

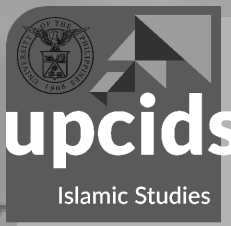
UNIVERSITY OF THE PHILIPPINES  
CENTER FOR INTEGRATIVE AND DEVELOPMENT STUDIES  
ISLAMIC STUDIES PROGRAM

PUBLIC POLICY MONOGRAPH SERIES 2022-05

# **Commentary on the Customary Laws of the Sama Banguinguih of Simariki Island**

Yusuf Roque S. Morales  
Sheryl R. Morales





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# Contents

## **Preface**

<i>Macrina A. Morados</i>	vii
<i>Hon. (Raja) Ismael I. Musa</i>	viii
<i>Nasir Ismula</i>	ix
<i>Hon. Tungku Hanapi</i>	x

<b>Acknowledgement</b>	<b>xi</b>
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## **Part One**

<b>Traditional Knowledge, customary law and the value of its preservation</b>	<b>1</b>
What is Traditional Knowledge in the Philippine Setting?	2
Why do we need to preserve and protect this knowledge?	4

## **Part Two**

<b>Introduction to the Customary Laws of the Sama Banguingih of Simariki</b>	<b>10</b>
Background of the Sama Banguingih of Simariki island	10
Leadership structure	11
Social Institutions, Practices, and Processes among the Sama Banguingih	13

## **Part Three**

<b>Notable Features of Adat Law and Its Relationship to Islamic law</b>	<b>20</b>
Features of the Adat Law of the Sama Banguingih	23

Understanding the current legal basis of customary law	24
Spaces where customary law can play a role in peacebuilding and addressing social anger and violence	24
Documentation process of the Simariki Sama Banguinguih customary law	26
<b>Glossary of terms</b>	<b>48</b>
<b>Bibliography</b>	<b>56</b>
<b>Appendix</b>	
Appendix A: The Indigenous Political structure of the Sama Banguinguih in Zamboanga Pre-Spanish and Spanish Era	60
Appendix B: Pictures of the elders of Simariki Island and community members	62
Appendix C: Genealogy	64
Appendix D:	75
Appendix E: Pictures of Simariki Island post-Zamboanga 2013 siege	75
Appendix F: Rebuilding Simariki Island	76
Appendix G: Legal Documentation on Simariki Island	85
<b>About the Author</b>	<b>97</b>
<b>About the Co-Author</b>	<b>97</b>

# Preface

**Macrina A. Morados**

Dean, UP Islamic Studies

The Sama Banguinguih is a subgroup of the Sama tribe, inhabiting the coastal areas of the provinces of Tawi-Tawi, Sulu, and Basilan. The Sama tribe is one of the 13 ethnolinguistic tribes of the Muslims in the Philippines. They are often referred to as the Northern Sama, along with the other subgroups like the Sama Laut and Sama Liyah. The subclassification of these Sama subgroups is largely based on their natural habitat and, to some extent, speaks of the depth of the influence of Islam in their lives. For instance, the Sama Laut or Bajau are considered boat-dwellers and the least Islamized compared with the other subgroups. The Sama Banguinguih of Simariki Island in Zamboanga is one of the oldest communities that had been organized even prior to the coming of the Spanish colonizers in the country.

The book titled *A Commentary on the Customary Law of the Sama Banguinguih of Simariki Island*, authored by former National Commission on Muslim Filipinos (NCMF) Yusuf Morales is a timely contribution to the very scarce literature dealing with the Sama tribe. This monograph provides the reader an interesting glimpse of the practices and traditions of the Sama Banguinguih showcasing the richness of their culture, especially in the domain of indigenous knowledge, *adat* (customary law), and Islamic Law.

The author's discussion on the traditional knowledge, customary law, and the value of its preservation revealed the unique understanding of the Sama people of its environment which accorded them the traditional knowledge they need to balance the

forces of nature. Hence, customary laws are developed to regulate the Sama peoples' way of life, and they largely shaped their attitude towards upholding family values and communal peace. With the coming of Islam to the mainland Sulu archipelago during the first quarter of the 13th century, the Sama people were among the earliest converts, adopting a new world view of *Tawheed* (Oneness of God). This new world view of *Tawheed* displaces some of the indigenous practices of the Sama considered un-Islamic such as the veneration of the spirits and dead ancestors.

Overall, this monograph highlights the importance of the preservation of the indigenous knowledge of the Sama Banguinguih. We cannot discount its relevance for further studies and for finding the scientific connection of these traditional practices in the light of the discovery of modern technology. Also, the dynamics of the interplay of the customary laws and Islamic law in the lives of the Sama Banguinguih is indeed an important subject matter for further research in order to see how Philippine secular laws (i.e., Family Code, PD 1083) and other laws can be integrated into the community for the protection of the people.

## Hon. (Raja) Ismael I. Musa

### Sangguniang Panlungsod Member – ICCs/IPs, Zamboanga City

Indigenous Peoples Mandatory Representation of the Sama Banguinguih,  
Bajao, Yakan, Kolibugan and Subanen of Zamboanga City

The publication of this Customary Law of Sama Banguinguih of Simariki Island is the first of its kind. It is designed to address the need to establish to manifest how engrained and continually practice the utilization of the Adat of the tribe in ensuring peaceful community within applicable cases within intra-tribal communities (e.g. to include A'asok, Yakan, and even Kolibugan) even at the modern times. This publication was based entirely on the rich heritage of the Sama Banguinguih of Simariki Island, Barangay Talon-Talon, Zamboanga City.

This Customary Law of Sama Banguinguih aims to document the Adat system in settling disputes within the tribe and hoping that this will work for other Indigenous peoples/indigenous cultural communities in modern society. The basic of the law seems to trace back to the old ways of the tribe in cognizance with the Qur'an and Hadith of the prophet of Islam believed to be learned from generations to generations, orally. Focus where on matters of Family relations, marriage, and omission of acts inimical to a person or to the community where an appropriate penalty is noted.

This book is a no-nonsense codification of the customary law of the Sama Banguinguih of the Simiraki Ancestral domain which somehow will help this representation at the Sangguniang Panlungsod of Zamboanga City to quantify bases for applicability to other IPCs/ICCs situated within Zamboanga City.

The Adat values system or Customary law is carefully deciphered by the author based on his various strategies which make the native manifest and able to elucidate as well as expound the customary law as a practice, which I believe was due to the wide experience of the researcher/author.

The author hopes that the future generation of Sama Banguinguih of Simariki residents in particular and of Zamboanga City in general while researchers and others that will make full use of this book will have pleasure and enjoyable gaining of insights while learning to recognize the significance of the Customary law or Adat System to be incorporated in the Katarungang Pambarangay as well as guide tribal leaders toward self-determination and self-governance or autonomy in the execution of the said customary law as may be allowed by our justice system.

At the outset, I am greatly indebted to the author and to the residents of Simariki for their trust and confidence leading to this publication.

## Nasir Ismula

### Tribal Chieftain

20 July 2020

*In the Name of Allah the Most Merciful and Most Compassionate*

The Council of Elders of Simariki would like to thank Dato Yusuf Roque Morales for coming up with this commentary on our Customary Law. The good Dato has been helping us since the very start of the struggle of our people to reclaim our ancestral domain, and we have given Prof. Yusuf the authorization to come up with whatever research materials, articles, or books that he intends based on the indigenous knowledge skills and processes of the Sama Banguinguih of Simariki. He is one of us and we consider him to be a member of our community.

Again, congratulations and thanks to the UP CIDS ISP program for allowing a small portion of our IKSP [indigenous knowledge systems and practices] to be published.

## Hon. Tungku Hanapi

### Indigenous Peoples Mandatory Representative, Zamboanga City

Office of the Indigenous Mandatory Representative

Sanguniang Panglungsod ng Zamboanga

15 July 2021

We would like to congratulate Commissioner Yusuf Roque Santos Morales and Prof. Sharima Sheryl Morales for coming up with the Commentary on the Customary Law of the Sama Banguinguih of Simariki. Prof. Dato Yusuf has been collaborating together with the office of the Indigenous Peoples Mandatory Representative since its establishment in Zamboanga City Council in 2013 under different functions, a consultant on cultural issues, technical expert, and as an aide to the IPMR until March 2016, when he was appointed as Commissioner from 2016–2020. But still he continued his advocacy for the Indigenous Peoples and continued research on IP culture. This work is merely one of the many researches that Dato Yusuf has done for the people of Simariki, and we are expecting that the UP CIDS Islamic Studies Program may continue to publish many works on the Islamized Indigenous Peoples, especially on their Indigenous knowledge which is slowly being forgotten. We would like to thank Dean Macrina Morados of UP Institute of Islamic Studies for allowing our customary law to be published.

Again, we congratulate both the good Commissioner and Prof. Sharima Morales on this.

Sukran toongan makaam kahemon, Salaam maka kasilasa makaam!!

# Acknowledgement

We would like to thank Dean Macrina Morados and the Islamic Studies Program of the University of the Philippines Center for Integrative Development Studies for providing us a platform to share our study on the customary law of the Sama Banguinguih of Simariki Island. The Dean's enthusiasm to protect the indigenous culture and wisdom of the Filipino Islamized indigenous peoples is worth emulating.

