.

Some of the beaches where their ancestors were buried and the *panyaan*, said to be areas where the *panlalabyut* or a giant, human-like octopus resides, were also restricted from visitors.

Coron Island is also known for the fine quality of its edible birds’ nest. *Callocalia troglodytes* is a species of swift that produces the nest composed of gelatinous secretion from the salivary glands in the mouth of birds. This nest is described as follows:

“...a more profitable product is the nest made by certain small black birds, which are mistakenly called swallows....those filaments stick together because of their viscous nature, and

⁶ Maher, T.J. 1912. Around the world for forty years. Stories and Tales of the Coast and Geodetic Survey. Philippine Tales. National Oceanic and Atmospheric Administration, NOAA Central Library. Office of CIO/High Performance Computing and Communications (HPCC) Date Accessed September 2005.

http://www.history.noaa.gov/stories_tales/maherphi_1.html

⁷ Ibid

⁸ Dalabajan, D. 2001. The healing of a Tagbanua ancestral homeland. P. 159-193. In E.M. Ferrer, L.P. dela Cruz and G.R. Newkirk (eds.) Hope Takes Roots. Community-based coastal resources management stories from Southeast Asia. CBCRM Resource Center and Coastal Resources Research Network. 280 p

⁹ Ibid

¹⁰ Maher, T.J.

at their extremities adhere to the rock. Those nests are usually located in very overhanging and rough places, in such a way that the continual rains do not fasten or destroy them...they are very difficult to gather, for the birds always build them in craggy locations, in whose tortuous and precipitous caverns they are only obtained by descending a rope...”¹¹ Concepcion 1624:305-306 cited in E. Blair and J. Robertson, 1973. cited in Sampang, A.

Coron Island, as part of the Calamian Group of Islands, is an integral part of the Indo-Australian archipelago which scientists have considered to be the center of the “coral triangle”, with species diversity declining as distance from this center increases. It is luxuriant with stunted forest vegetation, so resilient that they are able to grow on pure rock and dot the craggy cliffs of the island. While intensive research on the island’s biodiversity needs to be undertaken, the National Integrated Protected Areas Programme (NIPAP) of the DENR, with the support of the European Union, has included Coron Island in its priority site for the programme, in consideration of its biodiversity importance.

In its profile of Coron Island, NIPAP noted its classification as an Endemic Bird Area (EBA).¹² Another study conducted by Conservation International in 2004 highlighted the presence of globally significant terrestrial and marine species listed in IUCN categories as either vulnerable or critical. These species includes: Palawan hornbill (*Antracoceros marchet*), Philippine cockatoo (*Cacatua haematuropygia*), Grey imperial pigeon (*Ducula pickeringii*), Chinese egret (*Egretta eulophotes*), Blue-headed racquet tail (*Prioniturus platenae*), Mankono (*Xanthostemon verduguniamos*), Dugong (*Dugong dugon*), Green Turtle (*Chelonia mydas*), Hawksbill Turtle (*Eretmochelys imbricata*) Smooth Giant Clam (*Tridacna derasa*), Bear’s paw clam (*Hippopus hippopus*) and whale shark (*Rhincodon typus*).¹³

The Study Area

The two fishing villages, Banuang Daan and Cabugao are located in the eastern side of Coron Island. The two villages are accessible by pump boat from Coron town which is part of the larger Busuanga Island. From Coron town, it takes about 30 to 45 minutes to Banuang Daan and some 60 to 90 minutes to Cabugao. Barangay Banuang Daan is composed of six (6) sitios (Bgy. Proper, Sagpi, Leeg, Masipag, Bagong Silang (Dalusan) and Mountain Hike) while Cabugao has seven (7) sitios (Barrio Cabugao, Dipnay, Carupil, Lumintaw, Sugod, Salamangi and Delian Island).

Coming to the village of Banuang Daan is relatively easy compared to Cabugao because the former has a small wooden wharf that facilitates the landing of boats. This small port area is also the place where the fishermen interact with one another after their fishing trips. Cabugao is gifted with more mangroves in the entrance area. Constructing a port in the village has not been deemed suitable and not considered a priority.

¹¹ Sampang, A. Ethnoichthyology and Conservation Practices of the Calamian Tagbanua in Coron Island

¹² National Integrated Protected Areas Programme (NIPAP). 2000. General Management Plan Volume 1: Description, Analysis and Prescription.

¹³ Anda, Redempto D. and J.G. Tabangay-Baldera, 2004 *Surublien: Strategies to Conserve Palawan’s Biodiversity*. Conservation International in partnership with the Provincial Government of Palawan, Palawan Council for Sustainable Development, Department of Environment and Natural Resources and the Palawan NGO Network, Inc.

The villages have facilities like a day care center, health center, elementary school, barangay hall, churches and basketball court. There is no electricity in the island, although some of the sitios have generators that operate from seven (7) to eleven (11) in the evening.

As of 2000, Banuang Daan had a population of five hundred forty six (546) people, consisting of one hundred one (101) households, while Cabugao had a population of one thousand six hundred nine six (1,696) people, with three hundred nineteen (319) households. However, in 2004, the population of Banuang Daan increased to one hundred twenty seven (127) households while that of Cabugao decreased to two hundred ninety nine (299) households. (Municipal Briefing Folio, 2005).

During the months of April to October, many migrants, mostly Visayans, stay in Sitio Dalusan of Banuang Daan. Between November to March, they leave the sitio to find another temporary dwelling while doing their fishing activities. At present, it is estimated that some forty (40) migrant families are in Sitio Dalusan. The Tagbanuas permit these migrant fishers to fish provided they use legal fishing methods. In Barangay Cabugao, during the months of November to May, Cuyonins from Barangay Turda will stay to buy birds' nest from the Calamian Tagbanua community. In Delian Island, which is part of Barangay Cabugao, most of the approximately more than three hundred (300) families are Visayans, with only six families belonging to the Calamian Tagbanua community.¹⁴

III. The Calamian Tagbanua

The indigenous inhabitants of Coron Island are collectively called the Calamian Tagbanua which is also how their language is called¹⁵. They use the word Calamian to separate it from the Tagbanuas of mainland Palawan.

