



**LAND DISPUTES IN CONFLICT AFFECTED AREAS OF MINDANAO:  
REPORT OF THE JOINT WORLD BANK – INTERNATIONAL ORGANIZATION  
FOR MIGRATION SCOPING MISSION**

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## Acronyms and Abbreviations

A&D	Alienable & Disposable
AD	Ancestral Domain
ARB	Agrarian Reform Beneficiaries
ARMM	Autonomous Region in Muslim Mindanao
ASG	Abu Sayyaf Group
AusAID	Australian Agency for International Development
CAA	Conflict Affected Areas
CADC	Certificate of Ancestral Domain Claim
CADT	Certificate of Ancestral Domain Title
CARP	Comprehensive Agrarian Reform Program
CBFMA	Community Based Forest Management Agreement
CLOA	Certificate of Land Ownership Award
CPP-NPA	Communist Party of the Philippines – New People’s Army
CSO	Civil Society Organization
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
DOJ	Department of Justice
FAB	Framework Agreement on the Bangsamoro
FASTRAC	Facility for Advisory Support for Transition Capacities
FMB	Forest Management Bureau
GPH	Government of the Philippines
IFMA	Integrated Forest Management Agreement
IOM	International Organization for Migration
IP	Indigenous Peoples
IPRA	Indigenous Peoples Rights Act
LAA	Land Administration Authority
LAB	Land Adjudication Board
LAMP	Land Administration and Management Project
LARA	Land Administration Reform Act
LGU	Local Government Unit
LMB	Land Management Bureau
LRA	Land Registration Authority
MCMS	Mindanao Conflict Monitoring System
MILF	Moro Islamic Liberation Front
MNLF	Moro National Liberation Front
NCIP	National Commission on Indigenous People
NEDA	National Economic and Development Authority
NGO	Non-Governmental Organization
NLUC	National Land Use Commission
OPAPP	Office of the Presidential Adviser on the Peace Process
OSCC	Office of Southern Cultural Communities
PENRO	Provincial Environment and Natural Resources Office
ROD	Register of Deeds
TAF	The Asia Foundation
TC	Transition Commission
UN	United Nations
VOS	Voluntary Offer to Sell
WFP	World Food Program

## Executive Summary

Recognizing that conflict over land is one of the major drivers of conflict in Mindanao, and in the context of the Framework Agreement on the Bangsamoro (FAB), the International Organization for Migration (IOM) and the World Bank undertook a joint scoping mission on land disputes in conflicted affected areas of Mindanao from March 4 – 15, 2013. The objective of the mission was to gather basic information on the nature of land ownership and usage and the state of land conflict management in order to identify options, if any, for supporting more effective resolution of land conflict in support of peace and stability.

The mission team found that the signing of the FAB has created new dynamics in the region. On the one hand displaced populations are expressing a desire to return to land from which they had been forcibly displaced, sometimes decades ago. On the other, landowners are beginning to reclaim their lands from “squatting” displaced populations. The ensuing movement of people could bring latent claims to the fore in the absence of an effective institutional framework to deal with arising tensions. In addition, various stakeholders are positioning themselves based on their expectations of how the land related provisions of the FAB would be implemented, creating further tensions amongst neighboring communities. It is clear that a significant proportion of both the active and latent competing land claims have a considerable potential to trigger renewed violence and forced displacement.

In this volatile and complicated environment, the FAB has also created an opening to begin addressing the issues of land management and conflict resolution. However, the typology of competing land claims varies considerably both across and within communities. Low-level **land disputes**, mostly related to inheritance and small-scale border disputes between neighbors, with no broader political connotation can usually be dealt with under current legislation and dispute resolution mechanisms. If left unresolved, these disputes have the potential to escalate into more volatile land disputes. This points to the need to strengthen the institutions currently involved in dispute resolution to quickly address the outstanding caseload. The prevalence of unresolved land claims, often dating to several decades, are testament to the enduring nature of land related disputes and that past policies were often not effectively grounded in the local context.

**Land conflicts**, meanwhile, are competing claims over land that are closely intertwined with broader inter-community struggles or disagreements; have a wide political significance or connotation; are intractable; fall far outside existing legal frameworks; or reflect competing interest of such breadth and depth that they cannot easily be resolved through the existing dispute resolution mechanisms. Even within these land conflicts, the mission identified an extensive range of typologies including:

- Land conflicts opposing Moro and Christian parties related to past forced displacement
- Conflicts pitching IP parties against Moro or Christian parties relating to a primacy of rights
- Inter-clan and community based *rido* related to competing land claims
- Land disputes where the parties have sought support from respective political power bases leading to a vertical conflict pitching the Armed Forces of the Philippines (AFP) against armed groups such as the MILF or MNLF
- Competing claims between public institutions and private parties.

The variety in nature of land conflicts will need to be considered carefully both in terms of the substantive and procedural aspects of an eventual policy framework to address them. It cautions against a rigid “one size fits all” framework unable to adequately adapt to local circumstances. Any response will need to take into account the varying degree of socio-economic inequality between

the parties; the method of past land dispossession, including the perceived and real acquiescence of relevant authorities, fraudulent land titling, involuntary sales or sales under duress, de-facto acquisition through physical occupation, and acquisition through diversion of land reform policies; and the intentions of the parties and remedies they seek, whether it is occupation and use of the land or compensation for the loss suffered.

Addressing land conflict is made more complicated by the existing institutional limitations of land management and land dispute resolution mechanisms. There are five government line agencies involved in issuing and managing titles. Vested interests across these agencies have stalled previous reform efforts. At the same time, a lack of coordination has increased the prevalence of conflict through the issuance of multiple title instruments on individual plots of land, in the process reducing the legitimacy of existing titles.

In addition, poor document management, as well as the cycle of conflict, has led to the loss or destruction of many land records. A national cadastral survey project currently under way will document cases of multiple titles, but will not identify competing claims without documentary supporting evidence. Adopting a conflict-sensitive approach to the cadastral survey is imperative, as the mere act of documenting claims will raise concerns about the potential for disenfranchisement. A pervasive lack of trust in the government authorities responsible for land management may lead some parties to revert to violence or fraud as a means of protecting their real or perceived rights. This points to the need for increased data collection on both existing and latent land disputes where the parties do not necessarily have documentary support for their claim to fully inform policy makers on the scale of the problem. It also highlights the importance of open and regular communication to communities on the purpose of cadastral surveying and the need for strong community engagement in the process.

In resolving competing land claims, the mission found that Moro and IP communities tend to favor traditional judicial mechanisms through mediation by councils of elders. While barangay officials confirmed that land conflicts are regularly referred to the *Katarungang Pambarangay*, or Barangay Justice System, it appears that few of those left unresolved following mediation are referred to the courts. This is mainly due high court filing costs and lawyer fees, and the view that the courts are slow and ineffective, sometimes taking several years or even decades. Execution of court decisions can also be problematic in areas where the state has either little presence and/or minimal legitimacy.

A number of ongoing initiatives to resolve land conflicts through mediation and strengthening community ties are showing promising results. Considering non-formal judicial mechanisms as a primary tool for land dispute resolution should therefore be emphasized in any attempt to more systematically address land conflict in Mindanao. The existing initiatives are small scale, however. A dedicated institution to mediate land conflicts may be necessary to more robustly tackle what is a pervasive problem.

While it remains unclear where land management powers will lie until the signing of a comprehensive agreement between the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF), a number of initiatives can and should be undertaken now lay the groundwork for the policy and institutional reforms that will be necessary to assist the parties to deliver on the land-related provisions of the FAB. The mission team found that there is broad consensus among stakeholders (on both government and non-government sides) that there should be more effective and integrated mechanisms to resolve land disputes/conflicts and that this is

crucial for a durable peace. The signing of a comprehensive peace agreement will increase the space already created by the FAB to engage in supporting land management reform for a prosperous Bangsamoro.

The report proceeds with a presentation of the background and objectives of the mission before discussing the findings in detail and elaborating next steps and recommendations.

## A. Background

1. **The just and efficient resolution of land conflict is central to sustainable peace and security in Mindanao.** While the October 2012 Framework Agreement on the Bangsamoro represents the best recent opportunity for peace, much of the violence in Mindanao is not related to state-minority contestation (GPH vs. MILF) but to other forms of conflict, principally competing claims over land.

2. **The Framework Agreement on the Bangsamoro (FAB) makes a number of concrete commitments with respect to land dispute management.** Section VI (2) states that “vested property rights shall be recognized and respected” while acknowledging at the same time the rights of those who were subjected to “unjust dispossession” in the past. Where the rights of those unjustly dispossessed can no longer be restored, the FAB commits the GPH and the Bangsamoro to “take effective measures for adequate reparation.” The FAB further recognizes that “Indigenous Peoples’ (IP) rights shall be respected.” Implementing these important statements of principle will require policy and institutional action and associated technical support.

3. **Responding to a direct request from Secretary Deles, Presidential Adviser on the Peace Process, and to support the aim of the FAB to provide an acceptable solution to problems associated with competing land claims in the Bangsamoro, the World Bank and the International Organization of Migration (IOM) fielded a joint scoping mission to investigate the issue.**<sup>1</sup> Following a comprehensive literature review and consultations with government line agencies in Manila, a team led by Peter Van Der Auweraert of IOM and Fermin Adriano of the Bank,<sup>2</sup> visited selected areas in Mindanao<sup>3</sup> between March 4 and 15, 2013 and conducted interviews with officials of national and local government agencies involved in land titling as well as key stakeholders and informants directly affected by competing land claims.<sup>4</sup>

## B. Objectives

4. The aim of the mission was “to gather basic information on the nature of land ownership and usage and the state of land conflict management”. Specific objectives were:

- Develop a basic typology of land conflicts in the target geographic areas;
- Identify the extent of availability of data that inventorizes land ownership and usage. If there are gaps, explore the technical, social and political feasibility of supporting an inventorization in the target areas;

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<sup>1</sup> See Terms of Reference in Annex A

<sup>2</sup> Other members of the team included Maria Ena Olmedo, Brian Kelly, Aldan Agom and Conrado Navidad from IOM; and Nick Leffler, Prudencio Gordoncillo and Sarah Radam from the World Bank. Matt Stephens participated in meetings in Manila. The World Bank team was funded through the State and Peace-Building Fund.

<sup>3</sup> The TOR specifically identified the areas to be visited: “the Autonomous Region in Muslim Mindanao (ARMM) and a selection of hot spots in and around ARMM in Central Mindanao where so-called “tri-peoples” (Muslims, Indigenous Peoples and Christian settlers) co-exist and land conflicts are high profile and damaging.” The team visited the provinces of Maguindanao, North Cotabato, Lanao del Norte, Lanao del Sur and the Zamboanga Peninsula. In addition, representatives from the provinces of Basilan and Sulu were consulted with in Zamboanga City.

<sup>4</sup> Refer to Annex B for the places and institutions visited and people consulted and interviewed. The team wishes to thank the invaluable assistance of the following institutions and individuals for arranging meetings and facilitating the team’s field visits: Dr. Samson Molao and the Cotabato Foundation College of Science and Technology; Farida Mangcaan and Community and Family Service International; Jainab Abdulmajid; and Teresa Fabugais and the Ateneo de Zamboanga Center for Leadership and Governance.



- Conduct a simple institutional assessment reviewing the range of institutions involved in land management and conflict management. This would include identification of local level solutions offered to address land conflict;
- Review and document existing initiatives on the part of government, civil society and development agencies to support land conflict resolution;
- Assess the appetite among key stakeholders for reform and major initiatives to address land conflict;
- Explore at a very preliminary level openings and ideas for reform; and
- Identify future analytical work required to advance this agenda, should the mission determine value in doing so.

As a scoping mission, the intention was to utilize the deeper understanding gained through this study to identify future work and possible options to promote more effective land management and conflict resolution.

Following a general observations/key messages section, the remainder of the report is structured in line with the Terms of Reference.

## C. Findings

### C. 1. General Observations

5. In addition to the detailed information obtained and analysis of specific cases conducted during the mission, consultations were held with key stakeholders that yielded a number of general observations regarding land issues in Mindanao:

- **The signing of the FAB is creating new dynamics that are bringing latent land claims to the fore.** In the absence of an effective legal framework or institution to resolve them, new tensions are arising within and between communities. In response to the FAB, populations displaced from their land in the past are now expressing a desire to return. Conversely, the prospect of greater security is encouraging landowners, to further invest in their lands. Subsequently, they are beginning to demand that “squatters” – typically displaced populations – vacate their property and return to their areas of origin. An increased number of “latent” competing land claims are therefore becoming “actual” land disputes or conflicts which, if not addressed soon, may undermine the on-going peace-making efforts.
- **Uncertainty about how the FAB provisions on land claims will be applied further adds to a fluid situation in which the number of competing land claims is likely to increase in the coming period.** The provisions are naturally very general and their impact on specific cases therefore remains unpredictable pending deeper elaboration by the Transition Commission (TC). This vacuum is encouraging some stakeholders to move and position themselves based upon their expectation of how the FAB will be implemented. This is changing the status quo and, if not addressed, may give rise to a whole new set of competing land claims.
- **A significant proportion of both active and latent competing land claims have potential to trigger renewed violence and/or forced displacement.** The scoping mission adds further weight to the widely held view that competing land claims are

amongst the root causes of violence in Mindanao.<sup>5</sup> Land issues have the potential to become very political and to erupt from small-scale boundary disputes to major conflict involving the Armed Forces and non-state armed groups. One consequence is that stakeholders may react in unexpected ways to interventions considered purely technical and non-conflict related by policymakers, such as the collection of data on land tenure in the context of the nation-wide cadastral survey.