We would like to thank the Diwan Pagmatoahan (Council of Elders) of Simariki Island, most especially its tribal Chieftain and his father, Kah Nasir Ismula and Omboh Hadji Barahim Ismula, who have opened up the doors of their house to provide a venue for discussions and convening the council of elders for us to have meaningful conversations and knowledge imparted from them, many gems of knowledge we have picked up hopefully would be in another book in the future which was not included in this monograph. We'd like to thank former IPMR Ismael Musa who in those days fought tooth and nail to ensure the people of Simariki were protected. We like to acknowledge then-Barangay Chairman (of Kasanyangan) and present IPMR Consejal Tungku Hanapi who spared time and effort to make sure the elders appeared during our sessions.

Most of All we'd like to thank Allahu Taala, Rasulullah (*sallawatullahi alayhi*) for the honor to allow us to complete this humble monograph.

We dedicate this monograph to all of them and to our children Datu Haizar, Datu Amil, Julano, Sitti Azrah, Sitti Roqayyah, and Datu Bari Ali.





## PART ONE

# Traditional Knowledge, Customary Law and the Value of Its Preservation

Throughout the Philippines, traditional knowledge can be found in practically every aspect of a community's economic and social growth, ranging from agriculture to literature, and from customary law to the arts and crafts, among other things. Throughout colonialism, the Philippines has managed to retain a significant percentage of its traditional knowledge. The dedication of varied indigenous peoples (IPs) who have persevered in safeguarding and disseminating their indigenous knowledge to the younger generation deserves recognition.<sup>1</sup>

Indigenous peoples in the Philippines demonstrate their connection to their ancestral territories by upholding their culture and custom. Indigenous Peoples Rights Act 1997 defines indigenous people as “groups of homogenous societies identified by self-ascription, who continually lived as organized communities on communally bounded and defined territories which they have occupied since time immemorial, sharing common bonds of language, customs, traditions and who became historically differentiated from the majority of Filipinos.”<sup>2</sup> In a paper, David Daoas, then-chairperson of the National Council of Indigenous Peoples in the Philippines, commented on the purpose of the IPRA:

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1 David Daoas, “Efforts at Protecting Traditional Knowledge: The Experience of the Philippines,” *Roundtable on Intellectual Property and Traditional Knowledge* (Geneva: World Intellectual Property Organization, 1999), 2, [https://www.wipo.int/edocs/mdocs/tk/en/wipo\\_iprk\\_rt\\_99/wipo\\_iprk\\_rt\\_99\\_6a.pdf](https://www.wipo.int/edocs/mdocs/tk/en/wipo_iprk_rt_99/wipo_iprk_rt_99_6a.pdf).

2 Daoas, 2.

The recently passed IPRA was the result of the IPs' tenacity and advocacy, on one hand and on the other, the government's recognition of the importance of traditional knowledge in the pursuit of sustainable development. Traditional knowledge is basically rooted in the environment (e.g. ancestral domains) and thus a significant factor in the protection, conservation, and rehabilitation of natural resources which is the lifeblood of these indigenous communities.<sup>3</sup>

## What is Traditional Knowledge in the Philippine setting?

Daoas writes of traditional knowledge thus:

The Filipino traditional knowledge is as varied as the number of known ethnolinguistic groups. This is caused by the nature of resources that abound within the localities, e.g., ancestral domains. The Philippine islands are rich with diverse biogenetic resources on land and water, minerals, and the like. There is also variation in the degree of sophistication of traditional knowledge such as the finesse of artifacts and bodily ornaments.<sup>4</sup>

Herbs are used in traditional health care for both curative and preventive medicine, as well as for pain relievers and anesthetic, among other things. All of this is done in the context of ceremonies evoking the intercession of ancestral spirits (*omboh*) and the Almighty Father (*Tuhan/Allah*). In modern times, indigenous peoples continue to bear testimony to specific illnesses that can only be treated through traditional healing methods. Pharmaceutical corporations have expanded their study into the medical properties of plants based on traditional knowledge, and they are now reaping millions of dollars in profits around the world. Betel nut (*buyoh/mamah*) is used in the treatment of hypertension, arthritis, and rheumatism among the Sama Banguingui and other communities in the Sulu archipelago.<sup>5</sup>

Among the various indigenous peoples' communities, forest and mangrove preservation and protection is a vital aspect of their traditional means of survival. The traditional forestry systems of the IPs of the Philippines are distinct from one another. Although vast tracts of forest are owned by the community, individual families or clans preserve forest patches adjacent to the village or hamlet. The ancient

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3 Daoas, 2-3

4 Daoas, 2-3

5 Daoas, 2.

concept of common forest and mangrove ownership, on the other hand, had undergone a transformation following the “takeover” of the central government. As a result, sustainable natural resource management practices are neglected by the community.<sup>6</sup>

A number of techniques or practices, such as the usage of fish pens/bungsod and fish cages, as well as letting the fish spawn and multiply, have been created to ensure the long-term viability of fishing. However, fishing is only conducted during specific times of the year. Unfortunately, traditional fishing in the Philippines is threatened by the use of harmful cyanides and other large-scale fishing practices, which are exacerbated by foreign intervention into Philippine fishing grounds<sup>7</sup> and the introduction of invasive species.

Traditions such as the reverence of unseen spirits to deliver abundant harvests are also included in the entire agricultural cycle, including fishing, in a similar way. Customary norms, such as the *adat* practiced by the Sama Pangaddatan among the people of the archipelago, also limit the use of resources, as demonstrated by the practice of responsible fishing, which allows only mature fish to be collected. All resources are regarded as God’s blessings, each with its own spirit, and the extraction of gold and other valuables from the earth’s sea, and bosom necessitates the use of rituals to ensure their success. Harvesting, capture or extraction, and processing are all considered to be quite crude, yet they are considered to be ecologically sound at points in time.

*Traditional arts and crafts* include pottery, brasswares, metalwork, woodcrafts, boats, rattan crafts, varied ornaments, textile designs, and designs for bladed weaponry. Traditional weaving materials and designs, such as those used by Sulu and Laminusa Island mat weavers, as well as those used by the Yakan, have received worldwide recognition and are now recognized as national cultural treasures.

Similarly, *traditional music, dance, and literature* are gaining international recognition, owing to the government’s tourism campaign and the curiosity of international experts in anthropology, sociology, and culture. The majority of Filipinos are familiar with the *kundiman* and *harana*, but the *singkil*, *pamamansak*, and *igal* of the Sama and Tausug peoples are beginning to gain great reputation.

The history of colonialism impacted the majority of Filipinos and, more recently, indigenous peoples. Fortunately, indigenous peoples have triumphed over foreign

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6 Daoas, 2.

7 Daoas, 2.

aggression. However, the American colonization of the Philippines at the start of the twentieth century resulted in a dramatic transformation of the country's ecosystems. Natural resource degradation occurred throughout the country as a result of widespread logging and large-scale mining, a legacy that post-independence Filipinos have continued to preserve. This resulted in the complete exploitation and devastation of previously abundant and biogenetically diverse forests, mineral deposits, coral and fish populations, and folklore.

Several issues affect indigenous peoples in the Philippines. These include (1) the loss of indigenous peoples' territorial areas as a result of the destruction of rainforests and their displacement as a result of government projects or commercial exploitation of natural resources; (2) the extinction of indigenous peoples' cultural practices; and (3) the extinction of indigenous peoples' traditional knowledge. There are several factors contributing to this: (1) the introduction of so-called "modern" agricultural and medical practices; (2) indigenous knowledge becoming increasingly endangered as a result of misappropriation of this knowledge by outside researchers; (3) the misappropriation of indigenous knowledge by outside researchers.

### **Why do we need to preserve and protect this knowledge?**

The protection of indigenous knowledge systems must, in the context of the Philippines, be linked to the indigenous peoples' struggle for the protection of their ancestral domains and natural wealth inherent therein, and vice versa. It is critical to settle the question of who has authority over the utilization of indigenous knowledge systems for the conservation of indigenous knowledge systems to be relevant. In many ways, the problem of control over indigenous knowledge is inextricably intertwined with, and cannot be separated from, the issue of control over their ancestral land and natural resources.

The land or the sea is central to the lives of a community and its inhabitants; sustenance, beliefs, religion, social organization, and interactions with other villages are all shaped by a particular understanding of the land and its resources, as is the interaction with other villages. Several rules and regulations govern the use of land and land resources, which are outlined in detail below (which form the customary system or that of national law). Customary legislation encourages the use of biodiversity resources at a level that is sustainable throughout time. When it comes to the usage and ownership of land, customary law and state law may not be complimentary, which can lead to issues relating to the promotion and protection of their ecology.

Because the indigenous system is still strong in many communities, it is in these communities that the fundamental ecological principles on which most indigenous

peoples rely can be observed to the greatest extent possible in order to preserve the long-term viability of the environment. The understanding of the deep interaction that exists between human beings and the other parts of the ecosystem is a fundamental component of most indigenous knowledge systems. A common part of sustainability is intergenerational equity, which can be found and better maintained in indigenous knowledge systems, as well as other places. This is because indigenous peoples have a strong sense of community responsibility, which contributes to their success. It is the way that land is accessible, utilized, and managed that serves as the fundamental integrating principle in indigenous cultures' cultural systems. Because life is based in the ground, the indigenous system emphasizes the protection and nurturing of the land as an ecological fundamental of existence.