The Calamian Tagbanuas are distinguished from the Tagbanuas inhabiting the villages of the central mainland Palawan by their fishing and marine-related activities. While mainland Tagbanuas are characteristically shifting cultivators, the Calamian Tagbanuas are generally sea-faring people. Their life revolves around the *amuyuk* (lakes), *talu* (corals), *teeb surublien* (ancestral waters), and *leyang* (caves).

During *kamian*, (northeast monsoon), those that have *luray* (cave containing bird's nest) visit their caves to gather the edible bird's nest, and stay in the area for at least one month. This is their most important source of cash during this season. They guard their clan's caves where the *balinsasayaw* (swiftlets) builds nests to prevent other people from harvesting the nests. Climbing the limestone cliffs where the nests are is a dangerous task that can cause broken arms, legs or sometimes even death. Historical data shows that the Tagbanua have been trading edible bird's nests with the Chinese as early as the 11th century A.D. For the Tagbanuas who have no caves,

¹⁴ Rodolfo Aguilar, interview

¹⁵ Grimes, B. F. 2004. Ethnologue.- languages of the world. Web version. Fourteenth edition. <http://www.ethnologue.com/web.asp>

the northeast monsoon is the time for them to plant rice, sweet potato, cassava or harvest cashew fruit.

Aba×at (southwest monsoon) is the best time for fishing, because the sea fronting the two villages is calm. The Tagbanuas go out to fish from Monday to Friday and generally rest during weekends.

Fray Juan de la Concepcion in 1624¹⁶ (cited in Blair and Robertson, 1973:309, cited Sampang, A.), described the Calamian Tagbanua as “natives of savage inclination and most warlike...” On the other hand, Captain Thomas Maher in 1912 who encountered the Calamian Tagbanua during his survey in the Philippines and while erecting a survey signal in Coron Island, said that some of the Calamian Tagbanua are shy and timid. The Tagbanua Elders narrated that in the past, when they saw people coming to their place, they usually hide out of anxiety, but now that some of them have already been interacting with other people, they have somehow adjusted to the presence of outsiders.

Seldom can you find a Calamian Tagbanua not chewing *mamaken* (betel nut with pepper leaf, lime and tobacco). It is part of their everyday activity, may it be in a meeting or chatting and this is a necessity when they do overnight fishing. The *mamaken* will keep their body warm because of the spicy taste.

Ben Aguilar, one of the Council of Elders, articulated that the manner by which fish migrate in schools or groups, such as the *bararawan* (Rabbitfishes), closely resemble the semi-nomadic life of the Calamian Tagbanua. He recalled how they fish in the sea during *aba×at* and *kamian*. They do fishing by groups into *Talung Dakulo* (big reef), *Talung Gesye* (small reef) and *Nataktakan* reefs. They collectively go farther during low tide and return at the same time when it is high tide.

The Calamian Tagbanuas are inherently unselfish and share their fish catch with other community members when the catch exceeds what a family needs. In the past, the Calamaian Tagbanuas used to wear *takyul or takwil* (G-string) when they went fishing. Nowadays, they wear shorts or pants and t-shirts to protect them from the heat of the sun. Elderly women and men find it comfortable to be half-naked while tilling the soil or making mats. Most of the teenagers, however, are influenced by the way town people dress. Physically, they have fair to dark complexion, some may be short and tall. There are also families with Chinese features, a result of intermarriages between the Chinese and natives in the early days.

Access to Coron town is much easier for the people living in Banuang Daan than in Cabugao. On Mondays, the Tagbanuas usually go to the market to buy food and other basic needs for the whole week. The family who has a son or daughter studying in high school rents a room in the town since traveling back and forth to the island is costly and dependent on the weather. On Sundays, they religiously attend their Sunday service. Tagbanuas are either Baptists, “Back to Christ” or Catholics.

¹⁶ Sampang, A.

The Calamian Tagbanua still use their bare hands in measuring mass and weight. They use empty milk cans to measure volume and use shadows of people to determine the time of day. They are also engaged in barter system. One of the known skills of the Calamian Tagbanua is their sense of direction. They use the mountains as their landmarks. They usually remember the portion of the mountains on their left and right, and situate themselves at the middle position. They call this *kuadrant*.

The mapping crew from Philippine Association for Intercultural Development (PAFID), witnessed how these people used this *kuadrant* system. In one instance where PAFID was involved in the mapping of the Tagbanuas ancestral domain using the Global Positioning System (GPS), the Tagbanuas suggested that they stop the mapping for a while they catch the school of fish they saw. The PAFID staff expressed their concern as they needed to return to their exact location. The Calamian Tagbanuas just smiled and proceeded to catch fish. The PAFID crew was amazed on how the Calamian Tagbanua brought them back to their previous location.

Because of a sustained relationship between the *Tagbanuas* and their ancestral land (*tanek and surublien*) and ancestral waters (*teeb surublien*), they have derived a sense of uniqueness and identity as a people, an identity inseparable from their ancestral domain. Hence, their ancestral domain is not merely the territory per se, but also the intangible aspects of the community such as its history, social relations, system of resource use and cultural identity. All these are direct expressions of the *Tagbanua*'s relationship with their traditional territory.

IV. Historical Background of Coron

The name Coron was given by a native of Cuyo, Don Nicolas Manlave y Ledesma. Coron is a Cuyonon term for pot. According to him, the bay fronting Banuang Daan looks like an earthen pot.