- **A considerable proportion of competing land claims are related to historical grievances that have never been adequately addressed.** While the FAB clauses on land provide an opportunity to address past injustices, the current situation also serves as a warning sign that, unless all communities living in Mindanao see implementation of these provisions as generally equitable and fair, new grievances will emerge and undermine future peace and stability. The fact that many of the issues that interlocutors complain about today happened decades ago is testament both to the resilience of land-related grievances and the inability of existing mechanisms to effectively address them.
- **Other competing land claims are the direct consequence of contradictory decisions on land tenure or land use taken by authorities with overlapping land management mandates and roles.** There are five government agencies involved in issuing and managing titles. The adverse effects of this complicated land management structure are further aggravated by a frequent lack of coordination and communication between the authorities and institutions involved. The complicated rules and procedures also disadvantage the poor and most vulnerable amongst the population who frequently lose out due to their lack of understanding and access to the procedures intended to protect their rights.
- **The prevalence of unresolved land claims demonstrates that past policies were often not effectively grounded in local context.** The mission found that disputes over land were to a great extent driven by land reform policies that failed to take into account the local political economy and hence became subverted from their original objectives. Irregularities in the titling and registration of land have also been a major contributing factor.
- **While general patterns of competing land claims can be discerned across Mindanao, the situation and dynamics tend to differ quite significantly from community to community.** This cautions against relying too strongly on a "one size fits all" approach, in favor of local solutions, developed by and with the local actors themselves. Given the high sensitivity of land issues and the interests at stake, it would, in any case, be very difficult to enforce measures that do not have the buy-in of at least a solid majority of (and within) the different stakeholders. Local participation in the development of solutions – based on a clear set of principles and policy parameters – is hence indispensable for achieving results in this respect.
- **Land management institutions struggle with limited capacity and appear all too often open to elite capture and insufficiently resourced to withstand the politicization of land conflicts.** Whatever support is extended over the short-medium term, limited land management capacity will remain a reality and therefore needs to be taken as given in the development of future policies, including the Bangsamoro Basic Law subject to the final agreement on power sharing between the GPH and MILF.

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<sup>5</sup> Refer to World Bank and World Food Program (2011) "Violent Conflicts and Displacement in Central Mindanao" and the earlier Asia Foundation study on rido: Torres, Wilfredo M. (ed.). 2007. *Rido: Clan Feuding and Conflict Management in Mindanao*. Makati City: The Asia Foundation (Philippines).

- **To deliver on the land related commitments in the Framework Agreement on the Bangsamoro, the GPH and MILF will need to ensure broad buy-in, including at the local level, of the measures they propose and to entrust implementation and enforcement to one or more institutions that are, and are seen as, fair and impartial.** Without those two conditions being fulfilled, the FAB implementation measures are likely to remain dead letter law only or, worse, become the source of a new set of grievances and conflict.
- **Mistrust between different communities and minimal trust in the state will render the implementation of solutions more complicated.** The scoping mission found stakeholders repeatedly expressing a lack of trust in members of other communities and/or particular authorities or institutions. This situation further reinforces the need to ensure adequate participation in policymaking around land and also points towards the need for trust building efforts to accompany any technical land solutions. This would be consistent with the World Development Report 2011 key message that restoring confidence in collective action will be crucial to making any progress on the resolution of competing land claims. Thus, land policy, the substance of the new basic law, and any major institutional reform will require support and buy-in from all stakeholders with the power and influence to either make or break efforts to enhance land dispute management in conflict-affected areas of Mindanao.

## C. 2. Findings on Competing and Overlapping Land Claims

6. The scoping mission found a wide variety of pending and unresolved competing and overlapping land claims. Broadly, and without prejudice to the fact that local dynamics around land and competing land claims vary considerably, the following typologies can be discerned:

- **“Ordinary” Land disputes** are best understood as competing claims to rights by two or more parties (private or public) on a particular piece of land that do not have a broader political connotation and/or potential for creating inter-community tensions. These can be addressed under current law and through existing land dispute resolution mechanisms. Most of these are low-level disputes between heirs or “ordinary” border disputes amongst neighbors. Others are a result of overlapping mandates and lack of coordination between agencies involved in issuing title instruments such that a single piece of land may be covered by multiple titles.

In isolation, these land disputes should not be a cause of concern to the extent that existing land dispute resolution mechanisms can produce outcomes that the parties involved accept as binding and legitimate. However, in the areas visited, land is so intensely political an issue that many “ordinary land disputes” have the potential to turn into land conflicts, given the “right” set of circumstances. This risk is further heightened due to the observed shortcomings and limitations of both the existing land dispute resolution mechanisms and the current land management institutions. In that sense land disputes should also be considered in any future data collection or policy development effort, as they may become part of the caseload that the post-conflict settlement will need to deal with.

- **Land conflicts** are competing claims over land that are so closely intertwined with broader inter-community struggles or disagreements; have such a wide political significance or connotation; are so intractable; fall so far outside existing legal frameworks; and/or reflect competing interest of such a breadth and depth that they cannot easily be resolved through the formal and informal dispute resolution mechanisms existing in Mindanao today. They

hence require concerted and focused interventions at both the policy and institutional level within the frame of the ongoing peace-building efforts in Mindanao.

Complicating the eventual policy response is the broad variety of types of land conflict that exist in the areas covered by the scoping mission and the amount of time that has passed since the alleged loss of land complained of today. Different criteria can be used to categorize these land conflicts including: the nature of the parties involved (ethnicity, private/public); the different time period and historical events to which the competing land claims relate; the manner in which the land was taken from legitimate title holders in the past; the legal frameworks upon which the conflict parties rely as the source of their legal position; the type of remedies sought by the parties to the conflict (land restitution, compensation, land rights confirmation, etc.); and the type of land involved in the conflict, including its current and future (desired) use.

**Box 1: Private Armies Supporting Land Claims  
Full-blown Conflict over Land in Sulu**

Across Mindanao, Sultans have traditionally rewarded loyal supporters by granting them parcels of land. In 1941, the Sultan of Sulu assigned a 733 ha property to a family who was subsequently able to obtain a title during the American colonial period. In the 1970s, as a result of the GPH-MNLF war, the family was forced to vacate their land. Upon returning, following the 1996 peace agreement, the owners found that approximately 30 Moro families were occupying their property.

Despite the family proving they were the rightful owners, the squatters refused to vacate the land. They were emboldened by a neighboring landowner who claimed the land as his own and supported the occupation by the squatters under a sharing agreement. The proliferation of weapons on the island of Sulu, as well as its remoteness, allowed the two sides to rapidly arm and a violent conflict ensued claiming in excess of 30 lives.

The Government, fearing militant groups would join the conflict and draw in the armed forces, positioned a squad of marines in between the opposing parties to prevent a full-scale attack from either side.

The original owner of the land has indicated their willingness to assign small residential plots to the squatting families in exchange for the return of their remaining land but the offer was refused. As a result, family members are arming their supporters to combat the squatters. This includes using their position as a teacher to incur loans from government financial institutions and local cooperatives to finance the purchase of automatic rifles, grenade launchers and mortars. They remain confident they will prevail in reclaiming their lands as they have the legal titles and *“possess the superior force.”*

Most interlocutors framed the land conflicts they were involved in or knew of in terms of the nature of the parties involved, especially in relation to conflicts involving parties from different communities. Using this as a criterion to categorize the land conflicts prevalent in the area covered by the scoping mission, the following distinct scenarios can be discerned:

- *Land conflicts opposing Moro and Christian parties:* a very common phenomenon in the areas covered by the scoping mission are competing land claims that are on their face ordinary land disputes pitching two private parties against each other but that are, in fact, land conflicts, because they form part of a larger set of tensions and grievances between Moro and Christian populations in Mindanao and hence cannot be resolved in isolation. Frequently, such conflicts are directly related to past forced displacement following targeted or generalized inter-community violence in the affected location. A large proportion of the competing land claims originated in the

1970s, although interlocutors also cited more recent events as having caused loss of land.

- *Land conflicts opposing IP parties on the one side and Moro and/or Christian parties on the other side:* similarly, this type of land conflict involves competing claims that relate to broader, historical claims about primacy of rights. This type of land conflict can be very complex, involving multiple parties including an IP community, local authorities, and both Moro and Christian parties claiming a legal right, often supported by some form of official documentation (title, tax receipt, ...) to the land in question. IP leaders frequently complained that many of those conflicts could be resolved through the proper implementation of ancestral domain and land provisions in the 1987 Constitution and the Indigenous People Rights Act (IPRA) of 1997.
- *Land conflicts involving parties that belong to the same community:* many instances of inter-clan and community based *rido* are directly related to competing claims to land. While these conflicts are not directly related to broader power sharing and self-determination claims, they can have similar consequences as those between parties from different communities, including considerable levels of violence and forced displacement in the affected localities.
- *Land conflicts involving only private parties:* a proportion of the land conflicts observed by the scoping mission involves only private actors as the direct conflict parties. In some cases, however, these private parties seek support from political or armed actors including the Armed Forces of the Philippines, the MILF and the MNLF escalating disputes into a volatile vertical conflict.
- *Land conflicts involving both private and public parties:* some land conflicts oppose local authorities and institutions and private parties. Not infrequently such conflicts have to do with multiple authorities issuing different land titles for the same piece of land or with authorities in charge of designated land use zones failing to implement policies in accordance with their stated objectives, such as by allowing and supporting local elite capture of policies intended to support the poor.

**Box 2: Displacement and Return  
Tri-peoples' conflict over land in South Upi**

Until the 1960s, the Teduray IP community in South Upi held land under communal ownership. Christian settlement in Mindanao during the 50s and 60s drove Moro farmers from lowland areas into these IP areas. Taking advantage of the tradition of communal ownership, many Moro families were able to obtain titles to the IP lands they had settled. In the early 1970s, Teduray tribesmen allied themselves with the Ilaga Christian militia to drive Moros off their lands. As a result of the increasing violence between these Christian militias and the newly formed Moro National Liberation Front (MNLF) many Moro families were displaced. Teduray and Christian families resettled the lands and some obtained property titles.

With the signing of the peace agreement between the MNLF and Government in 1996, a first wave of Moro families started to return and reclaim the lands to which they held titles. The recent signing of the FAB has also led to an increase in returns. The Teduray IP community, however, does not recognize the property titles obtained by the Moros in the 1960s. In some cases, Christian occupants of the lands vacated by Moros have obtained a competing title to that of the Moro family.

A tense standoff is emerging that could pitch IPs and Christians against Moros. Anecdotal evidence obtained in an interview with a Teduray/Christian family suggests they are forming new militias to resist the returning Moros in their claims to what they consider their ancestral land.

While the nature of the parties involved will be important to consider in terms of both the substantive and procedural aspects of the eventual policy framework to address the land conflicts, there are a number of other land conflict variables and characteristics that the scoping mission observed and that need to be taken into account in future policymaking. They include:

- *The varying degrees of socio-economic inequality between the parties to land conflicts in Mindanao:* while further empirical research is needed to accurately quantify the difference in socio-economic status between parties involved in land conflict, the scoping mission found that it tends to be relatively high. This appears to be connected to a history of forced displacement, lawlessness, and land grabbing staged and manipulated by local elites with, as their prime victims, the local poor.

Competing land claims between parties that are highly unequal in terms of knowledge, ability and resources to file and sustain a claim raises a number of particular challenges for policymakers trying to ensure fair and equitable outcomes for land conflict resolution. Their apparent frequency in the areas covered by the scoping mission points towards the need for specific measures to support and protect weaker parties.

- *The method of past land dispossession that has given rise to the competing land claim today:* throughout the consultations, the scoping mission encountered a wide variety of methods of land dispossession. The most common of these include:
  - Titling by occupiers with the acquiescence or collaboration of the relevant authorities following the forced displacement of earlier claimants. For example, North Cotabato saw the displacement of many Moros and IPs from their lands in the 1970s and the subsequent titling of those same lands by Christian settlers. The latter now have documents to support their claims while the former (or their heirs) often have no legal papers to provide evidence of their earlier rights. This type of dispossession is usually related to the history of conflict in Mindanao.