As a result, indigenous knowledge regarding the conservation of natural resources is inextricably related to the system of land use and management. Indigenous knowledge is based on decades of direct experience cultivating land and resources, guided by a prescribed system of norms and beliefs for each land use type. The preservation of these institutions and beliefs is necessary for ethnic sociocultural identity and integrity.

Currently, a system of governance implemented by the government would compete with the process by which customary law evolves and alters through access and property notions derived from actual practices. Local communities' understandings of customary law and state law have become increasingly muddled over time, just as the interchange of information between the two legal systems has become more convoluted. The interactions between the legal systems have resulted in the incorporation of customary practices into the structure of national or state law in some instances, just as state law has been used to strengthen or weaken the customary system in relation to the cultivation and protection of land and its resources on occasion.

Traditional knowledge protection is premised on the 1987 Philippine Constitution, which mandates, through various sections, the recognition, respect, and protection of the rights of indigenous cultural communities, a concern that is absent from the 1935 and 1973 Philippine Constitutions. This is established in Section 17 of Article XIV of the Constitution, which states:

The State shall recognize, respect and protect the rights of the indigenous cultural communities to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national plans and policies.

It was on October 29, 1997, that the Indigenous Peoples' Rights Act (IPRA; Republic Act No. 8371) was passed, which solidified and manifested the mandate of the

Commission. RA 8371 affirms indigenous peoples' rights to their ancestral domains and territories, to self-governance and empowerment, to self-justice and human rights, and to cultural integrity. It also recognizes indigenous peoples' rights to self-justice and human rights. In the latter case, the law protects the intellectual property rights of the community in relation to religious, cultural, and ceremonial sites and ceremonies, as well as indigenous knowledge and customs, and biological resources.

The indigenous peoples' right to preserve their communal intellectual property rights is outlined in Section 32, which states that the indigenous peoples have the following rights:

Indigenous cultural communities/indigenous peoples have the right to practice and revitalize their own cultural traditions and customs. The State shall preserve, protect and develop the past, present and future manifestations of their cultures as well as the right to the restitution of cultural, intellectual, religious and spiritual property taken without their free and prior informed consent or in violation of their laws, traditions and customs.

Thus, the indigenous peoples are granted ownership rights as well as the rights to maintain and develop their lands.

- (a.) The past, present and future manifestations of their cultures, such as but not limited to, archeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature as well as religious and spiritual properties;
- (b.) Science and technology including but not limited to, human and other genetic resources, seeds, medicines, health practices, vital medicinal plants, animals, minerals, indigenous knowledge systems and practices, resource management systems, agricultural technologies, knowledge of the properties of flora and fauna, and scientific discoveries; and
- (c.) Language, music, dance, script, histories, oral traditions, conflict resolution mechanisms, peace building processes, life philosophy and perspectives and teaching and learning systems. (Section 10, Rule VI, IRR).

Section 34 of the IPRA guarantees the right to maintain and develop their indigenous knowledge systems and practices, as well as the ability to generate their own applied knowledge:

Indigenous cultural communities/indigenous peoples are entitled to the recognition of the full ownership and control and protection of their cultural

and intellectual rights. They shall have the right to special measures to control, develop and protect their sciences, technologies and cultural manifestations, including human and other genetic resources, seeds, including derivatives of these resources, traditional medicines and health practices, vital medicinal plants, animals and minerals, indigenous knowledge systems and practices, knowledge of the properties of flora and fauna, oral traditions, literature, designs and visual and performing arts.

As defined in Republic Act 8371, indigenous knowledge systems and practices (IKSP) include “systems, institutions, mechanisms, and technologies that comprise a unique body of knowledge that has evolved through time and process and that embody patterns of relationships between and among peoples, as well as between peoples, their lands, and resource environment,” including “spheres of relationship that may include social, political, cultural & economic, religious, and that are the direct result of the indigenous peoples’ knowledge systems and practices.” For indigenous peoples to benefit from science and technology in the fields of agroforestry and medicine, their free and prior informed consent must be obtained first, and the technology and science must be built upon existing indigenous peoples’ knowledge and systems, as well as self-sufficient and traditional cooperative systems within the particular community.

The following criteria were established in order to protect indigenous knowledge systems and practices among indigenous peoples:

- (a.) The ICCs/IPs have the right to regulate the entry of researchers into their ancestral domains/lands or territories. Researchers, research institutions, institutions of learning, laboratories, their agents or representatives and other like entities shall secure the free and prior informed consent of the ICCs/IPs, before access to indigenous peoples and resources could be allowed;
- (b.) A written agreement shall be entered into with the ICCs/IPs concerned regarding the research, including its purpose, design and expected output;
- (c.) All data provided by the indigenous peoples shall be acknowledged in whatever writings, publications, or journals authored or produced as a result of such research. The indigenous peoples will be definitely named as sources in all such papers.
- (d.) Copies of the outputs of all such researches shall be freely provided the ICC/IP community; and
- (e.) The ICC/IP community concerned shall be entitled to royalty from the income derived from any of the researches conducted and resulting publications. To ensure effective control of research and documentation of their IKSPs,

the IPOs initiatives in this regard shall receive technical and financial assistance from sources of their own choice.

Free and prior informed consent (FPIC) is a built-in mechanism in the IPRA that safeguards indigenous peoples' traditional knowledge and their right to traditional knowledge protection. A consensus of all indigenous peoples to be determined in accordance with their respective customary laws and practices, free from external manipulation, interference, and coercion; and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community, is what is meant by consensus.

Essentially, it recognizes the community as the general owner of its traditional knowledge at all times and for all time to come, forever. Due to their status as owners, indigenous and local communities will reap the benefits of their knowledge and innovations, which will aid their development and welfare. As such, all profits will be fairly distributed among them. To be used commercially, such information and innovations must first get the freely given and informed approval of their general owners or custodians under terms that have been mutually agreed upon.

It also requires the state to make every effort to protect and encourage the customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation and sustainable use, as well as to promote conservation and sustainable use of biological resources.

The registration of indigenous and traditional knowledge, which is distinct and separate from the issuing of patents, is regarded as the foundation of property ownership. As a result, the bills propose that it be the policy of the government to document and create a systematic inventory of plant and genetic resources and knowledge originating from indigenous and local communities, as well as from all other sectors that do not have regular access to journals published by the scientific, business, and academic communities, particularly those who do not have a written tradition or culture, among other things. Accordingly, the bills seek to establish several registries, including the National Inventory of Plant Varieties for plant varieties, seeds, and other plant reproductive materials; the National Registers of Indigenous Cultural Heritage for cultural products and heritage; and the National Register of Indigenous Inventions, Designs and Utility Models (which includes agricultural practices and devices developed from indigenous material), amongst other things. It shall also contain all other items that are components of intellectual property belonging to the community but are not included in the other two registers.

An indigenous community, defined as a group of people who live within a geographic boundary and have shared history and definitive patterns of relationship,



and which has registered with the appropriate government agency as a tribal council, foundation, cooperative, or people's organization that would effectively represent their interests, shall automatically become the general owners of any form or product of traditional knowledge.

## PART TWO

# Introduction to the Customary Laws of the Sama Banguinguih of Simariki

*Adat* or customary laws are a set of laws transmitted from one generation to another, which may be in the form of oral tradition and based on common sense and the religious orientation of the community that espouses it.

Customs are norms or rules that generally provide and guide the way people behave in specific settings in communities and that every society establishes as its own customary laws to have a social order. Each follows its own set of rules regarding proper behavior.

### Background of the Sama Banguinguih of Simariki Island

The Sama<sup>8</sup> Banguinguih of Simariki Island started as a community as one of the oldest Sama Balanguinguih communities in Zamboanga City. They played a crucial role in the building of Fort Pilar which was originally manned by a Jesuit priest. The history of early Zamboanga City, Fort Pilar, and Simariki is intertwined in the sense that the development of Zamboanga City and Fort Pilar was due to the support provided by the people of Simariki.

Simariki is both a natural cove and mangrove sanctuary wherein it is naturally protected by sandbars, mangroves, and islets.

Simariki was not organized as a barangay, unlike Mariki and Rio Hondo, which gained attention most especially after the Jolo-Caust (Sulu 1972 siege) and were both declared barangays despite the fact being organized in the 70s. As such, documentation

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8 Hji Nasir Ismula (tribal chieftain, Simariki Island), interview.

of Simariki such as census and voters registration seemed nonexistent, save for the students who enrolled in Talon-Talon Elementary School.

The Sama identity is derived from the term *sama-sama*, which means “togetherness” or “collective effort.” The Sama people are highly dispersed and scattered in the Zamboanga–Basilan–Sulu–Tawi-Tawi Archipelago. They are geographically diversified owing to their exposure to maritime activities and fishing. Five subclusters make up the Sama people. Helping each other is recognized as the norm of the Sama people.

The Sama people are generally called by their place of residence. Thus, there is the Sama Balimbing, Sama Simunul or Sama Sibutu. These groups claim to be the origin of all Sama subgroups scattered throughout the Sulu Archipelago. They inhabited most major islands of Tawi-Tawi.