Manlavi (1970) in his book "History of Palawan", enumerated popular legends in the area of Palawan and one of these is how Coron got its name. According to the legend, the natives were in Calis Island (which may refer to Calis Point, where a place called Kurung is located). The area has many caves, crevices and high cliffs for the Calamian Tagbanua to hide during the attack by Moros. One morning, as they saw Moro vintas approaching their area, the Tagbanuas evacuated and climbed the cliffs. Their houses were burned, their properties robbed and violence was inflicted on their companions who were left behind. From the smoke of their burning houses, they visualized a pot, the one they used for cooking. From that time on, the place was called Kurung or Coron as it is known today.

The first inhabitants of Coron are the Tagbanua and the second tribe is called the Calamianen (Municipal Briefing Folio, 2005,). Calamian Tagbanua thus referred to Tagbanuas found in the northernmost section of Palawan.

Palawan was known to ancient Chinese traders as early as 982 A.D. It is known as Palao-yu meaning "land of beautiful harbors." The natives living in the coastal area of Calamianes have

already been trading with the Chinese¹⁷. They were trading *luray*, *balat* (sea cucumber) and *samung* (kind of shell). Sometime in the 13th century, the Muslim Malays colonized Palawan.

Palawan was known to the Spaniards as Paragua, meaning the “mainland”. When Spaniards colonized the Philippines in the 1570s, they collected tributes from residents of the Calamianes and Cuyo Islands. In 1622, they established their authority in the islands of Cuyo and later a garrison in Taytay. The Spaniards organized the region into a province known as Calamianes. The province was later divided into two: Castilla (Calamianes and northern portion of Paragua, with Taytay as the capital) and Asturias (rest of Paragua and Balabac Island, with Puerto Princesa as the capital).

In 1749, Pedro Vincua secured an authority from the Governor General to make the place (Coron) as a visita under the jurisdiction of Culion which was the *matria* at that time. The visita was then officially named as Peñon de Coron. Taxes were collected and were given to Taytay. The visita lasted for 50 years (Municipal Briefing Folio, 2005).

During the Spanish rule, several attacks were made by the sea-going Muslims in Coron Island. The Calamian Tagbanua *mamaepet* (elders) shared their story about their legendary heroes who fought against the Spaniards and Muslims. *Makarere* and *Matambak* were rebels and their caves were found in Banuang Daan. *Makarere* has a son, *Kulasitu* who later moved to Cuyo where he studied. The *mamaepet* also attested that some of the beautiful Calamian Tagbanwa women were bought by the Muslims.

By the beginning of the nineteenth century, the Spaniard’s administrative and spiritual control was deep-rooted in the Calamianes and the northern part of Paragua, resulting in the Christianization of the names of some Tagbanuas.

In 1902, Coron was registered as a town. The village of Banuang Daan (*daan* means old, *banwa* means town) used to be the town of Coron. However, the town was moved to Busuanga Island after its registration. Don Vicente Sandoval was the first appointed Alcalde Mayor or Municipal Mayor in 1902- 1906. It was during his term that the name of the town was officially changed from Peñon de Coron to Coron¹⁸

At the end of the nineteenth century, the Calamian Tagbanuas were found to be still involved in hunting, fishing and seafaring. When the Americans came to Coron Island, they brought some clothes and food, built schools and taught children to use charcoal as chalk and soil as blackboard. According to the elders, the Americans helped the poor and did not cause them any harm.

¹⁷ Philippine Association for Intercultural Development (PAFID) 2000. Mapping the ancestral lands and waters of the Calamian Tagbanua of Coron, northern Palawan p. 44-63. In Bennagen, P.L., and A.G. Royo (eds.). Mapping the earth, Mapping life. Legal Rights and Natural Resources Center, Inc.-Kasama sa Kalikasan (LRC-KSK/Friends of the Earth-Philippines), 152 p.

¹⁸ Municipal Briefing Folio, 2005. Province of Palawan, Municipality of Coron. Myers, R. F. 1999. Micronesia reef fishes; a comprehensive guide to the coral reef fishes of Micronesia, 3rd revised and expanded edition. Coral Graphics, Barrigadad, Guam, 330 p.

In contrast, the Calamian Tagbanuas suffered difficulty during the occupation of the Japanese in 1942. The Japanese threatened to kill the Tagbanuas if the latter disobeyed the Japanese. According to the elders, the Japanese called them Batak, which meant being ignorant and uneducated.

Towards the end of the Second World War, American liberation forces attacked at Coron bay which was then a major hub of Japanese ships and sunk several of these vessels. The shipwrecks have become dive destinations for local and foreign tourists.

By 1947, deep sea fishing was introduced in Coron. At about this time, there was an influx of migrants from Luzon and Visayas who worked either as fishermen or miners.

Coron's land area was reduced when separate municipalities were created - Busuanga in 1950, Linapacan in 1954 and Culion in 1992.¹⁹

V. The Tagbanua Foundation of Coron Island and Tourism

The Tagbanua Foundation of Coron Island (TFCI) known as *pundasyon* is composed of ten (10) officers representing communities of Banuang Daan and Cabugao. As stated in their Ancestral Domain Management Plan, the current focus of their management is on Kayangan Lake.

Kayangan Lake is a well known tourist destination in Coron. It was chosen as the Cleanest Lake in the Province of Palawan in 1997, the same year that the Certificate of Ancestral Domain (CADC) was awarded to the Calamian Tagbanuas of Coron Island. A Kayangan Lake Tourism Management Plan was formulated in the succeeding years resulting from the initiatives of the local government unit of Coron, national agencies, civil society groups, TFCI and other key stakeholders.