- Local elite actors titling land that, in fact, belonged to poor people who did not know or understand the relevance or need for the registration of their land title or who did not have the information or means to access the land titling process. This appears to have been a common occurrence in the past decades within and across communities – and hence not directly related to the conflict - and leaves the victims and their heirs without legal documents regarding their rights to the land. The scoping mission was told it is not uncommon for those who titled the land never to use or live on it.
- Land acquisition through fraud other than fraudulent titling: the scoping mission encountered instances where original rental agreements concluded during periods of conflict had subsequently been fraudulently altered into full sale agreements or where temporary transfers of property to help right holders with paying off debts or loans were changed by the beneficiaries into permanent sales.
- Acquisition of land through involuntary sales or sales under duress: typical scenarios here include families who either were about to be displaced or had already been displaced selling the land or people living in “mixed community” areas selling land to move to areas where they felt more secure. Heirs, particularly of families who sold due to forced displacement, now want the land back and claim that those sales were made well below the marked value at the time. Where sales contracts exist they tend to be contested and often there is no record of the transaction.
- De facto acquisition of land through physical occupation of the land: In some cases, families settled on land they thought did not belong to anyone and developed a real and working informal land tenure system until their land became contested. In other cases, families knew the land belonged to someone else but nevertheless settled on it with the hope and objective of eventually achieving secure tenure.
- Land acquisition through the manipulation and diversion of land policies away from their intended objectives: Elite capture of government policies intended to serve the public good or address inequality of land ownership (such as CARP), usually to the detriment of the poor or the politically less powerful, appears relatively common in certain parts of Mindanao.
- *The intentions of the parties involved in the land conflict and the remedies they seek to achieve these.* The scoping mission found that there are multiple configurations possible that would require additional research to fully identify and categorize. The two basic scenarios, which each require a different approach to resolve, are:
  - The conflict parties all want to use or reside on the land in question: this is the case, for example, when a member of the Moro community displaced in the 1970s now wants to return to his or her land, while the Christian family living on it today does not want to move. Another example encountered is of squatters occupying the land of an agricultural education institution that wants to use the land granted to it by presidential decree for income generating purposes.
  - Some conflict parties want to be compensated, while the other side in the conflict wants to continue to use or reside on the disputed land. This is the

scenario, for example, of heirs of a member of the Moro community who was displaced in the 1970s but grew up elsewhere and now do not want to return to the place their elder had to leave. Rather, they seek recognition of the past injustice and compensation for the loss their family sustained, while the family currently on the land does not want to move anywhere else.

The existence of multiple variables and the ensuing complexity of the land conflicts that are present in the areas covered by the scoping mission, point towards the need to ensure that any policy to address land issues and implement the FAB land provisions is carefully tailored and adequately flexible to deal with a wide variety of situations. It also brought to the fore the need to carry out additional mapping to get a better sense of the relative magnitude of the different types of land conflicts that are around and to further unpack the nature of land conflicts in Mindanao.

- **Political (municipal / barangay)** boundary disputes, though they also constitute land conflicts, are sufficiently different in nature to merit a separate mention. As seen in Table 1 below, this type of dispute is fairly common in the areas covered by the scoping mission, and further contribute to the overall complexity of land and property relations in Mindanao as such disputes also affect those living in the disputed zones.



**Table 1: Areas Visited and Typology of Land Conflict**

Province / Municipality Visited	Dominant Ethnic Groups	Typology of Land Disputes / Conflicts	Background on Land Disputes / Conflicts
<b>North Cotabato:</b> <ul style="list-style-type: none"> <li>• Aleosan Municipality</li> <li>• Arakan Municipality</li> <li>• Carmen Municipality</li> <li>• Kabacan Municipality</li> <li>• Kidapawan City</li> <li>• Pikit Municipality</li> </ul>	<ul style="list-style-type: none"> <li>• Ilonggo (Christian)</li> <li>• Maguindanaon (Moro)</li> <li>• Manobo (IP)</li> <li>• Tinananon (IP)</li> </ul>	<ul style="list-style-type: none"> <li>• Lands claimed by Moros and IPs titled by Christian settlers</li> <li>• Political boundary disputes between border municipalities of North Cotabato and ARMM province of Maguindanao</li> </ul>	<p>Many Moro and IP communities were displaced from their lands in the 70s as a result of violent conflict between Moro National Liberation Front (MNLF) and GPH. The Ilaga Christian militia was also prominently active in the area with the stated objective of driving Moros from their lands. As a result, large areas of land claimed by Moro and IP families have been occupied and titled by Christian settlers. Investments on the land, including the planting of rubber and palm oil, have raised the value of lands triggering an increase in competing claims. Specific disputes include:</p> <ul style="list-style-type: none"> <li>• <b>Kabacan</b> – political boundary dispute between Barangays Nangaan (MILF) and Simoney (MNLF-IP); Dispute among three Moro clans over land property in the area</li> <li>• <b>Carmen, Pikit and Aleosan</b> – Moros displaced from their lands are increasingly returning and seeking restitution of their lands. In Aleosan, lands were offered under CARP's VOS but were never distributed to actual tillers.</li> <li>• <b>Arakan</b> – large piece of land claimed as AD of IP community annexed as education facility reservation lands. Christian settlers have encroached on land creating a three party dispute.</li> </ul>
<b>Maguindanao:</b> <ul style="list-style-type: none"> <li>• South Upi Municipality</li> </ul>	<ul style="list-style-type: none"> <li>• Teduray (IP)</li> <li>• Maguindanaon (Moro)</li> <li>• Ilonggo (Christian)</li> </ul>	<ul style="list-style-type: none"> <li>• Land claimed as ancestral land by Tedurays but both Moros and Christians settlers have occupied lands and were able to obtain titles to the land</li> </ul>	<p>Christian settlement of coastal and lowland areas in the 50s and 60s drove Moro communities further up into the hills, encroaching on Teduray ancestral land. Taking advantage of the IP practice of communal land stewardship, Moros were able to obtain titles to the AD land. During the violent conflict of the 70s, Christian settlers, in alliance with converted Teduray tribesmen, drove Moros away from the land. With the signing of the FAB, Moros are starting to reclaim their lands with the backing of Moro Local Government Unit (LGU) officials. This is creating a highly tense environment.</p>

Province / Municipality Visited	Dominant Ethnic Groups	Typology of Land Disputes / Conflicts	Background on Land Disputes / Conflicts
<b>Lanao del Norte:</b> <ul style="list-style-type: none"> <li>• Kauswagan Municipality</li> <li>• Linamon Municipality</li> <li>• Tubod Municipality</li> </ul>	<ul style="list-style-type: none"> <li>• Cebuano (Christian)</li> <li>• Maranao (Moro)</li> <li>• Higaonon (IP)</li> </ul>	<ul style="list-style-type: none"> <li>• Conflicting claims in both Moro and Christian Lands</li> <li>• Conflicting claims in areas abandoned due to the violence of the 70s</li> <li>• Conflicts in political boundaries between Municipalities</li> </ul>	<p>Titling by Christian settlers of Moro lands held under traditional (common knowledge) ownership has led to some very prominent conflicts that have escalated from horizontal to vertical. Prevalent existence of multiple titles on many lands. Political boundary disputes between municipalities.</p> <ul style="list-style-type: none"> <li>• <b>Kauswagan</b> - Very prominent case of 24ha land parcel claimed by about 9 Maranao families but was titled by a Christian settler. Both GPH military and MILF have camps near the municipality and opposing claimants have sought support from respective armed groups. As a result the horizontal conflict has repeatedly escalated into a vertical armed struggle.</li> <li>• <b>Linamon</b> – The municipality of Linamon claims its political boundary is encroached by neighboring Matungao. Portion of residents in boundary barangays claimed by Linamon are voting and paying taxes in Matungao. Each municipality is relying on different cadastral surveys.</li> </ul>
<b>Lanao del Sur:</b> <ul style="list-style-type: none"> <li>• Marawi City</li> </ul>	<ul style="list-style-type: none"> <li>• Maranao (Moro)</li> <li>• Cebuano (Christian)</li> </ul>	<ul style="list-style-type: none"> <li>• Conflicting claims on lands within Moro communities associated with Rido</li> <li>• Political boundary dispute with neighboring province</li> <li>• Conflicting claims between settlers and GPH institutions</li> </ul>	<ul style="list-style-type: none"> <li>• Most land disputes related to intra-clan disputes when more educated individuals unilaterally title lands held under traditional common ownership.</li> <li>• Political boundary dispute between Lanao del Sur and Bukidnon threatens to escalate into violent conflict. The mayor of Bubong has staked the land perceived to belong to Lanao del Sur and encroachment will be considered an act of aggression.</li> <li>• A large parcel of land in Marawi City is officially designated a military reservation and hence cannot be titled. However, local residents as well as educational (Mindanao State University) and political (Provincial Capitol) institutions have long occupied the land and are looking to solidify the current status through title.</li> </ul>

Province / Municipality Visited	Dominant Ethnic Groups	Typology of Land Disputes / Conflicts	Background on Land Disputes / Conflicts
<b>Zamboanga City</b>	<ul style="list-style-type: none"> <li>Mixed Christian</li> <li>Subanon (IP)</li> </ul>	<ul style="list-style-type: none"> <li>Zamboanga City Special Economic Zone (Ecozone) encroaches on AD of Subanon People</li> </ul>	In 1995, the local government of Zamboanga City pushed for the creation of an Ecozone as a way of jumpstarting the development of the City. The Ecozone declared 15,000 hectares of land within the City boundary as part of the complex. However, the Subanon (an IP group) objected claiming the area as part of their AD. An official claim to that effect was filed in 1998 but until now the case is unresolved. Tension is expected to rise as the City government plans to develop a rubber plantation in the area and that construction of a coal power plant will start at the end of this year.
<b>Zamboanga Sibugay:</b> <ul style="list-style-type: none"> <li>Ipil Municipality</li> </ul>	<ul style="list-style-type: none"> <li>Mixed Christian</li> <li>Subanon (IP)</li> </ul>	<ul style="list-style-type: none"> <li>Due to untitled lands and unsettled political boundaries among barangays, land dispute is a common problem in the town of Ipil.</li> <li>Incidences of land conflict have risen due to operations of mining companies at the borders of the Province.</li> </ul>	In Zamboanga Sibugay, tension is rising in communities affected by mining operations. The presence of the CPP-NPA exacerbates the problem of the growing militarization of these mining affected areas.
<b>Sulu</b>	<ul style="list-style-type: none"> <li>Tausug (Moro)</li> <li>Mixed Christian</li> </ul>	<ul style="list-style-type: none"> <li>Prevalent land dispute among Moros leading to land conflict. The war in the 70s led to the destruction of the provincial capitol and land title records.</li> <li>Proliferation of high-powered weapons has resulted in bloody encounters between parties involved in land dispute.</li> </ul>	<ul style="list-style-type: none"> <li>The Sultan of Sulu previously owned lands and awarded these to his loyal supporters. During the American period, lands were titled to individual landowners. However, land title records were destroyed as a result of the razing of Jolo, Sulu in the 70s during the GPH-MNLF conflict. Attempts to reconstruct land titles have been unsuccessful due to resistance of current occupants.</li> <li>There is also difficulty in enforcing land laws between competing claimants because of weak state presence in the area, the proliferation of high powered weapons, and the presence of various non-state armed groups supported by local powerful politicians</li> </ul>

Province / Municipality Visited	Dominant Ethnic Groups	Typology of Land Disputes / Conflicts	Background on Land Disputes / Conflicts
<b><i>Basilan</i></b>	<ul style="list-style-type: none"> <li>• Yakan (Moro)</li> <li>• Mixed Christian</li> <li>• Tausug (Moro)</li> </ul>	<ul style="list-style-type: none"> <li>• Prevalent land dispute among Moros leading to land conflict.</li> <li>• Many lands are untitled leading to disputes over individual land claims and political boundaries between barangays &amp; Municipalities</li> </ul>	<ul style="list-style-type: none"> <li>• Land titles were lost due to the big war between the government and the MNLF in the 70s and that the provincial capitol was burned in the 1990s.</li> <li>• Plantations (rubber and coconut) farms owned by corporations were placed under agrarian reform. Cooperatives were established to run plantation farms but leadership of the cooperatives was captured by local elites who run the organization like their private property, bringing little benefit to the agrarian reform beneficiaries (ARBs) and members of the cooperative. Land titles were under mother CLOAs but ARBs are insisting their lands be separated from the cooperative farm so as to maximize their individual gains. Cooperative managers resistance has resulted in armed conflict (due to proliferation of heavy weapons) and has escalated into a vertical conflict involving MILF and GPH military.</li> </ul>

7. As indicated in the Table above, some of the land conflicts that Mindanao currently faces have to do with policies that were either only partially implemented or, while being appropriate in other parts of the Philippines, were unsuited to the local context. Rather than improving the situation, these policies have made it worse and land and property relations more rather than less complicated. This points towards the need to ensure that future policies are (a) designed with “practicability” on the ground in mind, such as by taking into account institutional weaknesses and limitations that will not be resolved in the short-term, and (b) adapted to the local dynamics and realities on the ground, including the different sensitivities of the Moro, Christian and Indigenous communities in Mindanao. Finally, as will be further highlighted below, irregularities surrounding the titling and registration of land have also contributed to the existing land conflicts.