The Sama Banguinguih is also considered a major group within the Sama ethnic group as they are present in almost all areas in Zamboanga, Basilan, Sulu, and Tawi-Tawi. Their dialect is just a variation of the Sama language. The geographical distance being separated from other Sama groups by seas has caused the variation of their dialect from their mother tongue. But generally, all Sama people understand each other.

The Banguinguih have a well-developed social organization comparable to the Tausugs. Back in the sultanate period, each Banguinguih community had its own *panglima* and maharaja as the highest and most influential people in their society.

They have a well-established knowledge of navigation and seamanship, and accordingly, they have navigated to areas beyond Southeast Asia and were known navigators to ferry pilgrims for *hajj*<sup>9</sup> in the years before the invention of air travel.

The indigenous political structure of the Sama Balanguinguih in general a part of the Sulu Sultanate’s political system. Being culturally affiliated to them, the Sulu Sultanate in its time of existence appointed maharajas and panglimas to govern the different areas of the Sultanate. Zamboanga in the early course of history was peripheral territory between Maguindanao Sultanate and Sulu Sultanate.

### Leadership structure

Although there are several leadership titles which are recognized among the Sama Banguingui. Among them are as follows:

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9 Hji Barahim Esmula (former tribal chieftain), interview.

- (1.) *Maharaja* — a political leader whose area of governance corresponds to the present size of a city or Municipality. However, it can also function as a deputy in the case of Simariki where a panglima has a maharaja as his deputy.
- (2.) *Panglima* — a political leader who is identified as a tribal chieftain of a smaller area or town. In the case of Simariki, the overall head is a Panglima.
- (3.) *Imam, hatib (khatib), pandita, and Guru* — religious titles which are used to identify religious leaders who deal with both the religious aspects of the Sama Banguinguih. The *imam* is generally the prayer leader in everyday activities but is also considered to be the primary religious leader in the community. The *hatib* generally provides sermons during regular and Friday prayers. The *pandita/guru* are considered to be earlier religious teachers and are subsequently succeeded and replaced gradually by those who have studied in the madrassas known as *ustadz*.
- (4.) *Datu* although primarily a Melayu/Tausug title is considered to be an equivalent title to both the Maharaja and Panglima. Communities like the Sama Banguinguih may bestow Datu titles on special individuals whom they consider to be of great leadership value.

The leadership of Sumariki Island is primarily based on the panglima system.<sup>10</sup> The tribal chieftain of Sumariki Island is known as a panglima although there are other panglimas who may exist as well.

Being one of the oldest Sama Banguinguih settlements in the 1700s, it is considered to be one of the “Five Pillars of the Sama Balanguinguih Indigenous Political structures in Zamboanga City (Lima Haag sin Sama Balanguinguih ma Samboangan).

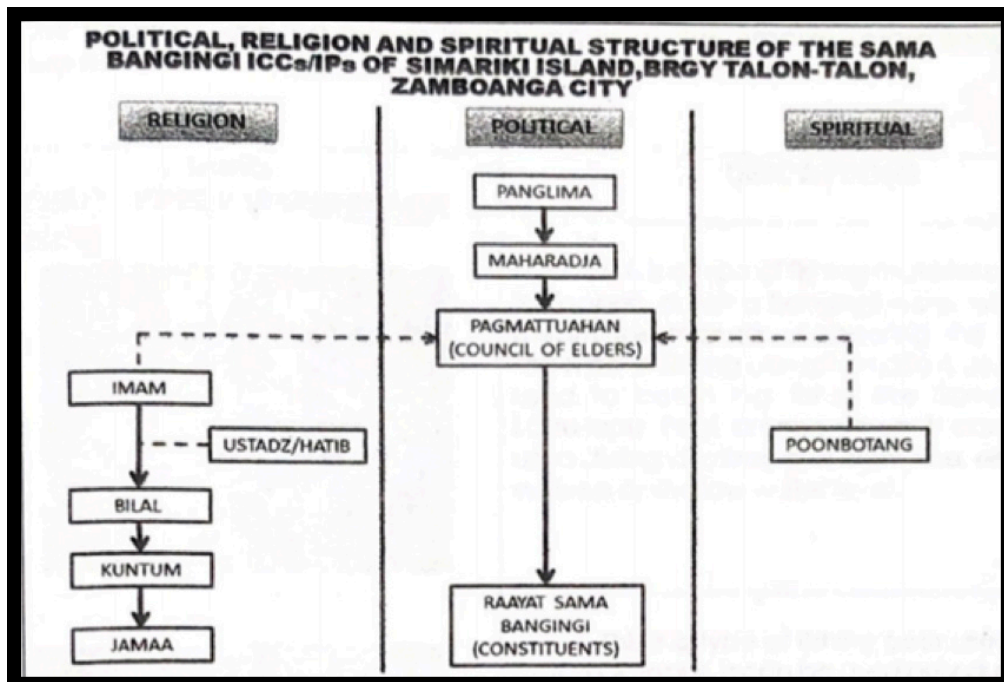
There are also other structures such as Pahalawan (sea marshals) who are also recognized as Men of the Sultan of Sulu but are also recognized as tribal leaders in the Sama Banguinguih Community.

While the council of elders holds sway over the political, religious, and spiritual (traditional healing and customary knowledge) as shown in the illustration. The system shows that the *panglima* is the overall head of the community who is generally selected among the council of elders based on consensus, he is assisted by a maharaja. The *panglima* is expected to be knowledgeable in cases of livelihood, governance, and faith as he is the overall leader of the community. His deputy (the maharaja) is expected to be of similar qualifications (Figure 1).

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10 Hji Ilaha Maani (tribal elder), interview.

FIGURE 1: Present governance system in Simariki



The council of elders is normally composed of the senior members of the community from the *raayat sama* (constituents), they select who the Imam is, considered to be the most knowledgeable pandita or guru both in customary law and Islam. He is assisted by a *hatib/ustadz* and the *bilal* who normally makes the regular *adhan/bang* (Call to prayer) during times of prayer: *Subh* (early morning), *Luhul* (noon), *Asar* (afternoon), *Magrib* (sunset) and *Isha* (evening).

The caretaker of the *langgal/masjid* (prayer hall) is called a *kuntum* who ensures that the place of prayers is well taken care of. The community shaman/healer is called a *poonbotang* who uses traditional healing practices and ensures that the community doesn't offend the spirits and jinn who co-reside in the area.

### Social institutions, practices, and processes among the Sama Banguinguih

As the Sama Banguinguih is an Islamized indigenous people/cultural community, social institutions and processes are considered to be part of the IKSP, and being Muslim, these processes generally conform to Islamic teachings and precepts. These are part of what their customary law ensured protection and continuity. The following are some of the social institutions and processes they have:

- (1.) **Paghenda** (Marriage). According to the elders of Smariki, traditionally a prospective bride who is about to marry stays in an *angkup* (elevated part of the house) until the time she has married.

The first phase of the wedding process is **pagpasihil**, wherein ten to fifteen people from the prospective groom's family with a spokesman/mediator visit the prospective bride's parents to ask for the daughter's hand in marriage. The spokesman of the groom's family will talk to the facilitator from the prospective bride's family. The groom's family will normally bring **buyu bunga**, which normally consists of tobacco, betel nut, and lime (for chewing purposes and to spark the discussion among elders).

They would also bring gold and money signifying their intention or purpose to open conversations and negotiations and that they are serious in pursuing this matter to its fruition and consider this process to be important and of crucial value (this is termed nag-**Tapil Dila**). This process is normally done with little introduction and is not much elaborate. In most cases, both the groom and the bride know each other as well as their families and relatives.

Only the parents and relatives talk the prospective groom stay at home while the bride stays at the **angkup** (normally a room on the upper portion of the house). In most cases, the parties of the bride would agree to the proposal as it would be considered an affront should a marriage proposal be refused or denied. In addition, the mother or female relatives of the bride would ask the bride if she would agree, and in general, silence from the prospective bride would be considered to be yes, as if a bride would disagree, she would speak her mind out and oppose the marriage proposal. In most cases, daughters would agree out of respect and reverence to their parents.

When the parties of the prospective bride would say "**Tayma**" (accepted), then the spokesman of the groom will offer a ring (and/or money) to symbolize the engagement of the groom and the bride. The ring may be kept or used in the wedding.

As the negotiations and conversations are ongoing, members of the groom's party distribute native delicacies to all of those present in the gathering. After agreements have been concluded, the parties of the groom shall return back to conduct the **turul tayma** (formalization of the engagement).

The second phase is **turul tayma** (formalization of the engagement) wherein discussions would be made regarding the wedding ceremony, such as the officiating imam, **umpat saksi Kawin** (four witnesses, two from the grooms side and two from the bride's side), the amount and value of the **mahar** (dowry), food arrangements such as the number of cows, goats to slaughter, sacks of rice to cook and the division of tasks and expenditures as mutually agreed by parties of the groom and bride.

These agreements are generally called ***pinagsulutan*** (mutually binding agreement). In some cases, most especially if the bride comes from a well to do clan, the groom would be expected to render some service to the family of the bride, termed as ***pagtunggo tunang*** (guarding your bethrothed), this practice however is not obligatory in most cases.