Since 2001, the Tagbanua Foundation of Coron Island has been collecting entrance fees for the use of Kayangan Lake.²⁰ The tourism project in the Island is largely run by IP volunteers from the community who serve as rangers, guides and boatmen. The peak season for tourists are the months of November, December, March, April and May. The months of November and December coincide with the Christmas holidays and the beginning of the cold months in Europe and North America. March to May are the summer months in the Philippines.

The Tagbanuas' main objectives for the collection of entrance fees and controlling the number of tourists who enter the Kayangan Lake, Barracuda Lake and adjacent beaches are the protection of the (i) fragile habitat of the swiftlets that dwell on the cliffs around Coron Island, (ii) the fish breeding areas or sanctuaries, and (iii) areas considered sacred to the Calamian Tagbanuas. Maintaining the cleanliness and sanctity of the place is a priority for TFCI. To ensure that these

¹⁹ Municipal Briefing Folio, 2005. Province of Palawan, Municipality of Coron. Myers, R. F. 1999. Micronesia reef fishes; a comprehensive guide to the coral reef fishes of Micronesia, 3rd revised and expanded edition. Coral Graphics, Barrigadad, Guam, 330 p.

²⁰ Conservation International-Philippines, Estimation of the Opportunity Cost of Tourism in the Kayangan Lake, Coron Island, Northern Palawan.

values are observed, TFCI set up a signboard on the Code of Ethics that would guide visitors on the use of Kayangan Lake.

The entrance fees are used for the area's upkeep, for expenses relating to the use of the patrol boats and for compensating volunteers who monitor and ferry visitors to and from Coron town. While TFCI has its own tour package, other private operators are not prevented from bringing in their own tourist-visitors for as long as the entrance fees are paid. Entrance fees to Kayangan Lake are two hundred pesos (Php200)/person for non-Calamianes residents and foreign tourists and ten pesos (Php10)/person for residents of the Calamianes. Entrance fees to other areas such as Barracuda Lake and Coron Island beaches are seventy five pesos (Php75)/person.²¹ Others appreciate the efforts of the Tagbanuas and even give donations to the foundation.

The tour packages offered by TFCI include:

- a) a visit to Kayangan Lake and the beaches - fee of three hundred seventy five pesos (Php375)/person which is inclusive of entrance and boat ride;
- b) diving at the Barracuda lake and beaches - fee is also inclusive of entrance and boat ride, but excluding diving equipment.

TFCI has many plans for Coron Island. TFCI officials have expressed the following aspirations for their ancestral domain:

- Respect and recognition for their customary laws and indigenous punishments;
- Revival of the tradition of the Calamian Tagbanua;
- Reduction in the use of illegal fishing methods inside their ancestral waters;
- Acquisition of a motorized patrol boat;
- Political will to decrease the number of migrants in the island, although migrant fishers are allowed to stay temporarily provided they use lawful fishing methods.

The Calamian Tagbanuas' unity is tested through time. The poverty experienced by the Calamian Tagbanua and the influence of migrants surrounding the Calamianes Group of Islands are key factors that affect their relationship with one another. The elders acknowledge that there exist conflicts within the community pertaining to the management of Kayangan Lake and other related issues. They recognize that efforts need to be undertaken to address these conflicts.

The community is faced with another challenge – fulfilling the NCIP requirement as regards the conversion of their ADMP to the Ancestral Domain Sustainable Development and Protection Plan (ADSDPP). It is noted though that the task of refining and enhancing their management plan will move the IP community to another level of involvement and commitment to their ancestral homeland.

VI. Resource Use and Management Practices of the Ancestral Domain

The Tagbanuas harvest more from the sea than from the forest. For this reason, they vigorously fought for government recognition of their claim over ancestral waters as this is an integral part

²¹ Ibid

of their ancestral domain claim. Both land and sea are essential for the daily subsistence of the Tagbanuas and for the preservation of their way of life. While the Tagbanuas consider the marine resources as part of their ancestral domain, they do not think this is for their exclusive use. They believe that the sea is communal property.²²

The fisheries resource use and management practices of the Calamian Tagbanua are within the context of the *panyaan* (sacred areas) and *imbakan tungian* (fish sanctuary), observance of *kustumri* (customary laws) regarding resource access and use, and the role of *mamaepet* (elders) in implementing traditional laws as means of discipline. The Calamian Tagbanua is involved in subsistence fishing, getting only what they need for the day since electricity is absent on the island, and only a few families are involved in commercial fishing. However, migrants from Luzon and Visayas are also in the area engaged in commercial fishing, and use destructive fishing techniques. These techniques have posed serious challenges to the traditional management practices of the Calamian Tagbanua.

Besides fishing, the Calamian Tagbanuas have traditionally other uses of their ancestral waters. For one, they make salt which is typically used for cooking. The Tagbanua elders used to do this in the past, but this practice has stopped since salt is sold almost everywhere. Another is that seawater is used as a treating agent. Saltwater is used in removing the poison from *kurut*, one of their edible wild tubers, before it can be eaten. *Kurut* is soaked in saltwater for days and then removed from the sea, dried and soaked again until it is ready to be cooked and eaten.

Nipa and bamboo are similarly treated. These are soaked for one week or more to make them last and prevent the infestation of *bukbuk* (wood boring insects). The Tagbanuas estimated that sea-treated nipa or bamboo will last for three to four years. Usually, these materials are used by the Tagbanuas for the roofing of their houses, but because of the external influence, some of the Calamian Tagbanua are now using steel roof.

The Calamian Tagbanuas also use the seawater as medicine. Seawater mixed with leaves of guava is used to hasten the drying of wounds. To counter drowsiness and vomiting, steam from boiled seawater is inhaled while enclosed in a blanket. Other uses of the ancestral waters include navigation and recreation, such as swimming.