### C. 3. Institutions Involved in Land Management and Resolving Competing Land Claims

8. **There are five departments across four government agencies involved in land management:** the Land Management Bureau (LMB) and the Forest Management Bureau (FMB) of the Department of Environment and Natural Resources (DENR); the Land Registration Authority (LRA) of the Department of Justice (DOJ); the Department of Agrarian Reform (DAR); and the National Commission on Indigenous People (NCIP).

9. **The mandate of the LMB is to delineate public lands and issue titles over those classified as Alienable & Disposable (A&D).** The Constitution of the Philippines classifies lands as agricultural, forest / timber, mineral lands or national parks. Approximately 47% of the surface area of the Philippines is classified A&D and available for titling by LMB.<sup>6</sup> Once the titling process is complete, a copy of the ‘mother title’ is deposited with the Register of Deeds (ROD) of the LRA. Both DENR and LRA have offices at the regional and provincial level, as well as in selected larger municipalities, but they do not necessarily coordinate. During the mission, cases were reported of Provincial Environment and Natural Resource Offices (PENRO) issuing titles on lands in neighboring provinces without verifying their tenure status with the relevant ROD office, leading to double titling.<sup>7</sup>

10. **DAR has jurisdiction over agricultural lands placed under the Comprehensive Agrarian Reform Program (CARP) of the government.** As most lands distributed were under the “public domain” category, DAR works closely with DENR in identifying areas for distribution. However, in the case of the implementation of the Voluntary Offer to Sell (VOS), particularly in Maguindanao and Lanao del Sur, DAR failed to verify the identity of claimants to the property rights and the authenticity of the land titles. This resulted in conflicts both in terms of the beneficiaries and the actual owners of the land.

11. **The NCIP, under the Indigenous Peoples Rights Act (IPRA) of 1997, has the authority to delineate and designate as Ancestral Domain (AD) areas of various IPs groups in the country.** The main instrument used to delineate IP territories is first through the issuance of Certificate of Ancestral Domain Claim (CADC) to the claimant IP group, and upon further validation of the claim, the issuance of Certificate of Ancestral Domain Title (CADT) to formalize communal ownership of

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<sup>6</sup> According to the DENR *Consolidated Land Sector Statistical Report* as of December 31, 2011, some form of title instrument covers approximately 67% of A&D lands. However, the data does not include ARMM and suffers from significant inconsistencies. Separate data from DENR-ARMM suggests approximately 76% of A&D lands in ARMM are titled.

<sup>7</sup> A useful example of this was encountered in Arakan where a parcel of land spanning Regions X and XII is covered by 3 competing titles – a Certificate of Ancestral Domain Title (CADT) issued by NCIP Region X, an Integrated Forest Management Agreement (IFMA) issued by DENR Region XII and a Community Based Forest Management Agreement (CBFMA) also issued by Region XII

the land. Since AD often includes forestlands, titles issued by NCIP may include land that is not classified as A&D by DENR.

12. **The FMB of DENR also issues a form of title on forestland.** Two main instruments are at its disposal: (i) a Community Based Forest Management Agreement (CBFMA) allows forest-based communities to use and develop forestland and resources with an aim to encourage sustainable exploitation; and (ii) an Integrated Forest Management Agreement (IFMA) is an agreement entered into jointly by the DENR and a private partner for industrial forest exploitation. However, lack of coordination between DENR, DAR and NCIP can lead to overlapping titles issued by the respective agencies.

13. **The overlap between DENR, DAR and NCIP is substantial.** The Philippines has a total land area of around 30 million hectares, approximately 14 million of which is classified as A&D by DENR. According to NCIP, IP communities claim approximately 10 million ha as AD and DAR is targeting 8 million ha for distribution. The mission encountered several incidences of land parcels covered by multiple titles issued by the various agencies.

14. Though NCIP maintains offices at the regional level, lack of funding and technical capacity limits their ability to effectively service the IP communities they represent. In Region IX, for example, the Pagadian City NCIP office mostly handles the claims of the Subanon community involved in the dispute over the Zamboanga City Ecozone as the Zamboanga City office lacks the capacity to assist them and serves more as a liaison office. In the Autonomous Region in Muslim Mindanao (ARMM) the situation is worse as the NCIP does not have a presence there. Rather, the Office of Southern Cultural Communities (OSCC) is empowered to represent the Lumad population. When it comes to the issuance of CADC/CADT documents, a recent ruling has reaffirmed that NCIP is the competent agency but that OSCC must first receive the application for forwarding to NCIP at the national level. IP communities are therefore poorly represented in ARMM.

***Box 3: Unintended Consequences of Land Reform  
Conflict in a cooperative in Basilan***

A highly volatile situation has developed around a cooperative farm in Basilan. Through the CARP program, a plantation was transformed into a cooperative jointly owned by the former managers and the farming labor force. Dissatisfied with the benefits from this arrangement, the farmer members of the cooperative demanding the dissolution of the cooperative and redistribution of the land under individual land titles. In response, the cooperative manager declared the farmers illegal claimants to the land and threatened arrest if they persisted in tilling the land. Eventually the plantation guards were deployed against the protesting farmers who, in retaliation, ambushed them.

Claiming his guards were attacked by elements of the fundamentalist Abu Sayyaf Group (ASG), the plantation manager was able to gain support from the Armed Forces of the Philippines (AFP). The farmers in turn sought support from the MILF, MNLF and ASG, who in turn launched an attack on the AFP detachment, killing eight soldiers. Realizing the plantation manager had used them to protect his personal interests, the AFP detachment withdrew. The conflict between the farmers and the plantation manager remains unresolved.

Though the fighting has now died down, this story serves to demonstrate how easily a local land dispute can escalate into land conflict, pitching national security forces against insurgent groups.

15. **In predominantly Moro and Indigenous communities, informal traditional justice systems through mediation are the most common mechanism for the resolution of competing land claims.** Though the specific nature of the mechanism varies from group to group, in general a council of elders will facilitate mediation between the parties to the conflict to reach an agreeable settlement. The parties will usually sign an agreement formalizing the settlement, which

will often include some form of compensation for one of the parties. In Moro areas, the council is usually led and convened by the local sultan and rituals and a celebration that ensures community knowledge of the agreement mark the settlement. Indigenous governance and justice systems vary widely in formality and nature from tribe to tribe, though all tend to rely heavily on kinship ties. The *Timuay* justice system of the Teduray tribe, for example, is relatively formal with several levels of courts up to a Tribal Appellate Court or *Fagilidan*. In general, traditional justice systems are preferred as they are seen as more accessible, faster in reaching a resolution and less costly and bureaucratic.

**16. On the formal side, Philippine law recognizes three justice systems for the resolution of land conflict: (i) the *Katarungang Pambarangay*, or Barangay Justice System; (ii) the Shari'a Justice System; and (iii) the Civil Court System.** In addition, the *Sangguniang Bayan* and *Sangguniang Panlalawigan*, or municipal and provincial council, have jurisdictional responsibility for the settlement of boundary disputes between and among local government units. In general, all disputes that do not involve a public entity must first be submitted to the *Lupon Tagapamayapa*, or Pacification Council, of the Barangay Justice System for possible conciliation before any court can take jurisdiction. Exceptions apply, however, including some related to land disputes:<sup>8</sup> (i) where the dispute involves real properties located in different cities or municipalities unless the parties thereto agree to submit their differences to amicable settlement by an appropriate *Lupon*; (ii) disputes involving parties who actually reside in barangays of different cities or municipalities, except where such barangay units adjoin each other and the parties thereto agree to submit their differences to amicable settlement by an appropriate *Lupon*; and, notably, (iii) where the dispute arises from the Comprehensive Agrarian Reform Law.<sup>9</sup> While the Barangay Justice System is accessible and cheap, especially as lawyers are banned from the proceedings, it still requires a fair amount of bureaucracy for the filing of papers.

**17. Shari'a Courts have a role in managing land disputes in Moro areas, especially as they have original jurisdiction over the disposition and distribution of estates of deceased Muslims or upon divorce, as well as disputes relative to communal properties.**<sup>10</sup> The Shari'a Courts may, if appropriate, constitute an Agama Arbitration Council to settle the case amicably without formal trial. As with the Civil Courts, decisions of the Shari'a Court may be appealed to the Supreme Court, which maintains administrative jurisdiction of the Shari'a Justice System. However, the jurisdiction of Shari'a Courts does not extend to significant criminal cases or commercial law and is effectively restricted to cases where both parties are Muslim.<sup>11</sup>

**18. Where mediation through the Barangay Justice System is not able to resolve cases involving both Moro and other parties, disputes must be referred to the Civil Court System.** Interviews with the Regional Trial Court (RTC) branches covering the province of Maguindanao indicate that an average of 60 land related cases are filed per year in the province mostly related to non-arbitrary reissuance of title, forcible entry/squatting, partition of lands, and double claimants. While the non-arbitrary reissuance of title can be dealt with in approximately 3-4 months, most other cases can take years to resolve. In addition, the cost of filing a complaint with the RTC can be prohibitive to farmers starting at a minimum of PhP 500 for land valued at less than PhP 100,000.<sup>12</sup>

<sup>8</sup> Refer to Republic Act 7160, 1991, *An Act Providing for a Local Government Code of 1991*

<sup>9</sup> Refer to Republic Act 6657, 1988, *An Act Instituting a Comprehensive Agrarian Reform Program to Promote Social Justice and Industrialization, Providing the Mechanism for its Implementation, and for Other Purposes*

<sup>10</sup> Refer to Presidential Decree 1083, 1978, *A Decree to Ordain and Promulgate a Code Recognizing the System of Filipino Muslim Laws, Codifying Muslim Personal Laws, and Providing for its Administration and for Other Purposes*.

<sup>11</sup> For more on Shari'a justice in the Philippines, see Matthew Stephens (2011) "Islamic Law in the Philippines: Between Appeasement and Neglect". University of Melbourne Centre for Islamic Law and Society. Islam, Syariah and Governance Background Paper Series, Volume 9.

<sup>12</sup> Supreme Court of the Philippines, *Rules of Court*, <http://sc.judiciary.gov.ph/rulesofcourt/RULES%20OF%20COURT.htm>

Interviews with farmers suggest an average price of PhP 150 – 200,000 per hectare is common in Mindanao. Lawyer fees,<sup>13</sup> usually starting with a minimum PhP 20,000 acceptance fee, are a further disincentive to claimants. As a result, many land cases are likely not to be submitted for consideration by the Civil Court System.

19. Other local level initiatives to resolve land disputes exist but these are mostly ad hoc in nature. For instance, in the Municipality of South Upi, the municipal government created the Mayor's Council for Conflict Resolution but it is seen as biased towards the Moros by the local Teduray IP community. In the municipality of Ampatuan in Maguindanao province, an NGO is involved in resolving land disputes through its "Bonding, Binding and Bridging" (see below for further details) project among the IPs, Moros and Christian settlers. The project is in its early stage and its effectiveness is therefore difficult to judge. In the municipality of Kabacan, the mayor personally attends to the land dispute problem by virtue of being the highest government official in the locality. In the municipality of Arakan, the head of the local state college formed a body that attempts to continually dialogue with informal Christian settlers to its land. As the level of trust to the interlocutor is low by parties involved in land disputes, results of ad-hoc local level initiatives are not encouraging. This points to the need for a highly trained body to mediate differences among parties involved in the land dispute/conflict.

#### C. 4. Availability of land tenure information (ownership and usage)

20. **The scoping mission found that there is very limited formal data on land ownership and usage. Where information on land tenure exists, its legitimacy is frequently questioned.** There were recurring stories of better educated, more powerful individuals or groups registering land that was claimed and/or in use by others in their name. Usually, this affects primarily poorer and vulnerable parts of the population who either do not understand the importance of registering their land titles or do not have the means to access the complicated land titling process. Allegations of irregularities (e.g., at the level of certain DENR officials) further undermine trust in written records and contribute to land conflicts. While the scoping mission was not able to determine the exact scope of these irregular transactions, there are sufficient indications that this phenomenon is widespread. Thus, automatically relying on formal title as the definitive proof of land ownership would likely raise fierce resistance and produce unfair outcomes in certain cases. There also appears to be a broader issue of a lack of available information and support for the poorer and more vulnerable parts of the population to access land tenure protection processes.

21. Generally, however, the evolution of land conflict in Mindanao is well documented in history books (an overview of the literature on land conflict in Mindanao is provided in Annex C). There have been several attempts to document land ownership in the past, particularly during the American colonial period and more recently in the 1970s under the Marcos regime, through the conduct of cadastral surveys but most records have either been destroyed due to conflict or lost as a result of bad record keeping. Previous attempts to rationalize and centralize the storage of land ownership data have failed as a result of the lack of capacity and willingness to cooperate, as well as vested interests in the agencies involved in land titling.