The third phase is ***pagtambuko***, wherein the groom's party/relatives would bring the agreed dowry and other materials to the bride's family. They also finalize the arrangements and schedule of the wedding.

In most cases, the family of the groom provides the schedule and the bride's relatives agree to it. After this the parents, elders, and relatives of the groom and bride would advise the soon-to-be spouses on their duties and obligations to each other.

The fourth phase is ***pagkawin*** or the wedding proper. Before the *pagkawin*, the Imam asks consent from the wali (guardian/father of the bride). The family of the groom goes to the residence of the bride where the wedding is normally officiated. In the case of the groom, the imam facilitates and does the ritual wedding bath for the groom. In the case of the bride, her relatives facilitate her ***pagpaigu*** (ritual wedding bath).

After this, the Imam officiates the formal aspect of the wedding in the presence of witnesses and family. During the formal wedding ceremony, the bride is placed in a separate room but is able to listen to the ceremony and the sermon of the Imam. After the formal ceremony of the wedding, the groom is guided by the Imam to the bride while relatives of the bride would describe in melody (song) what is happening.

The Imam would guide the hand of the ***pangantin lella*** (groom) to point towards the forehead of the ***pangantin denda*** (bride). This is called *pag bahtal* (ending of singlehood). The imam then requests the new bride and groom to sit side by side (groom right and bride left side) together with the ***pandala lella*** (groom's Man) and the ***pandalla denda*** (bridesmaid). The groom and bride will be seated on separate cushions and rotated clockwise three times by their respective *pandala*. This is called ***agliling pangantin***.

There are generally four types of marriage among the Sama Banguinguih:

- (a.) ***Palahi*** (elopement). This is when sweethearts fear that their parents will not agree to their relationship. The children will then elope and seek a community elder to negotiate a marriage on their respective behalf.

- (b.) **Agsarahakan togol.** This is a shortcut of the whole process wherein the prospective groom goes to the father of the bride without his relative's knowledge which in most cases both the prospective groom and bride have already known or have had special romantic relationships and are in mutual understanding. If the woman initiates this, this process is normally called **agpole denda** or **moleh aghella** where the woman most likely has had sexual relations with the man and goes to a **panglima** (tribal chief) to help arrange their marriage.
- (c.) **Tahakkim.** This is normally when the father of a girl knows a good man and offers his daughter to be wed by him. This is based on the practice of the **Prophet of Islam** where the companion Abubakar (RTA) wed his daughter to the Prophet Muhammad (peace be upon him)
- (d.) **Aghengkot.** This is when the father of a prospective groom approaches the father of a prospective bride to request that their children be betrothed and arranged for marriage. This normally happens when both parties are still of young age and the father of the groom wants to ensure the marriage of his son to the bride. There are instances where this type of marriage is unsuccessful especially if the girl already is entangled in a romantic relationship with someone else.

There are generally five requisites for marriage (lima rukun kawin) followed by the Sama Banguinguih of Simariki, a marriage is considered invalid if one of the rukuns is missing. They are:

- (a.) **Riddah.** This is the decision and sincerity of a man to marry and take care of his bride in marriage
- (b.) **Wali.** This refers to the presence of a guardian and consent of the parents of the bride for marriage
- (c.) **Saksih.** These are witnesses normally four, but in an emergency, two may be accepted to ensure that the wedding has been made in accordance to Islam and the customs of the community. Witnesses should be of social standing in the community such as religious leaders, teachers, professionals or community elders.
- (d.) **Ungsud pagsusulutan.** This refers to the dowry or mahar which is the bridal gift and mandatory in Islam
- (e.) **Ijab wa qabul.** This is also known as turul maka tayma (offer and acceptance) wherein the parties of the groom make an offer or proposal for marriage and there is acceptance of the marriage proposal of the family of the bride.



- (2.) ***Pagpanganak.*** Birthing is the process wherein the ***panday*** (midwife) would assist the mother in giving birth to their child. During the seventh month of pregnancy, the family of the pregnant woman would celebrate ***pagbuhat*** with buwas (rice), unopen coconut, olos (malong/waist cloth), and coins which are given to the ***panday*** who is expected to assist in childbirth, as a thanksgiving gift. If the family can afford it, they would give food to the community as a symbol and token that the baby is doing good deeds by giving food to the community.

The ***panday*** would do ***hilot*** (massage) to check and feel the placement of the baby in the womb with palm oil and massage the womb to ensure the location of the baby is comfortable inside. ***Kayawan*** (sharpened bamboo) was used to cut the umbilical cord in the old days, then wrapped in a white cloth and hung in one of the places in the house.

The placenta of the baby will be put in a container covered by coconut shells then wrapped in white cloth then buried beside the road, as the Sama Banguinguih believes this will ensure that the child will be liked by many and ensure the child will be able to get married and be lucky in life.

- (3.) ***Pagkubul/pagtanom.*** Burial is a very important social institution and process for the Sama Banguinguih community, as when this happens, the whole community in Simariki is mobilized to assist any community member who has someone who had recently died in the family. There are four parts of the burial process:

- (a.) ***Pagpandih/pagpayguh.*** This is the ritual washing of the ***mayyat*** (corpse). If the ***mayyat*** is male, the imam does the ritual washing; if it is female, the ***panday*** does it. The body is being washed three times with water soap, and camphor incense is being burnt. Generally, this is done with the ***mayyat*** placed on top of banana trunks while the washing process is being undergone.
- (b.) ***Pagsaput/pagbadju.*** This is the ritual wrapping of the ***mayyat***. This is normally done with three sets of white cloth, the first is wrapping the first set of cloth of the private area, the second set of cloth normally called ***kafan*** is sewn to wrap the whole body of the ***mayyat*** with the face covered. Before the face is fully covered, relatives are asked to come in and see the face of the ***mayyat*** either to say one's final words or kiss the ***mayyat*** before the face would be covered and be wrapped with the final third sheet.
- (c.) ***Pagsambahayang.*** After the ritual wrapping of the ***mayyat***, members of the community who are present are then asked to participate in the ***Sambahayang Janazah*** (funeral prayer) which is normally five ***takbirs***. The dead is placed facing towards the Kaaba and the imam

faces the *mayyat* and the *jamaah* behind him as they perform the ritual prayer.

- (d.) ***Pagkubul***. After the ritual prayer, the body is placed in a wooden coffin as it is transported to the burial ground/cemetery. A grave is dug up in an L-shape around six to seven feet deep facing Mecca (normally facing the west in the Philippines/sunset) as the body is lowered down, parts of the wooden coffin are arranged to cover the part of the L where the *mayyat* will be buried, then the covered face will be opened to touch the earth, a short *duwaa* is recited by the man who places the *mayyat* in the grave inside, then parts of the wooden coffin shall cover the enclosure there to ensure the body is protected from the elements.

He then goes up so the earth will now be slowly dumped on the grave. After the grave is covered the imam recited *talqin* which is an admonition to the dead and those around who their God is, who their prophet is, who is their imam, what is his book, what is his kiblah and who are his brothers. After the dual *talqin* is recited, Surah Yasin, Surah Al-Fatiha and Salawat Qubur are recited, after which water is poured in top of the grave. A *sunduk* (wooden gravestone) is placed with details such as his name, date of birth and death. Remaining portions of the wooden coffin are placed as boundary/gate of the grave.

- (e.) ***Pag duwaa hinang, Pag duwaa Salamat, or Pagduwaa Hinang Parkala***. This is normally done by the family of the deceased after 7 days, 10 days 40 days and one year after the death of the *almarhum*. Some of the family members would visit the grave after these *duwaa* prayers to pour water and recite Surah Yasin for the deceased.

- (4.) ***Paggunting (aqiqah)***. This is the process to welcome a child into the world for all Muslims, among Sama Banguinguih this is called *paggunting*. Normally done by the Sama Banguinguih of Simariki after the fifth day of birth of a child, they prepare young coconuts (some are open while some are closed), candles, *kamanyang* (incense), and Quran.

Two goats are slaughtered for a boy and one goat for a girl. As the baby's hair is cut, it is placed in a young coconut, and the water is used to wash the head (*nagpurut*), the *adhan* is recited in the right and *iqamah* is recited in the left ear. Afterward *sadaqah* is given to the imam and others who may be present.

Part of the hair would be kept by the parents of the baby. Those who can afford would do the *paggunting* with the slaughtering of goats while those who couldn't would settle without slaughtering any goat.