Part of the management strategy of the Calamian Tagbanua is the observance of sacred and restricted areas in their ancestral waters. According to the *mamaepet* (elders), there are a lot of *panyaan* (sacred areas) in Coron Island. A designated *panyaan* is usually a big rock or reef that is separated from its main structure and usually found in relatively deep waters. *Panyaan* are considered sacred because of the presence of the *panlalabyut* (giant octopus) that lives on this rock or reef. This belief is passed down to generations through oral tradition. At present, however, every Calamian Tagbanua can declare where a *panyaan* is located. In the past, only the *bapalyan* (shaman) and the *mamaepet* have the right to tell where a *panyaan* is. According to Chairman Aguilar, new areas can still be discovered and declared as *panyaan* if they will find a

²² Laviña, A. 2001. Community-Based Approaches to Marine and Coastal Resources Management in the Philippines: A Policy Perspective. P 106-113. In .Torrell M. and Salamanca A. (eds.) Institutional Issues and Perspectives in the Management of Fisheries and Coastal Resources in South East Asia, p 91.

rock or reef separated from its main structure. The elders say that there are at least twenty (20) sacred areas surrounding the island.

TFCI's resource management also covers the cliffs of the island down to the valleys and traverses the lakes, rivers as well as the mangroves. Everyone in the community is allowed access to these resources for as long as these rights are not abused. Forest resources are communally owned and no individual is allowed to own even a portion of the forests. The Tagbanuas have traditionally practiced swidden farming.

Cutting trees near streams, springs, wells and the coast is prohibited. The Tagbanuas recognize the value of these resources as watersheds which ensure irrigation of their crops and prevent soil erosion. The Tagbanuas recognize the value of the mangrove ecosystem to their marine environment.²³ The Tagbanuas have a set of rules for the caves located on the cliffs of the island.

VI. History of the Tagbanuas' Efforts to Gain Recognition of their Ancestral Domain

Coron Island Ancestral Domain

The Calamian Tagbanua secured their certificate of ancestral domain through perseverance and unity. During the 1970s, they experienced how their clan caves were sequestered from them because they did not pay the excessive taxes imposed on them. Those who were not able to pay had their clan caves auctioned²⁴. By mid 1980s, migrants from the Visayas region started to populate most of Delian Island. In the late eighties, another tax was imposed on them by the Municipal Assessor's office. These experiences had made the Calamian Tagbanua realize that they might be losing their ancestral home. According to Chairman Rodolfo "Kudol" Aguilar, only six families of the Calamian Tagbanua were left in Delian Island.

As a strategy to regain control of their ancestral territory, Rodolfo Aguilar, the tribe's free speaking leader, decided to apply for a Certificate of Forest Stewardship Agreement (CFSA), a contract with the Department of Environment and Natural Resources (DENR). This contract allowed them to extract logs on a limited volume on the condition that they protect the forest from illegal activities. "Parang binigyan ka ng permiso na pumasok sa sarili mong bahay," was how the outspoken chairman described the contract. But with limited options, he sought the assistance of the Philippine Association for Intercultural Development (PAFID), a non-government organization assisting tribal communities.²⁵

In 1985, the Tagbanua Foundation of Coron Island (TFCI) was established. Chairman Aguilar, known as a well respected leader in the community, took the lead in applying for the CFSA from the Department of Environment and Natural Resources. The CFSA, awarded in 1990, covered a land area of some 7,748 hectares and allowed the community to extract forest resources in a limited volume and protect the forest from illegal activities.

²³ Ibid

²⁴ Dalabajan, D. 2001.

²⁵ Ibid.

The successful granting of CFSA to the TFCI encouraged the Calamian Tagbanua of other barangays to also form community organizations. Later, however, they realized that the CFSA did not cover their traditional fishing grounds. In 1992, they identified an opportunity to re-claiming their traditional fishing grounds, that is, through the Strategic Environmental Plan for Palawan Act or Republic Act No. 7611. This act provides an expanded definition of ancestral domains in Palawan to include coastal zones and other submerged areas. In that same year, the National Integrated Protected Areas System Act (NIPAS Act or R.A. 7586) was passed and Coron Island was selected as one of the priority protected areas.

In 1993, DENR made the unprecedented move when it issued an administrative order recognizing the inherited rights of the indigenous cultural community. DENR Administrative Order 02 (series of 1993) or DAO 02 anchored its premise on a US Supreme Court ruling, stating that:

“...when a far back as memory goes, the land has been held by individuals under claim of private ownership, it will be presumed to never have been held in the same way even before the Spanish conquest, and never to have been a public land.”²⁶

In effect, the ruling refuted the Spanish law known as the Maura Act of 1894 which decreed that unless land holdings were documented they would revert back to the state. After Spain ceded the Philippines to the United States by virtue of the Treaty of Paris, even the American colonial government invoked the Maura Act and promoted equally the *Regalian Doctrine*. Both measures gave the state the legal pretext for claiming vast tracts of untouched land, most of which belonged to indigenous cultural communities.

In contrast, DAO 02 provides for the recognition and awarding of a CADC), a powerful legal tenurial instrument that grants preferential rights to the tribal communities on extraction, exploitation, management and protection of a delineated ancestral territory. It also defines a process on how ancestral domain perimeters would be delineated and subsequently demarcated.

In February 1993, the Tagbanuas applied for the issuance of their Certificate of Ancestral Domain Claim with the Community Environment and Natural Resources Office (CENRO). This development also influenced the formation of Saragpunta, a federation of Calamian Tagbanua. Saragpunta came from the word *saragpun* meaning gathering of people. The Saragpunta consists of several community organizations from Barangays Tara, Malawig, Turda, Buenavista, Marcilla, Bulalacao, Camanga and Napaskud, all from the municipality of Coron, Barangay Biong of Culion and Barangay Calauit of Busuanga²⁷

²⁶ Ibid.