22. **Taken together, this means that it is not possible to say with certainty how much land is currently titled correctly and how many competing land claims exist.** This in itself is a considerable impediment to the development of appropriate policies, as without reliable

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<sup>13</sup> Anecdotal evidence suggests representation from the Public Attorney's Office tends not to be available as there is an assumption that individuals bringing land-related complaints to the courts are rich and would therefore not require public representation.



information about the current land tenure situation it is difficult to know what policies will work and how, and what they would demand in terms of state resources. It is thereby not sufficient to simply count the land conflicts that are currently active and known by the relevant state or non-state conflict resolution measures today. For the implementation of the FAB provisions on land in particular, it would be important to also get a sense of the scope of latent land conflicts – competing claims for which the parties so far have not started any conflict resolution efforts. If an effort or a framework for land rights clarification, land compensation, and/or land restitution is put in place, it is almost certain that parties would bring forward their respective claims. Hence any policy developed should also be able to absorb this currently dormant caseload.

#### C. 5. Ongoing Initiatives

**23. Recognizing the problems caused by the overlapping mandates of the agencies involved in land titling, an initiative is currently underway to improve coordination and avoid further duplication of titles.** A Joint Administrative Order<sup>14</sup> was signed in January 2012 stipulating that DAR, DENR, LRA and NCIP will coordinate and ensure no overlap in titles prior to issuing any new land tenure documents. While this will begin to help address the coordination problems, it is unlikely it will resolve issues identified due to the mandated functional overlaps of the agencies.

**24. The LMB is currently updating the 1970s cadastral survey on a nationwide basis and hopes to complete the process by 2015.** In ARMM, LMB signed a memorandum of agreement with the ARMM Regional Governor to jointly undertake cadastral survey, starting with the provinces of Maguindanao and Basilan. LMB stressed that the cadastral survey will only indicate the boundaries of provinces/municipalities/barangays and individual plots and document instances of multiple titles but not resolve competing claims to land, referring them instead to the competent judicial authorities, including the barangay justice systems and the courts where necessary. However, as noted earlier, this process might result in increasing tension and even lead to violent conflict in areas with competing land claims.

**25. Micro level attempts by Civil Society Organizations (CSO) and local institutions (see paragraph 19 above) to resolve disputes** by establishing trust between and among ethnic groups/clans before forging consensus agreements between competing parties to address land dispute seems to be a promising approach. However, without a more robust institutional structure dedicated to addressing conflicting claims, these efforts will remain localized and ad hoc. The sustainability of mediated claims in a context of great power imbalance is also questionable.

**26. The Bank, in collaboration with the Australian Agency for International Development (AusAID), has funded the Land Administration and Management Project (LAMP) through the Department of Environment and Natural Resources,** which is soon to enter its third phase. LAMP pilot-tested the process of surveying, individually titling, and the proper record keeping and storage of land titles with relative success. The project has, however, not yet attempted to cover any areas in conflict-affected areas due to the difficulty in gaining support from LGUs.

**27. LAMP has also funded digitization of land record to support centralized land management,** as well as analytical work on how to improve land administration and management in the country. Outputs from these policy studies were used to formulate the Land Administration Reform Act

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<sup>14</sup>Joint DAR-DENR-LRA-NCIP Administrative Order Clarifying, Restating and Interfacing the Respective Jurisdictions, Policies, Programs and Projects of the Department of Agrarian Reform (DAR), Department of Environment and Natural Resources (DENR), Land Registration Authority (LRA) and National Commission on Indigenous Peoples (NCIP) in Order to Address Jurisdictional and Operational Issues Between and Among the Agencies– No. 1-2012 (January 25<sup>th</sup> 2012)

(LARA), which would consolidate all land management function in a Land Administration Authority (LAA) and create a Land Adjudication Board (LAB) to resolve conflicts. However, despite various iterations since its initial submission in 2003, the LARA bill remains stalled in Congress.

**28. The National Land Use Commission (NLUC), an interagency body on land use and physical planning, was recently strengthened and reformed as a National Economic and Development Authority (NEDA) Board Committee.** The NLUC is empowered to advise the President and NEDA Board “on all matters concerning land use and physical planning; and decide and resolve land use policy conflicts between or among national government agencies.”<sup>15</sup> One of the options being contemplated by the body is the revival of the LARA bill to rationalize land administration and management activities and to establish and maintain a central data bank of all land records in the country.

**29. The *Applying Binding, Bonding, Bridging to Land Conflict in Mindanao (A3B)* project implemented by Catholic Relief Services (CRS) and funded by USAID is an interesting initiative that can generate many lessons for policy development.** This project starts from the observation that tensions around land rights are both cause and outcome of the broader conflict in Mindanao. It then aims to bring diverse identity group together to collaborate to resolve land-related conflict. This involves the establishment of intra-group dialogue processes on land-related conflict by traditional and religious leaders in the target community; the drafting and implementation of dialogue and conflict resolution plans by the groups involved in the land conflict; and ensuring the support of government stakeholders for the local decision-making to resolve land disputes. The project targets 20 barangays in 4 municipalities in 4 provinces (North Cotabato; Maguindanao, Sultan Kudarat and South Cotabato).

The project pays particular attention to trust building as a key component of sustainable conflict resolution. The approach it fosters includes trauma healing and self-transformation (“Binding”); training of traditional leaders, group conflict analysis; and group celebrations (“Bonding”); and joint assessments, joint leader training; and community projects that engage critical stakeholders at the municipal and barangay level (“Bridging”). The project has only been in operation for one year, and has so far helped resolve five land conflict cases. Clearly, the trust building component of the A3B is critical, especially for the areas where the present-day land conflicts resulted from broader inter-community conflict in the 1970s. The experience of the project could usefully inform policymaking around the FAB and land conflicts more broadly. Similarly, additional research and analysis as to the “scalability” of this approach would also be welcome given the limited size of the caseload it has so far dealt with, especially if seen in the light of the likely size of the “land conflict problem” in Mindanao.

**30. Other ongoing and past initiatives directly or indirectly related to land and natural resources conflicts and management in Mindanao include:**

- The *Conflict Mitigation Program* of The Asia Foundation supports Muslim and Christian leaders, as well as local security forces to address the needs of communities as they prevent conflict from spreading. Together with its local partners, the Foundation has designed and implemented interventions to address *rido* and is actively engaged in the settlement of feuds, including land conflicts. As of October 2012, over 200 incidences of *rido* had been settled.
- *Conflict-sensitive resource and asset management project in Caraga* implemented by NEDA and the Department of Interior and Local Government (DILG) funded by the German Federal Ministry for Economic Cooperation and Development (BMZ). This project, which

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<sup>15</sup> Executive Order No. 770, December 1<sup>st</sup>, 2008

started in 2011, focuses on the peaceful and sustainable governance of natural resources in the area through an integrated approach to peace building and development. The project uses a variety of multi-sectoral approaches to promote and facilitate the non-violent resolution of conflicts around natural resource exploitation and productive land use. It also promotes closer cooperation between local authorities, civil society actors and local communities, including the creation of multi-stakeholder management structures that focus on conflict-sensitive land use and development planning and implementation.

- *Supporting decentralization in Mindanao* project implemented by NEDA and DILG between 2005 and 2012 and funded by the German Federal Ministry for Economic Cooperation and Development. The project aimed to support decentralization as well as the harmonization and streamlining of collaboration and coordination between different local authorities. The project was composed of three components: political decentralization with a focus on participatory planning processes (e.g. in land use planning); fiscal decentralization aimed at enhancing the tax collection by local authorities; and capacity development including the development of a network of capacity development providers. Given the land issues, including land conflict caused by unclear or overlapping mandates of national and local authorities, the experience gained with this project is also relevant for future efforts to improve land management in Mindanao.
- *Supporting peace development in Mindanao through strengthening non-governmental organizations and local authorities* project implemented by NEDA and funded by BMZ between January 2005 and June 2009. This project established a fund for small-scale projects by NGOs or local authorities aimed at addressing or preventing conflict and promoting conflict transformation, peace development and poverty reduction in crisis-prone areas of Mindanao. While the project did not directly target land conflicts, it did try to positively affect and address the broader political, communitarian and clan dynamics that frequently transform ordinary land disputes into land conflicts. From this perspective, the learning generated by this project is also relevant for any future interventions aimed at reducing and resolving land conflicts in Mindanao.
- *The Action for Conflict Transformation (ACT) for Peace Programme* was the fourth phase of the Government of the Philippines-United Nations Multi-Donor Program that started in 1997 and concluded in 2012 and was funded by the Government of Australia, New Zealand and Spain. The Mindanao Economic Development Council (now the Mindanao Development Authority) was the overall implementing partner for the program, while the ARMM Regional government was responsible for the implementation of activities that fell within the ARMM. This was a broad-based community development and peace-building program that focused on poor, conflict-affected and marginalized communities in the area, mainly targeting communities of the MNLF. It involved the development of Peace and Development Communities (PDCs) and, broadly, the mainstreaming of peace-building dimensions in local community and government development planning. While not directly dealing with land, this is another program that aimed at improving the context that contributes to the emergence of land conflicts. A considerable amount of information and data was generated through the implementation of the ACT for Peace Programme that could be further analyzed to generate more learning on what has worked in terms of enhancing social cohesion and reducing conflict in the target communities.
- *Mindanao Initiatives for Peace* project funded by USAID since 2007 focusing on strengthening community-based conflict management in the Bangsamoro area, supporting community leaders and their ability as “advocates for peace”. Activities have included training for leaders on community-based conflict resolution, conflict prevention, case

documentation and case management as well as mentoring and coaching of those advocates. Given the important role community leaders would need to play in any future initiative aiming to address the issue of land conflicts in this area, the findings and experiences gained through this project would again be very useful for policymakers working on the implementation of the FAB land provisions.

#### C. 6. Appetite for Reform and Major Initiatives to Address Land Conflict

31. **There is consensus among stakeholders (on both government and non-government sides) interviewed that there should be more effective mechanisms to resolve land disputes/conflicts and that this is crucial for a durable peace.** A key suggestion is the creation of an impartial third party that can mediate differences between and among competing claimants.

32. **In South Upi in particular, respondents expressed the urgency for an outside entity to ensure that correct processes in settling land disputes be observed** because of the highly volatile situation between the Tedurays and the returning Moros. In Aleosan, Pikit, Carmen and Kabacan City, respondents expressed that returning claimants to the land should be compensated by the government if it is no longer practical for them to repossess the land. They also stressed the need to review the past implementation of CARP, as many Voluntary Offer to Sell (VOS) transactions were fraudulent.<sup>16</sup> In the majority of municipalities visited, stakeholders requested assistance of government officials to settle land disputes, as they do not have the resources and authority to enforce existing land laws.

33. **The respondents also expressed the need to review the issuance of titles by the DENR,** as there is evidence of abuse by powerful individuals and companies to secure titles to lands already occupied by IPs and Moros. There was also broad consensus that operations of the agencies involved in land titling be rationalized into a single agency to avoid overlaps (resulting in competing claims) in the issuance of titles.

#### D. **Next Steps and Recommendations**

34. Despite the obvious complexity of land conflict in Mindanao and the dual challenges of an opaque and weak institutional structure and legal framework and multiple vested interests committed to the status quo, policy and institutional reform to address the problem is unquestionably a top priority for citizen security and justice in conflict-affected areas. The mission has identified a number of program and policy recommendations to lay the groundwork for addressing these issues.

##### D. 2. Short Term Programming Recommendations

35. **Given the lack of accurate data on the scope and extent of land conflict, the top priority need identified by the mission is to obtain empirical data on land disputes and conflict prevalence.** While all interlocutors confirmed the existence of many land disputes and conflicts, none have an overview of the total number of actual or latent land disputes and conflicts in their community. The ongoing cadastral survey by LMB will only document cases of multiple titles and overlapping boundaries to titled land. It is therefore essential to supplement this with data on

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<sup>16</sup> Anecdotal evidence suggests the government lost more than PHP 2 billion through the titling of fictitious lands through VOS of CARP in Maguindanao and Lanao del Sur alone. A *Task Force on Agrarian Reform Implementation in ARMM* was recently created through Executive Order 8 of March 2012 by the ARMM Regional Government to examine and revalidate all transactions under CARP.

competing claims where none or only one of the parties has a title. Accurate data is critical for policymaking, including the development of the relevant parts of the Bangsamoro Basic Law. The scoping mission recommends that such data be collected in locations where the prevalence of land conflicts is perceived to be the highest and/or the risk of escalation is seen to be the greatest. This would include at least all locations considered in this scoping mission.