- (5.) **Pag-islam.** This is the process of circumcision for boys wherein a sharp blade, normally a razor or a knife would be used to cut the foreskin of a young boy so he will be considered clean. Once he is circumcised, he will be said to be *na-islam* na.
- (6.) **Pag-sunnat.** This is a practice among the Sama Banguinguih for young baby girls where her private part (vulva) would be wiped and a prayer (*duwaa*) would be recited so she would grow up to be a good person.
- (7.) **Pagtulak Balah.** This is a ritual that the old Sama Banguinguih does during the month of Sapal (Safar) where the imam would ritually pour or splash seawater on the people's backs. The people will then use these pebbles to throw far away, after which the imam will recite some *duwaa* (prayers).
- (8.) **Pagtampil.** Also known as *Tampil*, this is the practice of visiting the graves, reciting some supplications, and pouring water over them before the start of the month of Ramadan.
- (9.) **Pagtaitih/taitih.** This is a practice done during Nisfu Shaban where people visit their deceased relatives during the middle (*Nisf*) of the month of Shaban to recite *duas* and pour water over the graves, some would also offer *dua Salamat* (prayer and feast) in their homes in commemoration of their lives.
- (10.) **Pagduwaa Salamat** (communal supplication of thanks). This is done as a thanksgiving prayer for any special occasion such as birthdays, successful business ventures, anniversaries, or an upcoming venture. This involves putting several trays of food in the center with an imam, burning incense, and the recitation of selected supplications and verses from the Holy Quran.
- (11.) **Paghaylaya.** This is the practice of the people of Simaraiki during the two major festivals, Eidul Fitri (marking the end of Ramadhan) and Eidul Adha (marks the end of the Hajj season), where the community makes a communal celebration of Eid/Hariraya slaughter goats, cook native delicacies, make *duwaa Salamat* in their homes and invite guests and relatives to their residence. They also give food, gifts, and at times, money to guests.
- (12.) **Pagtawal.** Normally done by elders or the *poonbatang* (community shaman), this involves incantation of some prayers and the conduct of some rituals and burning of incense to do customary healing of people afflicted by illness either due to sickness or offending the spirits/ancients/ancestors (*omboh*). Once the cause is determined, an offering will be done in order to appease the offended ancestors (*omboh*) or the spirits. This may be through the offering of eggs, chicken, goat, or if there was some property of plant that was damaged, its repair in order to show that there was sincerity and restitution of the damage done.

## PART THREE

# Notable Features of Adat Law and Its Relationship to Islamic law

Throughout the pre-conquest Philippines, the panglima, datu, or chief (*nakurah*) of the community (*kawman*) was bestowed with the responsibility, as well as the authority to resolve disputes and conflict within the community. Where the power of the datu was unchallenged, two distinct roles were assigned to him: as judge and as a leader of the community (Fernandez 1976, 15).

Historically, Islamic law prevailed in the islands of Mindanao and Sulu. Through it, the Muslim datus in the regions and sultanates governed and regulated the lives of the people (Abbas 1976, 184 as cited in Jundam 2006). Adat law played a vital role even during the sultanate period (Majul 1970).

While the secular authorities of the sultan and the datus gradually declined during the later part of the American rule in the Philippines, the local headman in the countryside, who remained untouched by the colonizers, continued to exercise political power using Adat Law in the administration of justice in a Sama Banguinguih community. Adat Law had strong moral persuasion and ascendancy over the people due to its twin binding ties, *agama* (Islamic Faith) and *bangsa* (their tribe or nation).<sup>11</sup>

The Islamic penal system's principal purpose is to safeguard society against the perils of violence. Society must be safeguarded from outlaws and thugs. Social life must be tranquil and secure. The Islamic penal system is strong in order to deter criminality. If the offender is aware of the grief and pain he/she will cause oneself, he/she may choose not to perform the crime. After going through the judicial procedure once, a

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11 Fatmawati Tulawie Salapuddin (former NCMF Commissioner), interview.

convicted criminal may be unwilling to engage in any criminal activity. This is the basis for the Islamic penal system's deterrent ideology.<sup>12</sup>

The application of adat law would generally vary from region to region depending upon the influence of local customs and traditions as well as governments. These variations, however, are not meant to bring about disunity or confusion.

In fact, the degree of these dissimilarities is recognized as purposes of moderating the harsh *hukuman* (judgment). This is exemplified by the lessening of the *multa* (fines) against violators, *ungsud* (brideprice), and *bangun* (blood money). Such degree of variations is further recognized for the purpose of supplementing or enriching the Islamic practices.

Though it must be emphasized that since the Sama Banguinguih are Islamized indigenous people (Islamized IP) their customary law would be heavily influenced by Islamic Penal law whose severity of the Islamic penal system is aimed at discouraging criminal behavior.

The concept is based on the idea that "if the criminal knows the anguish and pains he/she will bring to himself, he/she may abstain from committing the crime. The convicted criminal who has passed through the judicial process once may not willingly dabble into any criminality after the painful experience. Herein lies the philosophy of deterrence in Islamic penal system."<sup>13</sup>

To highlight the importance of how the customary law of Simariki handles offenses, one must understand that criminal behavior and actions are broadly divided into three categories in Islamic criminal jurisprudence. Hudud offenses are crimes against God whose punishment is clearly stipulated in the Quran and the Sunna. Okon provides definitions of *qisas* offenses and *ta'zir* punishments:

Qesas are physical assault and murder that are punishable through retaliation. The victim or the surviving heirs may decide to waive the punishment, and demand compensation (blood money or *diyya*). The victim may also decide to pardon the offender. Ta'zir punishments are not prescribed in the Quran or Sunna, and are executed under the discretionary powers of the judge.<sup>14</sup>

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12 Etim E. Okon, "Hudud Punishments in Islamic Criminal Law," European Scientific Journal 10, no. 14 (May 2014): 227, <https://doi.org/10.19044/esj.2014.v10n14p%25p>.

13 Okon, 227.

Capital offenses in the Islamic criminal justice system are called *hudud* (the plural for *hadd*), meaning “restraint” or “prohibition.” These are offenses that are specified in the Quran and Sunnah.

*Hudud* crimes are often seen as criminal behavior against Allah or public justice. Islamic courts do not have any discretionary power in the execution of *hudud* penalties.

Once a *prima facie* case is established with evidence, and the conditions for applying the punishments are fulfilled, the Islamic court is divested of discretionary powers.<sup>15</sup>

There are however exceptions to this rule. The Quran and the Hadith do not stipulate punishment for all offenses. As such Islamic jurisprudence has therefore established discretionary punishments (*ta’zir*) to accommodate minor offenses. *Ta’zir* is applied to either *qisas*, or *hudud* for example theft of an item, which the value is below *nisab* and sexual offenses that cannot be interpreted as intercourse. *Ta’zir* may be applied to doubtful and probable circumstances or want of credible evidence or certainty.<sup>16</sup>

Acts that are prohibited by the Quran or Hadith, or acts that violate public morality and welfare that are not classified under *qisas* or *hudud*, such as usury (*ganda riba*), embezzlement (*pangakka*), bribery, false testimony (*putting*), consumption of pork, abuse of duty by a public officer (*pangdurupang*), and so on, fall under the category of *ta’zir*.<sup>17</sup>

Nudity, seductive attire, and disobedience to the husband are all examples of actions that are adjudicated under *ta’zir* at the judge’s discretion and are considered to be intentional violations of Islamic rules. For example, whipping, exile, public censure, and disgrace (*tashir*) are all possible punishments under *ta’zir*, and while in some circumstances *ta’zir* sentences are only a warning, in others they might result in death. Those convicted of espionage for the enemy, adultery, heresies, or divination will face the death penalty if they are found guilty of their crimes. When it comes to the fabrication of documents, the Maliki School of Islamic jurisprudence punishes the perpetrator by amputating the right hand.<sup>18</sup>

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14 Okon, 228. Emphasis in the original.

15 Okon, 228.

16 Okon, 228.

17 Okon, 228.

While the objectives of Islamic Law (Shariah) is the protection of the five *maqasid* (also known as essentials) to prevent undue harm to the Muslim community by committing to the following: (a) protection of faith or religion (*din*), (b) protection of life (*nafs*), (c) protection of lineage (*nasl*), (d) protection of intellect (*'aql*), (e) protection of property (*mal*).<sup>19</sup> The objective of Sama Banguingih customary law is to ensure peace, harmony so that the Simariki Sama Banguingih community can leave in peace and mutual tranquility (*Kasalamatan maka kahapan*).

### Features of the Adat Law of the Sama Banguingih

The first basic feature of the Banguingih adat law is the use of facilitation. The Sama basically believe in the concept of *kasilasa*, “love amongst kin” as they call it, and the *raison d'être* of customary law (adat) is to ensure that the community is in order and not in conflict by ensuring rights and duties are looked after.

The second feature of Banguingih adat law is regularity. According to Hoebel, regularity must be warned and does not mean absolute certainty (Ibid., p. 304). Having been transmitted from one generation to the succeeding generations, law builds on precedents. New sets of laws are promulgated in order to enrich the existing adat law of the ancestors. Likewise, universally accepted as sound legal norms of conduct, laws tend to shape the foundation for making legal decisions in the future.

The third feature of the Banguingih adat law is *sara'* (lawgiver). This is considered an official. He is generally or specifically recognized as rightly exerting the element of physical coercion. The fear of *busung* (a supernatural power) being possessed by a *sara'* supplements the coercive feature of the customary law. His kinship-based relationship in the community provides him the flexibility by which he imposes punishment. *Busung* or *sukna* (curse) *sin katluan juz sin* Quran (the curse of the 30 chapters of the Holy Quran) also is also part of the moral compulsion for others to adhere to the *sara'*'s decision.

The legal force of Adat law is universal, regardless of kauman (community), any legitimate *sara'* can try cases. Normally, the Banguingih tends to present cases to the *sara'* of the community where he lives. However, there are also instances whereby a distant or secondary headman is clothed with the legal power over cases presented to

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18 Okon, 228–29.