²⁷ Philippine Association for Intercultural Development (PAFID) 2000. Mapping the ancestral lands and waters of the Calamian Tagbanua of Coron, northern Palawan p. 44-63. In Bennagen, P.L., and A.G. Royo (eds.). Mapping the earth, Mapping life. Legal Rights and Natural Resources Center, Inc.-Kasama sa Kalikasan (LRC-KSK/Friends of the Earth-Philippines), 152 p.

When the IPRA law was passed in 1997, the TFCI applied for a Certificate of Ancestral Domain Claim. Resolutions from local officials and other groups were passed assailing the application, thus delaying the processing of their application. TFCI made progress in asserting its CADC application with the support of non-government organizations such as Conservation International (CI), Philippine Association for Intercultural Development (PAFID) and Environmental Legal Assistance Center (ELAC). CI conducted a resource assessment of Kayangan Lake and helped the Tagbanuas in setting up a cashew nut processing project by constructing a small house/building for this purpose. PAFID assisted the IPs in the mapping of their ancestral territory. ELAC organized seminars and trainings on environmental laws and assisted them in the promotion of their human rights.

Despite the heavy criticism they received, the Calamian Tagbanuas became more united and pledged to fight for their rights. On June 6, 1998, the Tagbanuas received their Certificate of Ancestral Domain Claim (CADC No. RO-CADC-134) covering some 22,284 hectares comprising both land and water. This was the first CADC in the Philippines that covers ancestral waters.²⁸ When the CADC was issued, the time immemorial possession of the land and a portion of Coron waters was recognized by the Philippine government. It also acknowledged the important contribution of the group's indigenous management system in the sustainable use of their ancestral waters and the natural resources found in their ancestral domain.²⁹

The passage of DAO 34, series of 1996, providing the guidelines for the management of certified ancestral domain claims was an avenue for the Calamian Tagbanua to create their Ancestral Domain Management Plan. They conducted a workshop to formulate this plan including the codification of their customary laws, beliefs and practices since time immemorial.

The conversion of the CADC into a Certificate of Ancestral Domain Title gave another challenge to the Calamian Tagbanua. While the first set of NCIP Commissioners made this conversion, the CADT was never released nor registered in the Register of Deeds. The NCIP passed Administrative Order 01, series of 2002, which seeks to determine with finality the validity of the CADT approved and signed by the first NCIP Commissioners. Thus, the ancestral domain was reviewed and revalidated. The area covered by the ancestral title increased with the addition of 2,236.75 hectares as a result of an error in computation in the last survey. Thus, the total ancestral land area is 7,320.0516 hectares and 16,958 hectares for the ancestral waters. The whole ancestral domain covers 24,520.75674 hectares. The CADT was issued to the Tagbanuas on February 19, 2004 (NCIP, 2005).

The approval of the Tagbanua ancestral claim has strong implications in the current and future management of the natural resources. The success of this claim gives substance to the definition of "ancestral waters" embodied in the Indigenous Peoples' Rights Act. The attainment of the CADT provided a concrete example as well as precedent on the nature and extent of the processes involved in securing the title.

²⁸ Arquiza, Y. 2001. Native titles spark indigenous revival. Philippine Center for Investigative Journalism. <http://www.pcij.org/stories/2001/cadt.html>.

²⁹ Memorandum to the Secretary recommending approval of the CADC, by then Undersecretary Antonio La Viña, dated 02 June 1998.

VII. Implementing FPIC: Benefits and Challenges

(a) Benefits

FPIC is illustrated under Part 3, Section 3 of NCIP Administrative Order No. 1 or the Implementing Rules and Regulations (IRR) of IPRA as follows:

“The ICC’s/IP’s shall, within their communities, determine for themselves policies, development programs, projects and plans to meet their identified priority needs and concerns. The ICC’s/IP’s shall have the right to accept or reject a certain development intervention in their particular communities.”

The elders and leaders of Coron Island practice FPIC. The acceptance or rejection of any development project, program, plan, policy, activity or undertaking is determined by the Council of Elders (*mame’pet*) and leaders representing the whole ancestral domain. In the Tagbanua culture, such decision is being recognized and respected.

While majority of the members of the Tagbanua community, especially in Banuang Daan, are unaware of the intricacies of the Free Prior and Informed Consent (FPIC) process as well as their acquisition of CADC or CADT, they consider this as a major achievement to them since their homeland is now legally secured. According to the majority of the IPs’ interviewed, the benefits of having a CADC and/or CADT is the protection of the resources within their domain. The protection of the bird’s nest habitat will ensure adequate swiftlet population and sustainable source of nests. Other protection activities such as the establishment of fish sanctuaries would allow the regeneration of degraded fishing areas and depleted fish population.

The exercise of FPIC has enabled the Tagbanua community to regulate or restrict the entry of visitors and tourists to Coron Island. The fact that the entrance fees are being paid by visitors and tourists shows that the community has succeeded in asserting their right to manage, develop and protect their ancestral territory.

According to the Municipal Tourism Officer and Budget Officer of Coron, following the award of the CADC and CADT to the Tagbanuas of Coron Island, the local government had no choice but give their full trust to the indigenous peoples to manage Kayangan Lake and the beaches in the island. The local government discontinued their allocations for the maintenance of Kayangan lake, but continued to provide funds for social services to the IPs of Coron Island.

The Coron Island experience has also encouraged other IP communities, even without any CADC or CADT, to exercise FPIC. In Barangay Buenavista, Coron, the Council of Elders and leaders together with the community vehemently opposed the proposal of a business group and local government unit to establish a shipyard within their ancestral domain. The IP leaders and elders initiated consultation meetings with the proponent, civil society groups working in the area, local government unit of Coron, national agencies and other stakeholders. To date, the proposed shipyard project is pending. Moreover, the barangay officials, majority of whom are Tagbanuas, enacted a resolution prohibiting any major development that would degrade the environment and threaten their cultural integrity. Several Tagbanua members have been harassed

by security guards and men of the project proponent, even to the extent of burning some houses and forcing them to relocate, but the IPs have stood their ground.