36. This data collection would usefully include a separate mapping exercise for unresolved IP land claims in the selected areas of Mindanao, as implementation of the FAB provisions on land will need to integrate a solution to those claims as well. It should also look at latent land conflicts. One way of doing this would be to assess the number of land titles in the focus areas that are likely to be seen as illegitimate and/or likely to have been the outcome of past irregularities, including the registration of land by people who did not have any valid legal ground for doing so. At least in part, this would best be done through a participatory, community-centered methodology. Finally, such data collection should also map out ongoing or potential land conflicts related to the exploitation of natural resources as well as larger-scale agricultural investment.

37. **Assess the resilience and capacity of the different land dispute and conflict resolution mechanisms in selected locations in Mindanao, including local land conflict mediation initiatives.** The capacity of the different formal and informal structures and institutions involved in the resolution of land disputes and conflicts in Mindanao to absorb the current and future levels of competing land claims is a critical component in ensuring that land does not become a driver of renewed conflict. It is also an important consideration for policymakers trying to determine the best institutional set-up for dealing with land compensation and restitution in the frame of the FAB and the Basic Law. The scoping mission found that, while past research on land dispute resolution mechanisms in Mindanao is available (see Annex C), there remains a need for comprehensive and up-to-date information..

38. Given that a full-scale empirical assessment would take considerable time and resources to complete and the need to ensure that any findings can support the policy development in the frame of the FAB and the Basic Law, the scoping mission team proposes to organize a series of focus group discussions on land dispute resolution mechanisms in Mindanao including users and people who work in the existing mechanisms. These focus group discussions could then also be used to formulate a number of concrete recommendations for the Basic Law and the overall strengthening of the peaceful resolution of competing land claims. The scoping mission recommends that these would take place in the same locations where data on land conflict is being collected.

39. **Make an inventory of current land-related laws and their implications on land ownership and possession, including the institutional mapping of land-related government agencies and the process of land titling.** As indicated earlier, the complex legal framework and multiple institutions involved in land management complicates land and property relations on the ground in Mindanao. Depending on the final agreement on power sharing between the GPH and MILF, the Basic Law could add an additional legal and institutional layer to this picture. In light of this, the scoping mission recommends to carry out a short study that brings together the full regulatory framework currently in force, and that maps out the different steps and costs related to land titling, as this process appears to be one of the most problematic elements of land management in Mindanao. Moreover, it would be highly instructive to demonstrate on particular geographic sites in Mindanao how these laws will operate to stress the urgency of re-aligning these laws and streamlining the functions of government agencies concerned with land administration.

40. **Provide the TC with technical assistance on addressing land disputes and conflicts in transitional contexts including good practices on compensation and land restitution and support the Commission by organizing consultations at the local level in Mindanao.** Over the

past two decades, a number of countries have developed and implemented transitional justice policies to address past land grievances, often connected to waves of forced displacement and including both compensation and restitution as remedies for those whose rights were violated. The consultations carried out during the scoping mission suggest that awareness of those experiences is relatively limited amongst the different stakeholders. In the context of the Basic Law development the scoping mission team considers it highly useful to introduce members of the TC to the experiences of other countries.

41. This technical assistance could be provided by the secondment an international expert together with a national expert to the TC combined with the organization of a series of workshops around the different international transitional justice experiences with practitioners and policymakers from other countries and relevant actors from Mindanao. In addition to providing participants with insights on how to address land grievances in Mindanao, these workshops would also serve as a venue for discussing how best to “concretize” the land-related provisions in the FAB through the Basic Law; provide a shared vocabulary to analyze and address land grievances covered by the FAB; and contribute to ensuring that the eventual Basic Law integrates international norms and good practices in this area. Finally, these workshops would also increase awareness amongst decision makers about the need to ensure that land grievances and conflict are addressed early on in the peace building process.

42. **Carry out an intentions survey amongst the population that was displaced due to past conflict cycles and explore the establishment of a population mobility monitoring effort in locations and communities with a heightened risk of tension and conflict.** This could usefully be done in concurrence with the mapping exercise on the prevalence of land conflict. The mission team was informed by several interlocutors that the signing of the FAB is having an impact on displacement and return in Mindanao and that families who had been forcibly displaced in the past were now considering to return in the near future, including families who earlier perceived themselves as having durably resettled elsewhere. It is clear that sudden return movements have the potential to escalate latent land conflicts and, indeed, trigger violence. To understand the scope of these changed dynamics, it would be important to carry out a quick survey on the post-FAB intentions of the population that was displaced due to conflict. Drawing on its recent surveys of the population displaced by floods in Mindanao, IOM could collaborate with the World Bank on carrying out such a survey in the coming period.

43. Relatedly, the team also believes that a robust intentions and movement monitoring effort could serve as an important indicator of potential conflict and tensions. This would assist authorities, especially the Office of the Presidential Advisor on the Peace Process (OPAPP) and the TC with support from DAR, DENR and NCIP, with taking the appropriate action to avoid escalation and violence. Such monitoring efforts would need to be carried out with regular intervals during the transitional period as well as the implementation of the Basic Law to ensure that the results remain relevant and useful in terms of conflict prevention and early warning. Such efforts could be usefully complemented by an assessment of what those who remain displaced today need to achieve a durable solution to their plight.

44. **The Transition Commission could usefully review the principal learning points of the implementation of past and ongoing projects in Mindanao that focused on the peaceful resolution of conflicts in areas that are prone to conflict.** Multiple international and national actors have carried out peace-building projects in Mindanao that aimed to strengthen the capacity of communities and local authorities to address conflicts through peaceful means and to increase social cohesion. Some of those focused on land (like the A3B Project) while others targeted a broader range of conflicts, but were also relevant for the ability of communities. This could be done through a combination of a desk review of available evaluation reports combined with one or two

workshops with those actors that are or have been involved in implementing this type of project. The product of such review could be a short document providing concrete guidance for future efforts and policies in this area. Doing this would ensure that in its work to implement the FAB, the TC can benefit from past experiences in Mindanao and can integrate learning into their policy development and implementation.

#### D. 3. Short-Term Policy Recommendations

45. **Ensure internal and external coherence of the policy that will concretize the land-related provisions in the FAB; work towards a broad consensus on how historical land grievances will be addressed; ensure “practicability” of the solutions that are adopted; and develop and implement appropriate communication policies.** In light of past experiences and the sensitivity of land issues, it would be important for the TC and national and local policymakers more broadly to ensure that: (a) the eventual policy to implement the land-related provisions of the FAB is coherent with other recent laws dealing with past land injustices such as the 2012 Compensation Act to Victims of Human Rights Violations and the 2013 Act to Protect the Rights of Internally Displaced Populations; (b) a broad consensus is built amongst stakeholders in Mindanao to ensure smooth implementation of the FAB and avoid new tensions and conflict; (c) the actual capacity of institutions on the ground is integrated in the development of the policies from the start, to ensure that only provisions that can be implemented are adopted (if need be, temporary measures can be envisaged until institutions are equipped to implement more ambitious policies).

46. **Improve communication and outreach tools regarding land management policies (especially land titling) and procedures targeting especially poor and vulnerable populations in Mindanao.** A recurring issue during the consultations was that poor and less educated people find it very difficult to access procedures intended to protect their rights over land. This is due to a lack of information and knowledge about what procedures exist; how they can be accessed; and what rights can be protected and a lack of support for this population in terms of access to the relevant authorities. A first step in this respect would be for the relevant authorities to improve their communication tools, and establish specific information campaigns targeting this population. A second step would be to identify existing support services and identify where and how they could be strengthened and how costs to access especially land titling procedures could be reduced. The process must be culturally sensitive to the traditional forms of land ownership in some Moro and IP communities as individual titles are not necessarily desired or feasible at this stage.

#### D. 4. Medium Term Programming Recommendations

47. **Pending the outcome of the land dispute resolution mechanism assessment, provide mediation capacity building to the relevant local actors in areas in Mindanao with a high conflict potential and/or a high number of land disputes and conflict.** While this would need to be confirmed by the dispute resolution mechanism assessment, the scoping mission’s consultations suggest that actors currently engaged in mediation would benefit from increased professional training and that the quality of mediation would be improved by further information sharing between the different actors involved. This capacity building could be done in the frame of the implementation of the land-related provisions of the FAB.

48. **Accompany the resolution of land conflicts with the design and implementation of robust community stabilization programs aimed at trust building and the reinforcement of local government through improved basic service delivery.** Without increased trust within and

amongst communities and between the population and the local authorities and institutions intended to protect them, it will be difficult to either achieve durable solutions for past displacement or address competing land claims in a permanent way. There is considerable experience in transitional contexts on how small grants programs that allow for participatory decision-making within communities and provide incentives for local authorities to improve basic services can contribute to peace building. In the context of central Mindanao, this type of initiative could usefully accompany the implementation of the FAB and its land-related provisions.

#### D. 5. Medium-Term Policy Recommendations

49. **Consider the establishment of an ad-hoc, national mediation body for dealing with land claims in the frame of the eventual implementation of the FAB land provisions.** In light of the sensitive nature of land issues in Mindanao, a mechanism that would provide parties with incentives for mediation would be preferable over mechanisms focused on adjudication. A number of interlocutors pointed out that a national mediation body, consisting of mediators that are neutral in respect of Mindanao issues and perceived to be such, would be more likely to produce results than a body consisting of local mediators. Such a national body should have a limited life span and focus only on competing land claims affected by the land provisions in the FAB. It would also need to have a coordinating function amongst different authorities concerned, so as to ensure that its outcomes are implemented.

50. **Ensure that the implementation of the national land inventory effort and the ensuing modernization of the land titling process are done in a conflict-sensitive manner and ensure access also for the most vulnerable amongst the population.** Most interlocutors agreed that there is an urgent need for an overhaul of the land titling process, and that the starting point should be the building of an inventory of land titles. However, due to the disputed nature of a significant proportion of the existing land titles, it would be critical to ensure sufficient communication and outreach on the ground, to avoid that such inventory would become a source of tension and conflict. Moreover, any modernized land titling process would need to reduce cost for the right-holders as well as ensure effective access for those right-holders that are poor and/or lack formal education.



**Annex A**  
**World Bank-International Organization for Migration (IOM)**  
**In Search of a Viable Solution to Land Disputes in**  
**Selected Conflict-Affected Areas in Mindanao**  
**Terms of Reference for a Scoping Mission**

**A. Background**

**Land and the Moro struggle**

1. ***Private ownership has long clashed with the tradition of ancestral domain.*** The interlocking of land issues and identity-based conflict can be traced to the introduction of the Regalian doctrine of land ownership by the Spanish colonizers in the country. Prior to their coming in the 16th century, lands were communally held by Muslims and other indigenous peoples (IPs) groups. During the American colonial regime at the turn of the 20th century, dispossession of lands held by indigenous peoples accelerated with the emphasis on titling lands for private ownership.
2. ***Migration from the North has driven many Muslims and IPs from the best lands.*** After the country gained independence, the Christian-dominated government in Manila encouraged Christian dwellers from the northern islands of Luzon and Visayas to settle in Mindanao. The intention was to ease land pressure arising from rapid population growth in the northern islands and accelerate the exploitation of Mindanao's natural resources for national development. The process started in the 1950s and accelerated in the 1960s. The imposition of the Regalian doctrine by the central government, asymmetric knowledge of the land markets and, in some cases, fraudulent land acquisitions led to the take-over of much land by the settlers. Many Muslims and IPs were pushed to the inland and marginal areas of Mindanao while the newly arriving Christians occupied the fertile, accessible lowland and coastal areas. The demographic profiles of numerous localities in Mindanao changed radically over recent decades.<sup>17</sup> Having constituted 76 percent of the population of the island in 1903, Muslims now comprise less than 20 percent.
3. ***The quest to reclaim their ancestral domain remains central to the Moro cause.*** In its struggle of the 1970s and 1980s, the Moro National Liberation Front (MNLF) asserted a claim to 14 provinces of Mindanao (out of 24 at that time) and Palawan as part of their ancestral domain. More recently, the Moro Islamic Liberation Front (MILF) has been negotiating with the Government of the Philippines (GPH) to establish the Bangsamoro, a new autonomous political entity to replace the Autonomous Region in Muslim Mindanao (ARMM). Following the signing of the Framework Agreement on the Bangsamoro (FAB) between the MILF and the GPH on October 15, 2012, a clear road map for the creation of the Bangsamoro and the completion of a final peace agreement is now in place.
4. ***The Framework Agreement on the Bangsamoro includes a specific section on property rights.*** Section VI (2) of the FAB states “vested property rights shall be recognized and respected” while acknowledging at the same time that the rights of those subject to “unjust dispossession” shall be acknowledged. Where the rights of those unjustly dispossessed can no longer be restored, the FAB commits the GPH and the Bangsamoro to “take effective measures for adequate

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<sup>17</sup> Case studies for a World Bank commissioned review of community based development in Conflict-Affected Areas (CAAs) found, for example, that Ilonggos from Visayas and Ilocanos from Luzon can be found in Barangay Dugong in Mlang, which used to be inhabited only by Maguindanaoans who used to own all the lands in the area. Barangay Rodero, located in mountainous area in Makilala in North Cotabato, was once the domain of Tagbanua, Bagobos and B'laans, but they are now the minority to the settler population of Ilonggos.

reparation.”<sup>18</sup> Finally, the FAB states that “Indigenous Peoples’ rights shall be respected.” As with much of the Framework Agreement, the details of how rights shall be determined, how unjust dispossession will be proven and how appropriate reparation will be measured and delivered remain to be worked out between the parties either through Annexes to the Agreement or later in the new Basic Law for the Bangsamoro to be drafted by a TC. Nonetheless, the FAB represents a clear statement of political commitment from both parties to addressing both historical and contemporary injustices over land and to establishing a fair and equitable system to manage land disputes. Major questions remain outstanding such as how the claims of Moro leaders fit with the interests of IP communities.