19 Kuwait Finance House (Malaysia), “Maqasid Shariah,” 2018, <https://www.kfh.com.my/malaysia/corporate-banking/about-us/islamic-banking-services/maqasid-shariah.html>.

him outside of his own territorial and legal jurisdiction as long as there is no ongoing feud between him and principal headman. The principal headman is the headman of an individual or group of individuals living under his domain yet seeking the counsel of another headman outside of his territory or community. A secondary headman, on the other hand, receives the complaints of people who do not belong to his territorial and legal jurisdiction.

## **Understanding the current legal basis of customary law**

Basically, customary law is recognized in Philippine statutory law as evidenced in the following legislation: (a) Civil Code of the Philippines, which recognizes it in articles 11 and 12; (b) Presidential Decree 1083 (Code of Muslim Personal Law) also recognizes the need to create arbitration councils under Book IV, Title II, article 60 for purposes of mediation and conciliation among Muslim couples; and (c) most especially RA 8371 (Indigenous Peoples' Rights Act or IPRA) recognize the validity of customary law as a conflict resolution tool.

It allows the usage of the adat in order to speed up the resolution of cases at the communal and the barangay level which is specifically mentioned under sections 14 and 15 of IPRA.

Belonging to the indigenous cultural communities, the Sama Banguinguih retains some of its cultural norms before Islamization as well as simplified explanations of complex Islamic jurisprudence understandable at the community level.

This simplification was made possible by religious teachers in the community known as guru, panditas, and hajis who have studied Islam and Shariah to a certain extent allowing them to simplify matters so that community people can practice them.

Although primarily the sources of this law are adat (custom) as well as textual sources (Quran and Hadith of the Prophet of Islam), the customary law is a simplified process culled from the wisdom and understanding of the communal elders, showing Islam's dynamism even in these areas and how it integrates customs (urf) and Shariah.

## **Spaces where customary law can play a role in peacebuilding and addressing social anger and violence**

In the Philippines, alternative dispute resolution (ADR) as a system of handling conflicts has been long recognized with the passage of Presidential Decree 1083<sup>20</sup> (PD 1083), also known as the Code of Muslim Personal Laws, which allowed for the creation of an Agama Arbitration Council to resolve cases and concerns of Filipino Muslims in



matters of persons and family relations, inheritance, financial issues, marriages, and divorce. In essence, PD 1083 allows the process of using customary law as interpreted by indigenous Islam to be utilized falling under the category of *adat*<sup>21</sup> (customary law), also referred to as *urf* in Islamic jurisprudence.

PD 1083 provides for mediating in marriages and divorce<sup>22</sup>, communal and customary properties<sup>23</sup>, and offenses against customary law.

The Indigenous Peoples Rights Act<sup>24</sup> (Republic Act 8371 also known as the IPRA Law) affirms and emphasizes the right of indigenous communities (whether Islamized or non-Islamized) to practice their customary laws and way of life. It allows them to basically practice their cultural customs and traditions<sup>25</sup>, practice self-governance<sup>26</sup>, and implement their own justice system<sup>27</sup> with the right to resolve conflict in accordance with customary laws.<sup>28</sup>

Other significant legislation emphasizing the recognition to practice the traditional customs and traditions and their mediation processes are enshrined in the Civil Code of the Philippines<sup>29</sup>, the Family Code of the Philippines<sup>30</sup>, the Child and Welfare Code of the Philippines<sup>31</sup>, and the Local Government Code<sup>32</sup>, which establishes the

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20 Code of Muslim Personal Law, Pres. Dec. No. 1083 (Feb. 4, 1977), [https://www.lawphil.net/statutes/presdecs/pd1977/pd\\_1083\\_1977.html](https://www.lawphil.net/statutes/presdecs/pd1977/pd_1083_1977.html).

21 Code of Muslim Personal Law, Pres. Dec. No. 1083, art. 7, para. (b) (Feb. 4, 1977).

22 Code of Muslim Personal Law, Pres. Dec. No. 1083, art. 7, para. (a) (Feb. 4, 1977).

23 Code of Muslim Personal Law, Pres. Dec. No. 1083, art. 173–75 (Feb. 4, 1977).

24 Indigenous Peoples Rights Act of 1997, Rep. Act No. 8371 (Oct. 29, 1997), [https://www.lawphil.net/statutes/repacts/ra1997/ra\\_8371\\_1997.html](https://www.lawphil.net/statutes/repacts/ra1997/ra_8371_1997.html).

25 Indigenous Peoples Rights Act of 1997, Rep. Act No. 8371, ch. VI (Oct. 29, 1997).

26 Indigenous Peoples Rights Act of 1997, Rep. Act No. 8371, ch. IV, §13 (Oct. 29, 1997).

27 Indigenous Peoples Rights Act of 1997, Rep. Act No. 8371, ch. IV, §15 (Oct. 29, 1997).

28 Indigenous Peoples Rights Act of 1997, Rep. Act No. 8371, ch. II, §3, para. 8 (Oct. 29, 1997).

29 Civil Code, Rep. Act. No. 386, as amended, [https://lawphil.net/statutes/repacts/ra1949/ra\\_386\\_1949.html](https://lawphil.net/statutes/repacts/ra1949/ra_386_1949.html).

30 Family Code, Exec. Ord. 209, as amended, [https://lawphil.net/executive/execord/eo1987/eo\\_209\\_1987.html](https://lawphil.net/executive/execord/eo1987/eo_209_1987.html).

31 Child and Youth Welfare Code, Pres. Dec. 603, [https://lawphil.net/statutes/presdecs/pd1974/pd\\_603\\_1974.html](https://lawphil.net/statutes/presdecs/pd1974/pd_603_1974.html).

32 Local Government Code, Rep. Act No. 7160, as amended, [https://www.lawphil.net/statutes/repacts/ra1991/ra\\_7160\\_1991.html](https://www.lawphil.net/statutes/repacts/ra1991/ra_7160_1991.html).

Katarungang Pambarangay system, which has a mechanism that allows the operation of customary laws to be used in resolving and mediating conflicts of which the framework for mediation and adjudication was provided earlier by PD 242<sup>33</sup> during the time of President Marcos and RA 9285 in 2004.<sup>34</sup>

The Katarungang Pambarangay (barangay justice system) has established a system that has provisions for mediation, amicable settlement, settlement, conciliation that allows the implementation of customary laws relevant to conflicts and issues at the community level.<sup>35</sup>

### **Documentation process of the Simariki Sama Banguinguih customary law**

The documentation process was made possible by convening the *diwan/pagmatoohan* (Council of Elders) of Simariki wherein they were asked to narrate how they resolved conflicts from the lessons they have learned from their elders as well as the current Sara' (customary carriers of the law) as to how they understand it.

Documentation was made possible primarily thru the facilitation and help of the Tribal chieftain Hadji Nasir Ismula<sup>36</sup>, Konsehal Tungko Hanapi (current Indigenous Peoples Mandatory Representative of the City Council of Zamboanga, a former barangay captain of Kasanyangan at that time and a member of the Diwan) and the other tribal chieftains.

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33 Prescribing the Procedure for Administrative Settlement or Adjudication of Disputes, Claims and Controversies Between or Among Government Offices, Agencies and Instrumentalities, Including Government-Owned or Controlled Corporations, and for Other Purposes, Pres. Dec. No. 242 (July 9, 1973), [https://lawphil.net/statutes/presdecs/pd1973/pd\\_242\\_1973.html](https://lawphil.net/statutes/presdecs/pd1973/pd_242_1973.html).

34 Alternative Dispute Resolution Act of 2004, Rep. Act No. 9285 (Apr. 2, 2004), [https://www.lawphil.net/statutes/repacts/ra2004/ra\\_9285\\_2004.html](https://www.lawphil.net/statutes/repacts/ra2004/ra_9285_2004.html).

35 Local Government Code, Rep. Act No. 7160, as amended, ch. 7, §408–22, [https://www.lawphil.net/statutes/repacts/ra1991/ra\\_7160\\_1991.html](https://www.lawphil.net/statutes/repacts/ra1991/ra_7160_1991.html).

36 Ismula was the prime mover behind this documentation process and was the person behind the lobbying and protecting the process of securing the CADT, being the most senior among the present group of tribal leaders in Simariki. Nasir Annuari Ismula, present overall tribal chieftain of Simariki was born on December. 25, 1955, in Simariki. Currently 65 years old, he is the son of Panglima Hj. Barahim Pajiji Ismula and Hadja Sara Annuari Ismula and syudied in Zamboanga AE colleges. Currently he is a businessman in Zamboanga City but focuses on ensuring that their community Simariki attain its CADT from NCIP and the preservation of their cultural heritage. He has daughters, one son, one grandson and three granddaughters.

Prof. Hassan Kiram, also a descendant from Simariki Island, was responsible for helping with the documentation and codification of this adat into a written form (as the adat was primarily transmitted from father to son). Data from this study were used as a basis and documentation for the application of the Certificate of Ancestral Domain Title (CADT) of the Sama Banguinguih of Simariki. The elders gave permission for this documentation process. As of the moment, the NCIP has already approved their CADT application.

The Indigenous Peoples' Mandatory Representative of the City Council of Zamboanga during the time of the documentation process, was former IPMR Ismael Musa who facilitated the introduction and preliminary social requisites for the documentation to take place.

Translation and commentary on the *Diwan* in the succeeding pages will be facilitated through the usage of parentheses and footnotes.