(b) Challenges

The Tagbanua community is confronted with internal and external challenges. Internally, they need to address the conflict between the leaders and members, particularly in Banuang Daan, and the *mame'pet* or Council of Elders. According to Ernesto Aguilar, the *mame'pet* must inform and update them on the projects and programs being implemented in the island. It is the perspective of the IPs of Banuang Daan that the issuance of the CADC and CADT has resulted in the animosity between the Tagbanuas of Coron Island. While they acknowledge and value the decisions made by the Council of Elders, they complained about the lack of transparency and non-participation of the community in any decision making relating to projects and or programs taking place in the area.

Other community members lament that Coron Island continues to suffer from illegal fishing practices of cyanide and dynamite. Fisherfolks have narrated the decline of fishery resources.

An external challenge is the seeming apathy of the local government unit. Former Coron Mayor Alberto G. Enriquez asserts that the CADC/CADT claim should exclude the lakes and white beaches from the ancestral domain claim of the Tagbanuas. The LGU wanted Coron to be developed as a major tourism destination under the Tourism Master Plan being undertaken by the Department of Tourism and they wanted to have a free hand in developing Coron Island itself as a main tourist attraction. Mayor Enriquez felt that the CADC will complicate the efforts of the municipal government to pursue their own plans for Coron Island and affect progress and development in the municipality. It was noted that the LGU made a total allotment of P135,000 for several years for the maintenance of Kayangan Lake and other white beaches and tourist spots. In 1992, Ordinance 6-A, provided for P70,000; 1989, Ordinance No. 6, P12,100; 1988, P35,000; 1985, Ordinance No. 16, S-85, P5,000; 1983, Ordinance No. 31, S-83, P3,000; 1980, Ordinance No. 1, P10,000; 1978, Ordinance No. 4, S-78, P7,000; 1977 municipal annual budget from January to December was P5,000.³⁰

As mentioned by *Punong Barangay*³¹ Rogildo Aguilar and *Barangay Kagawad*³² Herminia Aguilar of Banuang Daan, their barangay did not benefit from the income of Kayangan Lake and other eco-tourism sites within Coron Island.³³ They believe that there is mismanagement of the Kayangan Lake project. The barangay officials have expressed a desire to enact a resolution not to allow or permit TFCI to implement any further projects in Banuang Daan.

Though the FPIC process is being practiced by the IP's/ICC's of Coron Island, the same is not sometimes recognized and respected by other local government officials and private individuals,

³⁰ Validation Report: Ancestral Domain Claim of the Indigenous Cultural Community of Barangay Cabugao and Banuang Daan, Coron Island, Coron, Palawan. In National Commission on Indigenous Peoples, ADO Report on the Conversion of R4-CADC 134 into CADT of Tagbanua Tribes in Coron, Province of Palawan with an Area of 24,256.76 Hectares

³¹ Village Chief

³² Village Councilor

³³ The benefit mentioned is the tangible entity and/or their share in terms of cash.

hence continuous information dissemination by the National Commission for Indigenous Peoples is significant.

Addressing the internal conflict will require organized efforts and resources but these have to be started.

V. Analysis and Recommendations

The study on the application of Free and Prior Informed Consent among the Tagbanuas of Coron Island provides a concrete example of how a paternalistic social structure has tried and continues to cope with external challenges to preserve their way of life. The study described an IP community's search for collective maturity in confronting present day realities that challenge their age-old methods of interacting amongst each other and towards outsiders.

From the moment that the Tagbanuas of Coron Island realized the need to secure their Certificate of Ancestral Domain Claim, the community began an arduous journey where it had to learn to deal with the outside world. Their initial success in securing the CADC was put to a test as they struggled to prove their capacity to exercise responsibility over their ancestral domain in exchange for government recognition and acceptance of their rights.

The case of Coron Island shows that participation is a key issue for indigenous peoples as their history has been one of exclusion from decision making in development activities and from governance bodies. Community involvement or participation is an obligation in the FPIC process in order to ensure unity among the indigenous peoples in employing their rights.

The study demonstrates that the Free and Prior Informed Consent, as a tool for governance, delivered positive benefits to the community on one hand but also posed difficult challenges to the unity of the IP community.

The FPIC has allowed the Tagbanuas of Coron to strengthen their legal rights to their ancestral domain. Their awareness of their own rights as a community has reached a point where the exploitation by outsiders that used to happen in the past had been controlled. No longer is there a threat of outsiders being able to force them out of their own land, a fate that has befallen many indigenous communities in the past and even at present in other parts of the country.

The FPIC has empowered the Tagbanuas of Coron even to a point where it was able to challenge traditional government systems centered on formal political structures and decision making processes. The municipal government of Coron for its part found itself coping with an empowered community and ended up not being able to impose its own plans on how, for instance, Kayangan Lake should be tapped for tourism purposes.

The FPIC also provided benefits to the Tagbanuas by protecting the swiftlet population and habitats, coral reefs and sanctuaries, which are the lifeblood of their economic activities and cultural heritage.

While the realization of the CADT and the FPIC implementation has become a milestone in the struggle of the indigenous peoples of Coron Island, the significance of a very strong community organization and leaders is essential in the process.

There is need for more in-depth discussions and dialogues among the indigenous peoples and between the TFCI to resolve organizational conflicts as well as with the government, intergovernmental bodies and the broader society to develop further perspectives on the development of indigenous peoples. The recognition of the indigenous peoples' claims for individual and collective rights, is crucial for a just and sustainable solution to the need for equity.

Building the capacity of the communities requires effort, but it will also generate greater benefits. Training indigenous peoples on their rights increases their awareness of their claims and enhances their participation in policy and political processes as well as strengthen the managerial capacity of the indigenous peoples.