## **Land and local conflicts**

### **5. *Competition for land and disputes over boundaries are major drivers of violence.***

Anecdotal evidence from studies of ‘clan conflict’ (or rido) and initial findings from the Bank’s more quantitative Mindanao Conflict Monitoring System (MCMS) indicate the association between land issues and violence whether among powerful landlords or landowners of medium/small-sized plots. Conflicts may be ‘vertical’ between the State and armed groups or ‘horizontal’ within and across communities, focused on specific locations. For example, in General SK Pendatun municipality in Maguindanao, rival local elites have contested ownership of the huge tract of land abandoned by the Ramie Corporation, a subsidiary of the San Miguel Corporation. A well-known agrarian case in Bukidnon involved a 144-hectare of agricultural land in Barangay San Vicente in the Municipality of Sumilao. In 2007, farmers walked 1,700 kilometers from Sumilao to Manila to call government’s attention to their plight.

6. ***In some cases, the clashes are between Muslims and Christians.*** The incidents may be sporadic and localized involving, on one side, members of Muslim communities (labeled as, or supported by Moro armed rebels), and on the other side Christians settlers (sometimes backed by private armies/paramilitary groups under the control of local Mayors). In Aleosan in North Cotabato, for example, such land-related conflicts have been regularly reported particularly during the harvest season. Fighting can also be part of more major ‘vertical’ conflicts. For example, the municipalities of Kapatagan, Kauswagan, Munai, Baloi, Masiu, and Iligan City in Lanao del Norte, where Christian settlements exist side by side with Muslim villages, have seen large-scale confrontations between Muslim armed groups and government forces as in 2000, 2003 and 2008.

7. ***In other cases, land issues can drive intra-Moro conflicts.*** For example, the MCMS pilot findings for the first four months of 2011 show that more than half of land conflict incidents in North Cotabato involved rido between MNLF and MILF camps, notably in two barangays of Kabacan municipality. All of the incidents involved gun battles between the competing groups. In late 2011, land conflict involving MNLF and MILF supporters in Datu Sinsuat in Maguindanao led to numerous casualties and the displacement of hundreds of people.

8. ***Issues of land access and control are bound up in the dynamics of conflict and displacement.*** A study by the World Bank and the World Food Program commissioned in late 2010 found that, in Central Mindanao, 41% of the mainland population had experienced displacement between 2000 and 2010 (82% in Maguindanao). By the end of 2010, only 4% remained displaced (21% in Maguindanao) but, in each province, about 25-30% of those returned home have not

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<sup>18</sup> Restoring rights will unquestionably be difficult. The decades since the colonial eras have seen the private titling of much land in, and adjacent to, ARMM. As far back as 1990, a benchmark survey conducted by the former Institute of Agrarian Studies, University of the Philippines, Los Banos found that, in the provinces of Lanao del Sur and Maguindanao (in ARMM) and in neighboring Lanao del Norte, Sultan Kudarat and North Cotabato, dominant tenurial arrangements included share tenancy, leasehold and owner-cultivator.

reclaimed their land.<sup>19</sup> Another recent study on durable solutions, funded under the World Bank's Global Program on Forced Displacement, underlined forced internal displacement is "a means to control strategic territory (land and natural resources) by influencing the movement and loyalties of the local population. The IDPs or local population are pulled and pushed in multiple directions as the primary means of asserting territorial control and political influence".<sup>20</sup>

9. ***The extraction of mineral resources also involves questions of land tenure and access.*** As with logging, the exploitation of mineral wealth has had major impacts on many IP and forestry areas. Most mining permit applications in the Philippines are for sites in Mindanao and often involve the encroachment of operations in ancestral lands. There are complex legal questions involving contradictory legal provisions, on the one hand, in the Mining Act of 1995 and, on the other hand, the 1997 Indigenous Peoples Rights Act (IPRA) or RA 8371 (see below). Moreover, the associated environmental degradation and the perceptions of injustice relating to wealth extraction are fuel to the communist insurgency.

### **The proliferation of laws**

10. ***The provisions of different laws can be contradictory*** - In addition to the core clash between Regalian and communal systems, there are overlapping land laws that create uncertainty and contribute to conflicts. For example, the Comprehensive Agrarian Reform Law (CARP), enacted in June 1988, placed all agricultural lands under agrarian reform. The measure aimed to counter the drivers of a local communist insurgency by ensuring a more equitable distribution of assets and incomes in the rural sector. Yet, in contrast to this promotion of small owner-cultivator plots, the 1997 IPRA passed during the Ramos administration consolidated the land/domain rights of IPs. It provides for ancestral domain certificates to be issued to document communal ownership of traditional lands. At the same time, the divergent intentions of both laws can themselves be undermined by the power given to Local Government Units under the 1991 Local Government Code (LGC) to review and reclassify at regular intervals 10 percent of the lands in their locality.

11. ***Certain land laws are irrelevant in practice.*** Presidential Decree No. 705, or the "Forestry Code", passed under the Marcos regime in the 1970s provided that lands under the public domain with slopes of 18 percent or higher cannot be classified as A&D. Yet, Muslim and IP communities in CAAs occupy and utilize lands in these so-called "forest areas" as a result of the extensive Christian migration into the lowland and coastal areas.

### **The Institutions**

12. ***State institutions exist at different levels to address land issues*** - At the national level, land cases are handled by the standard Courts of the country from the municipal and regional trial courts up to the Court of Appeals and the Supreme Court. While not as affected by corruption as some other judiciaries in the region, justice is slow, with massive backlogs and slow disposition of cases representing a major obstacle to justice. The Court of Agrarian Reform was created as a special court to facilitate handling of agrarian cases filed by agrarian reform claimants. At the local

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<sup>19</sup> World Bank and World Food Program (2011) "Violent Conflicts and Displacement in Central Mindanao: Challenges to Recovery and Development"

<sup>20</sup> N. Colletta (2011) "The Search for Durable Solutions: Armed conflict and forced displacement in Mindanao, Philippines."

level, there is the “Lupon Tagapamayapa” under the Barangay Justice System, which attempts to amicably settle minor disputes within the village.<sup>21</sup>

13. ***Overlapping institutions function in Muslim and IP areas*** – In some Moro communities, Shari’a Courts have authority to address legal cases pertaining to personal and family matters, which sometimes include land issues. In addition, customary adat laws are applied in some Moro areas, whose practice/application predate the coming of Islam to Mindanao and reflect a mix of local traditions and other influences, including Islam and state law. The Moro National Liberation Front and the Moro Islamic Liberation Front also run parallel court systems, which do handle land cases. Among IP groups, there are customary laws and arrangements, such as the kefeduwans among the Tirurays in Southern Upi, Maguindanao and equivalent institutions for other IP groups such as the Ata-Manobo and Tasaday in Mindanao.

### **Is there a constituency for reform?**

14. ***This combination of historical and contemporary injustices, institutional deficits and legal confusion makes addressing land conflict complex and complicated.*** Status quo forces in government and the private sector raise serious questions as to whether there is a genuine constituency for the types of policy and/or institutional reform required to improve conflict management and reduce land-related conflict in Mindanao.

15. ***Indeed, land issues in Mindanao might simply be too big to handle.*** Despite the recognition that land disputes are at the core of the armed conflict in Mindanao, the complexity and political significance of land has made many donors hesitant to address it. For instance, the Bank-funded project, Land Administration and Management Project (LAMP) has thus far deliberately not attempted to cover conflict-affected areas of Mindanao because successful land titling and registration is believed to require significant cooperation from LGU officials. In CAAs, this is rarely the case due to capacity constraints and, in some instances, to the involvement of LGU officials or family members in land disputes. There is also a concern that titling will bring suppressed conflicts to the surface, without any effective means of managing them. Although AusAID has commissioned research from different perspectives on land issues in Mindanao, its new strategy does not propose to invest in land titling activities in the CAAs.<sup>22</sup>

### **Initiatives to date**

16. ***Despite the general reticence to engage in land disputes, some initiatives have been made, but with generally limited effect.*** Although land issues have long been recognized as a primary driver of vertical and horizontal conflicts, there have been a limited number of initiatives and these have largely been confined to the local level. In 2007, an Ad Hoc Panel to examine the land dispute in the Municipality of Aleosan was set up under the Office of the Presidential Adviser on the Peace Process (OPAPP) but this was not sustained. Various CSOs, such as The Asia Foundation, have also engaged efforts to mediate and mitigate rido including conflicts over land. The Center for Humanitarian Dialogue supports mediation efforts in Sulu, but again sustainability will be challenging.

17. ***Despite various research initiatives, a deeper understanding of land issues is needed.*** The World Bank and AusAID are among a number of institutions that have commissioned and sought to

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<sup>21</sup> The Barangay Justice System is precluded from handling land cases outside the Municipality in which the parties to the dispute live so cannot handle inter-Municipal land disputes.

<sup>22</sup> Page 46 of the draft “AusAID Delivery Strategy for Mindanao Conflict Affected Areas: 2012-2017

illuminate land issues in Mindanao. These initiatives have pointed to key tensions. However, they have only scratched the surface of the issues. For example, the World Bank-WFP survey found that, in Central Mindanao, 84 percent of people believed they owned their land. Yet, among the households who said they had access to land, 55 percent indicated having supporting documents. One third (32%) simply said “the clan knows”. The proportion with documented access to land was lowest in Lanao del Sur (19%) compared to over half of households elsewhere.

18. ***The prevalence of land conflicts is poorly understood.*** Land issues have been associated with numerous conflict incidents, not least since land retains an emotional importance and prestige that can be a trigger for rido. However, quantitative evidence on the extent and localized nature of land disputes is limited. The 2010 World Bank-WFP survey in Central Mindanao found that, while a high proportion of households mentioned the presence of disputes in their area, few indicated having directly experienced any form of disputes. Six percent reported having ever experienced a land dispute, equally distributed between disputes over farmland and residential plots. Three percent had experienced a land dispute in the year prior to the survey. Land disputes were most frequently mentioned in North Cotabato (11%), and were also more frequent among households who decided to resettle elsewhere after displacement (16%).

## **B. Objectives**

19. ***Against this complex background, the World Bank, IOM and AusAID wish to undertake a scoping mission to identify options, if any, for supporting more effective resolution of land conflicts in Mindanao.*** As a scoping mission, the main objective is to gather basic information on the nature of land ownership and usage and the state of land conflict management. This understanding would help to identify future work to flesh out understanding on possible options to promote more effective land conflict resolution. The mission will focus on the Autonomous Region in Muslim Mindanao and a selection of hot spots in and around ARMM in Central Mindanao where so-called “tri-peoples” (Muslims, Indigenous Peoples and Christian settlers) co-exist and land conflicts are high profile and damaging. Specifically the objectives are:

- i. Develop a basic typology of land conflicts in the target geographic areas;
- ii. Identify the extent of availability of data that inventorizes land ownership and usage. If there are gaps, explore the technical, social and political feasibility of supporting an inventorization in the target areas;
- iii. Conduct a simple institutional assessment reviewing the range of institutions involved in land management and conflict management. This would include identification of local level solutions offered to address land conflict;
- iv. Review and document existing initiatives on the part of government, civil society and development agencies to support land conflict resolution;
- v. Assess the appetite among key stakeholders for reform and major initiatives to address land conflict;
- vi. Explore at a very preliminary level openings and ideas for reform; and
- vii. Identify future analytical work required to advance this agenda, should the mission determine value in doing so.

20. Until more details emerge from the GPH and MILF on how they intend to handle land and property rights-related aspects of the Framework Agreement, the mission cannot at this stage directly inform plans to address unjust dispossession of land and reparations envisaged under the

FAB. However, by mapping out problems and assessing current institutions, the mission hopes to be able to generate knowledge and information that could potentially support effective resolution of land conflicts in and outside Bangsamoro areas in Mindanao and to inform policy-makers on both sides.