The government should develop and adopt policies that will increase the share of the IP communities from the extraction of their natural resources. Efficient awareness activities or trainings on indigenous peoples' rights should be undertaken for the local government units, government agencies, other civil servants and transient populace. Moreover, there is a need to document the accomplishments and or failures of the IPs on its approaches and methods on the perspective of the FPIC.

Support should be provided for the elaboration of a guidebook on FPIC. Governments especially the local government units and other government agencies should definitely contribute to the ongoing process of discussing and defining indigenous peoples' rights and implement existing instruments for the recognition of such rights.

Indigenous peoples' organizations should be supported so that they have sufficient funding and capacity to monitor the FPIC implementation and to ensure their participation.

While there is IPRA, much more needs to be done to have it implemented appropriately. The present efforts to weaken the rules and procedures on FPIC in the national level should be stopped. A continuing major concern is the manner by which provincial and local officials and national agencies have pursued or promoted major development projects, such as commercial mining, in areas being claimed as ancestral domains in Palawan. While most officials have assisted development project proponents in securing clearances from the barangay, municipal and provincial officials, they have ignored or excluded the indigenous peoples in the process. Consultations are done only when complaints have been raised by the communities. One reason for this is the ignorance or lack of knowledge of many local officials on the IPRA law, particularly, the Certification Precondition and FPIC requirements. Another concern is the involvement of some NCIP personnel in securing the approval/consent of indigenous communities with regard to commercial mining projects.

Currently, NCIP has drafted new guidelines on FPIC which seeks to shorten the period of time for the conduct of the FPIC. IP communities and advocates have criticized the proposed

guidelines in that it, among others, ignored the accessibility and information constraints obtaining in IP communities. Advocates also argue that imposing an unrealistic time limit on the FPIC process provides project proponents with legal basis to put undue pressure on the IPs to speed up the process. This ultimately strengthens the already dominant position of the proponents and further weakens and marginalizes the IPs' position. The draft guidelines likewise provide for the simultaneous conduct of the EIA and FPIC processes and the removal of certain safeguards, such as the posting of a performance bond to answer for consequential damages to the community.

In general, the development of Coron Island in having a CADT and the realization of FPIC has become a model of IP empowerment in Palawan where they have gained decision making authority over access and use of their land and resources. This can help serve as a management model for guidance to other Tagbanua communities in the Calamianes region.

The study proposes the following courses of action to strengthen the FPIC as a tool for governance in the context of indigenous peoples.

- a) The development and introduction of a more deliberate conflict resolution mechanism in the community integral to the FPIC process.

The experience of Banuang Daan, where it has come to a point that its own set of community leaders have, out of dissatisfaction over perceived inequity, considered breaking away from the organization, gives insight as to how empowerment at the grassroots may challenge its own unity. It would seem from the experience of the Tagbanuas of Coron that a more deliberate information dissemination is needed to allow everyone to fully understand their current situation and effectively participate in decision-making.

- b) Conduct of an intensified awareness efforts targeting the local government units and other non-IP stakeholders

The experience of the Tagbanuas of Coron in securing recognition over their ancestral domain has been characterized by adversarial struggles with the LGU and even with the private sector, the latter being less supportive or apathetic to the Tagbanuas' objectives. While the CADC and CADT instruments empower the communities to protect their culture and contribute to overall national growth, there are, as in the case of Coron, prevailing misconceptions over the value of such policies. These awareness sessions can even highlight, for instance, the value of building a partnership between the LGU, IPs and other stakeholders in addressing the rampant illegal fishing activities in the Coron.

- c) Strengthen the local capacity of the community in meeting the rigorous requirements and responsibilities attendant to the grant of CADC/CADT

The CADC/CADT systems require technical capacity and organizational and managerial skills on the part of the community to be able to deliver on the responsibilities imposed on them by law. In the case of Coron Island, the seeming weakness in the capacity of leaders and groups

tasked with specific responsibilities has caused conflict within the community and at times had developed into deep internal struggles.

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APPENDICES

Appendix I. List of Tagbanua Foundation of Coron Island Officers

TFCI Officials (Overall)

Chairman: Rodolfo Aguilar
Vice-Chairman: Gonzalo Abella
Secretary: Renato Dacullios
Treasurer: Jaime Aguilar

Board Members

1. Toledo Abella
2. Roy Abella
3. Benjamin Aguilar
4. Lumbrino Victorino
5. Teodoro Dacullios
6. Norlito Languyod

Appendix II. Code of Ethics in Kayangan Lake

CODE OF ETHICS

PAUNAWA	NOTICE
Ang Lawa ng Kayangan ay kinikilalang sagradong pook.	Kayangan Lake is recognized as a sacred place.

<ol style="list-style-type: none"> 1. Panatilihin at igalang ang mga paniniwalang cultural ng mga Tagbanua at mga likas na anyo ng pook. 2. Maaaring manatili sa pook mula ika-8 ng umaga hanggang ika-4 ng hapon batay sa pamumuhay at paniniwalang cultural. 3. Walang anumang kukunin maliban sa larawan, walang anumang iiwanan maliban sa bakas, walang anumang papatayin maliban sa oras, walang anumang itago kundi alaala <p>Ito ay proyekto ng Tagbanua Foundation of Coron Island (TFCI).</p>	<ol style="list-style-type: none"> 1. Maintain and respect the cultural beliefs of the Tagbanuas and the natural features of the place. 2. Presence in the place is allowed from 8 am until 4 pm based on cultural lifestyle and belief of the Tagbanua. 3. Take nothing but pictures. Leave nothing but footprints. Kill nothing but time. Keep nothing but memories. <p>This is a project of the Tagbanua Foundation of Coron Island (TFCI).</p>
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