### **C. Deliverables**

21. The expected outputs from this scoping mission are as follows:

- A report that contains the following:
  - a summary of the nature and typology of land conflicts in the target area;
  - a review of selected previous and existing efforts of government (local and national) and CSOs to address land conflict in selected CAAs in Mindanao, citing global experiences as a comparator;
  - brief assessment of institutions engaged in land administration and land conflict management;
  - analysis of the constituency for reform to address the land conflict problem in Mindanao;
  - recommendations for follow up research, policy and programmatic actions for the World Bank, IOM and AusAID to pursue, if any;
  - An executive summary and PowerPoint summarizing the above findings for presentation to local and national government agencies, donors, and CSOs, as appropriate, at the end of the mission.

### **D. Mechanics**

22. This will be a joint mission between IOM, the World Bank and AusAID. Responsibility for managing the mission will be with the World Bank State and Peace-Building Fund Coordinator, under the management of the Task Team Leader. The mission will include an international expert provided by the IOM, to be coupled with two local consultants to be sourced by the World Bank and participation from the World Bank and AusAID Manila-based teams.

23. The mission will benefit from a literature review on analysis of land problems and previous and existing efforts to find appropriate solutions to land conflict to be prepared in advance by IOM. The mission will include consultations in Manila and field visits of CAAs in the Autonomous Region in Muslim Mindanao and selected “hot spots” experiencing land conflicts in surrounding areas. Interviews by the Mission of selected local and national government officials, academics, CSOs and donors and the field visits will be arranged by the Bank and AusAID teams. The TOR will be shared with the Government of the Philippines and the MILF in advance for inputs and suggestions.

24. The team membership and their respective tasks and responsibilities is detailed below:

- Fermin Adriano (WB): as co-team leader will ensure all arrangements are in place before the field trip commences, lead parts of the field mission and take overall responsibility for finalization of the mission report (together with Peter van der Auweraert) and dissemination to government and other stakeholders; provide inputs on the local political economy context, perspectives on the influence of Agrarian Reform and other policy inputs as necessary;

- Peter van der Auweraert (IOM): as co-team leader work with the national consultants to lead analysis of land management and conflict management issues in line with this TOR, bringing an international perspective to the analysis of problems and future work. With the national consultants will draft major sections of the mission report;
- Sarah Radam (Consultant): Review and comment on the literature review prepared by IOM, and assist to identify key issues and respondents for the mission, work with the mission co-team leaders (Adriano and van der Auweraert) to determine the structure and outline of the mission report; write up parts of the report, with a particular focus on local level institutions involved in land dispute management, documenting existing initiatives to support land conflict resolution and on identifying potential constituencies for reform in the area of land conflict management in Mindanao; and participate in dissemination activities once the Mission report has been finalized;
- Dodong Gordoncillo (Consultant): Identify key informants and design the mission schedule; review and comment on the literature review prepared by IOM and assist to identify key issues and respondents for the mission; work with the mission co-team leaders (Adriano and van der Auweraert) to determine the structure and outline of the mission report; write up parts of the report, with a particular focus on developing the basic typology of land conflict, identifying the availability of data inventorizing land ownership and usage, assessing institutions involved in land management and conflict management; exploring preliminary ideas for reform; and identifying future analytical work; and participate in dissemination activities once the Mission report has been finalized.
- Nick Leffler (WB): work with Fermin Adriano on finalizing the report. Write specific parts of the report.
- Laila Soliven: will provide administrative support to the mission, including organizing meetings, travel and accommodation.

25. The mission will run for a total of two weeks, from March 4-15, 2013.

## **Annex B**

### **Places / Institutions Visited and People met**

Prior to visiting Mindanao, the mission team met with the following individuals of national line agencies and non-governmental organizations:

- Jerry E. Pacturan, Under Secretary – Support Services Office, **Department of Agrarian Reform (DAR)**;
- Roberto V. Oliva, Assistant Secretary for Lands, **Department of Environment and Natural Resources (DENR)**;
- Brigida Zenaida Pawid, Chair, **National Commission on Indigenous People (NCIP)**;
- Ralph Pablo, Director, **Land Management Bureau (LMB)** of DENR; and
- Wilfredo M. Torres, Senior Program Officer, Conflict Management Program, **The Asia Foundation (TAF)**

During the scoping mission, the team visited the following municipalities:

- Cotabato City;
- South Upi, Maguindanao;
- Kidapawan, North Cotabato *for*:
  - Aleosan, North Cotabato;
  - Carmen, North Cotabato;
  - Kabacan, North Cotabato;
  - Midsayap, North Cotabato; and
  - Pikit, North Cotabato;
- Arakan, North Cotabato;
- Zamboanga City *for*:
  - Zamboanga City;
  - Ipil, Zamboanga Sibugay;
  - Province of Sulu; and
  - Province of Basilan;
- Tubod, Lanao del Norte;
- Marawi City, Lanao del Sur;
- Linamon, Lanao del Norte; and
- Kauswagan, Lanao del Norte

The table below identifies the affiliation of individuals met (names are omitted for confidentiality reasons).



Government Officials	NGO representatives / Private individuals
<b>Cotabato City</b>	
DAR Region XII, Cotabato City	League of Indigenous Persons on Ancestral Domain
PENRO, Kidapawan, North Cotabato	Consortium of Bangsamoro Civil Society
DAR-ARMM	Sultan Kudarat Descendants Organization of the Philippines – Sultanate of Maguindanao
Regional Reconciliation and Unification Commission	Sultanate of Buayan
LGU – Maguindanao	
Police Regional Office – ARMM	
LRA Region XII	
Provincial Assessor’s Office – North Cotabato	
Provincial Police Office – North Cotabato	
Landbank of the Philippines – Region XII	
<b>South Upi, Maguindanao</b>	
Municipal Assessor’s Office	Barangay Romangoad farmers
DAR-South Upi	Barangay Bongo farmers
Mayor’s Office	
Armed Forces of the Philippines	
Office of Southern Cultural Communities – Maguindanao	
Tribal Chieftain	
Barangay Kagawad (Councilor)	
<b>Kidapawan City, North Cotabato</b>	
Kidapawan Mayor’s office	Integrated Mindanaons Association for Natives
Assessor’s Office – Pikit, North Cotabato	Aleoson Municipality farmers
DAR – Pikit, North Cotabato	League of Indigenous Persons on Ancestral Domain
DAR – Aleosan, North Cotabato	United Youth for Peace and Development
CENRO – Midsayap, North Cotabato	Pikit Municipality farmers
LGU – Kabacan, North Cotabato	Carmen Municipality farmers
Assessor’s Office – Kabacan, North Cotabato	
<b>Arakan, North Cotabato</b>	
Arakan Mayor’s office	Cotabato Foundation College of Science and Technology administrative staff
Assessor’s Office – Arakan	Farmers squatting on CFCST land
DAR – Arakan	
Tribal Chieftain	
<b>Tubod, Lanao Del Norte</b>	
Provincial Governor	Ecosystems Work for Essential Benefits (ECOWEB)
LGU – Tubod, Lanao del Norte	Ranaw Disaster Response and Rehabilitation Center
DAR – Tubod, Lanao del Norte	Barangay Dalama farmers
DENR – Tubod, Lanao del Norte	Barangay Bualan farmers
	Barangay Palao farmers
<b>Marawi City, Lanao del Sur</b>	
PENRO – Marawi City	RIDO Inc.
Assessor’s Office	Residents of Omaira displacement center
LGU – Marawi City	Carmelites
Provincial Advisory Council	

<b>Government Officials</b>	<b>NGO representatives / Private individuals</b>
DAR – ARMM – Lanao del Sur	
Provincial Governor’s Office	
<b><i>Linamon, Lanao del Norte</i></b>	
Mayor of Linamon	Barangay Purakan farmers
LGU – Linamon, Lanao del Norte	Barangay Robocon farmers
Philippine National Police – Linamon, Lanao del Norte	
<b><i>Kauswagan, Lanao del Norte</i></b>	
Mayor of Kauswagan	Barangay Paiton farmers
LGU – Kauswagan, Lanao del Norte	Barangay Baraason farmers
Philippine National Police – Kauswagan, Lanao del Norte	Barangay Inudaran farmers
<b><i>Zamboanga City</i></b>	
LGU Zamboanga City	Subanon Tribe representative Limpapa, Zamboanga City
DENR Region IX	Subanon Tribe representative Patalon, Zamboanga City
PENRO Zamboanga City	
Philippine National Police – Zamboanga City	
LGU Ipil, Zamboanga Sibugay	
Philippine National Policy – Ipil, Zamboanga Sibugay	
<b><i>Basilan</i></b>	
Basilan Ulama Supreme Council	Nagdilaab Foundation Inc.
	Basilan Advocates for Peace, Environment, and Sustainable Development Association
<b><i>Sulu</i></b>	
Provincial Government	Tulung Lupa Sug
Philippine National Police – Parang, Sulu	Land owner
Provincial Cooperative Office	

## Annex C

### Overview of relevant literature on land conflict in Mindanao

1. The history of the land conflict in Mindanao is weaved in the discussion of the historical evolution of the Moro and IP struggles against the encroachment of northern Christian settlers to Mindanao. The standard literature on the history of the Moro struggle were written by Majul (1973 and 1985); Tan (1977 and 1989) and Tanggol (1993) and Muslim (1994) which described how through the combined application of military force and Western property rights on communally held lands by the Moros and IPs, the latter were systematically dispossessed of their land properties.

2. A more focused analysis of how successive laws (i.e., Torrens title, Regalian doctrine on land, Public Act of 1903, Public Act of 1919, Commonwealth Act 141 of 1936, etc.) passed during the colonial governments and how successive resettlement programs of Mindanao in the 50s and the 60s sponsored by the Christian government in Manila resulted in large-scale displacement of the Moros and IPs were rendered, among others, by Mastura (2004), Rodil (1987 and 2009), Kadtuntaya Foundation (2009), and Idea Capital Pte. Ltd (2011).

3. Recent laws governing land administration and ownership in the country were summarized in the publication of ANGOC (2009) on access to land in Asia. Among the laws described were the following:

- **Presidential Decree No. 27** - promulgated in 1972 by the Marcos authoritarian regime wherein rice and corn lands were placed under agrarian reform;
- **Presidential Decree 705**, or the Forestry Code of 1975 declaring lands with a slope of 18 degree and above to be forest land, and hence, unalienable by private persons or entities;
- **Republic Act 6657** of 1988, or the Comprehensive Agrarian Reform Law (CARL) implementing a Comprehensive Agrarian Reform Program (CARP) for 10 years, amended by Republic Act No. 8532 extending CARP implementation by another 10 years beginning and Republic Act No. 9700 extending it a further 5 years. ;
- **Republic Act 7160** of 1991, or the Local Government Code, which authorized LGUs to reclassify a portion of their agricultural lands for other uses (residential, industrial, parks, tourism, etc.);
- **Republic Act 7279** of 1992, or the Urban Development and Housing Act promoting the setting aside of urban areas for poor dwellers and their access to low cost housing units;
- **Republic Act 7586** of 1992, or the National Integrated Protected Areas System Act (NIPAS) declaring selected areas in the country as critical watershed areas that must be preserved and protected;
- **Republic Act 8371** of 1997, or the Indigenous Peoples' Right Act (IPRA) recognizing the rights of IPs to claim the lands they occupy as part of their ancestral domain. It also provided for the creation of the National Commission on Indigenous Peoples (NCIP) tasked with awarding CADCs and CADTs;
- **Republic Act 8435** of 1997, or the Agriculture Fisheries and Modernization Act (AFMA), empowering the Department of Agriculture to identify "key production areas" for agricultural and fisheries modernization to promote increased productivity and rural development;

- **Republic Act 8550** of 1998, or the Philippine Fisheries Code protecting and prioritizing the needs of small fishermen in exploiting coastal and marine resources

4. An examination of the literature on land dispute/conflict in Mindanao reveals three main features. One is their overemphasis on the historical evolution of the land conflict in the island. While these studies render excellent historical accounts of the land conflict, they paint a broad picture of the problem which does not allow one to understand (a) the magnitude or extent of the land conflict, (b) the various categories or types of the land dispute/conflict happening on the ground, and (c) what concrete steps, taking into consideration variations in land conflict across communities, should be undertaken.

5. Two is that there is preoccupation on describing the provisions of various legislations governing land administration and ownership without critically examining how these laws overlap and yield confusing impact at the ground level. For instance, there is focus on how the myriads of land laws affect the small farmers, fishers and urban dwellers but there are no in-depth studies on how a particular law (i.e., redistributive intent of CARP) clashes with the objective of another law (i.e., communal ownership promoted by IPRA). A more serious gap is the paucity of information on how the clashing objectives of the various land-related laws actually work out on the ground.

6. And three attempts to provide a workable solution to land conflict in Mindanao is expectedly rare. Outside of asserting that whole-scale injustices were committed against the Moros and the IPs, there are hardly any concrete forward-looking solutions given by analysts. And if ever proffered, they tend to formulate general solutions (e.g., compensatory justice, land conflict mediation mechanism, etc.) despite knowledge that the land problem varies from community to community.

## Annex D

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