I  
Sara' maka Hukuman  
Ma anta sin  
Lellah maka Denda  
(Rules and Guides on Men and Women)

(A.) **PAGPAHENDA ATAWA AMAHENDA**<sup>37</sup> (Marriage and/or Betrothal<sup>38</sup>)

**Section 1.**

- (a.) In matto'a sin Lellah maka min kog baya sigaam mga kallellahan subay pasakat luma atawa tempat pagmatto-ahan sin kawman ya tabilang maka kinila sara' amabah sin maksud Magpahenda/Amahenda ma saiyan sayan na Anak-Denda damikkiyan pamabah sigaam in buhat gaan sin tagaos sin Kallellahan (The parents of the prospective groom should approach the *sara'*/custodian of the adat to

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37 Marriage plays a central role of Muslims and indigenous peoples. It forms the basis of any social structure. A huge part of this customary law deals with male-female relationships and interactions ad govern both the modes of interactions and unacceptable behavior is penalized herein.

38 Al-Quran 24:32 Saheeh International: And marry the unmarried among you and the righteous...If they should be poor, Allah will enrich them from His bounty, and Allah is all-Encompassing and Knowing.

inform of their intention to marry a prospective bride and inform as to their ability to pay the proposed or dowry).<sup>39</sup>

- (b.) In sarah' pinasampay eh na in amanat sin Kallellahan tudju ni mattoah sin sigaam manga karendahan maw naka ananngu mowa kaisunan ma manga kakampungan atawa anaimah soroon doon sin amanat maka maksud sin kallellahan. (The Sara' will then transmit the proposal to the parents of the prospective bride who will the also consult with their relatives in this regard. They will then relay their decision through the Sara to the family of the prospective groom.)<sup>40</sup>
- (c.) Apabila in karendahan ananngu karnah ngamuh kaisunan ma manga kakampungan sigaam, damikkiyan na subay pinahati in sara' ma tongod sin kaisunan mau maka tinaimah in amanat atawa ga-i' (When the kin of the bride has been asked of their opinion and suggestions, they will then transmit collectively through the parents of the bride the message which will be relayed by the *Sara'* to the parents of the groom.)

**Section 2.** Bang ma tongod sin kagaosan sin Lellah parsababan ga-i tataymah in amanat atawa angamuh tamba in kerendahan damikkyan in kalellahan sangkah na in kagaosan sigaam, Sara' na in magpikilan amiha sin kasulutan. Malaignkan, in kapatut sin karendahan ga-i makajari ni longkohan eh sarah bang ga-i ameyah (If the parties of the groom cannot afford the proposed dowry, then the *Sara'* will find a way on how to find a middle solution

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37 Marriage plays a central role of Muslims and indigenous peoples. It forms the basis of any social structure. A huge part of this customary law deals with male-female relationships and interactions ad govern both the modes of interactions and unacceptable behavior is penalized herein.

38 Al-Quran 24:32 Saheeh International: And marry the unmarried among you and the righteous...If they should be poor, Allah will enrich them from His bounty, and Allah is all-Encompaaing and Knowing.

39 Part of the Sama Banguinguih's customs is reflective of both its indigenous and Islamic character, the modes of interaction follow Sama culture but the essence is basically Islamic wherein the aim is the completion of one half of the Sunnah (marriage).

40 It is important to note that in the Islamic and cultural context, marriages are not simply between two individuals but in essence between two clans; as when one marries one's spouse, that would include engaging with the whole clan.

amenable for both parties. However, the *Sara'* cannot impose issues of parts of an agreement if both parties do not agree.)<sup>41</sup>

**Section 3.** Apabila ameyah in kasulutan ma antara sin kallellahan maka karendhan, in Ungsud (mahar) subay tasilang min basingan, tandah sin pangharga-i ma Denda. In kamawmuhan na, in Basingan<sup>42</sup> subay bulawan. (Once an agreement is reached the mahr/dowry should be presented most especially the *basingan*, also known as the rings as part of showing importance or respect to the prospective bride. The ring must be made of gold.)

**Section 4.** In sara' sin kawman harus ma sigaam anaimah atawah angolloh watong duwa bahagi min dahatus (12%) min katibuukan sin ungsuran (The *Sara'* or facilitator may take 12% of the total proceeds from the dowry as his right)

**Section 5.** Bang saupama puas min pagpahenda ga-i tagaos sin Kallellahan in sosokatan sin karendahan ubus giyuyud na in Denda, ya tabeyah ungsuran ya ra in sosokatan sin karendahan maka minultahan in lellah ma partimbangan sin sara' bang pila. (If after the marriage ceremony the groom is unable to comply with all the requests of the bride's parties, then the bride is forcibly carried away. The dowry and the demands of the bride's relatives shall be considered as is, and the groom will be fined by the *Sara'* accordingly.).

#### (B.) **PAGDAKOP ATAWA AGDAKOP** (Elopement)<sup>43</sup>

**Section 1.** In pagdakop<sup>44</sup> ga-i kinila sin sara' sin kawman in sabab na makabowan kamaruhan maka piddi pangatayan ma

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41 Part of the community elder's (*sara'*) duty is to ensure that there is communal peace and that people are able to accomplish their *maksud* (aim), and that in Islam, marriage is one of the things that is said to be recommended not to be postponed.

42 *Basingan* is also known as "ring" or precious adornments or jewelry. Part of a husband's commitment that he will be able to sustain his family and has proof of love for a woman.

43 "Elopement is prohibited in Islam because it is a severe form of *khalwah* (seclusion of a man and woman) and usually brings disgrace and dishonour to their families." The Barangay Agama Arbitration and Conciliation Toolkit, which was promulgated in Tawi-Tawi in the 1990s, also deals with this in pages 55-56 wherein it explains why elopement becomes a problem in communities.

manga matto-ahan sin denda labi lubahna langgal ma sara' sin agama Islam. (Elopement shall not be recognized by the land the community as this gives communal shame and disrespect to the relatives of the bride most especially according to the laws of Islam).

## Section 2.

- (a.) Bang sawpama ameyah magdakop raayat sin kawman, muna-muna, subay amuwan matto-ah sin lellah tampan maru peh ni sara' pinasampay ma matto-ah sin denda; (If a member of the community engages in elopement the parents of the male involved must send to the Sara a payment for *Tampan maru*/appeasement money who will give it to the parents of the female involved)
- (b.) Mapagta'ayunan<sup>45</sup>, in ungsuran duwampu kalmia ngibu (25,000.) ma aturan maka hukuman sin Sara' sin kawman maka multa na tullumpuh ngibu (30,000.00) sukuh sin sarah tinungah ma lellah watong lima ngibu (15,000) maka ma denda watong lima ngibu (15,000).Parsababan maka langgal sigaam hukuman sin bahagi satu (section 1) ma sara pagdakop. (Upon agreement, the dowry is ₱25,000. Accordingly the fine is ₱30,000 of which both parties will pay ₱15,000 each to the sara, as both parties have broken the law)
- (c.) In karendahan wajib anukat taayuan min kallellahan mareyom addat saddi min ungsuran, pinaniyyah atawa sin sara' ma duwampu ngibu (20,000) ga-I makajari ni longkohan atawa pinendahan; wajib itu subay tinaimah sin karendahan. (The parties of the female may demand other things besides the dowry which is around ₱20,000. This cannot be changed or rejected by the parties of the bride).

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44 Elopement generally happens among Sama Baguinguih and other cultural groups when there is tendency that the couple either fears their marriage will not be allowed or the male does not have enough resources for the wedding.

45 *Pagtaayunan* (consensus) is an agreement that has been arrived as a result of consensus between parties to a dispute. This is primarily reached through the facilitation of the community elder or sara'.

**Section 3.** Damikkiyan ma mareyom sin duwampu kalima ngibu (25000) ungsuran niya niya watong duwa bahagi min dahatus (12%) min katibuukan sin ungsuran sukuh<sup>46</sup> sin sara'. Adapun in tampan maru niya iyana tinambahan sin ungsud sin kallellahan. (Likewise, within the PHP25,000.00 dowry, the *Sara'* is allowed to collect a 12% share as his right due to his facilitating the marriage. This also applies to the *tampan maru* fee which is also paid by the parents of the groom.)

**Section 4.** Bang lellah maka denda magkabaya ubus magdakop min kog maka baya sin sigaam karuwa malaingan in kamatoahan sigaam gai abaya, waktu amahenda in lellah ni denda, insah niya sosokatan ya bineya ungsuran sin sarah (If the male and female are in love with each other and elope as a result although the parents of both parties do not yet wish them to be married at the time the male has proposed, the *Sara'* shall not determine any amount as dowry, and shall accept the proposed dowry by the groom to be).

(C.) **PAGPATIHANTAK ATAWA SARAKAN TOGOL**<sup>47</sup>  
(Quick or Lightning Proposals)

**Section 1.**

- (a.) Ma hukuman sin Sara' in magsarahakan atawa magpatihantak niyah pagsilangan na. In magsarahakan, magbowa in lellah sin bobowahanan maka kagaosan na maka imam gantah bang tinaimah angawin magtuih. Adapun in magpatihantak, dangan dangan sin lellah pasakat ni luma sin denda magpasumbalinh na sarta maka ungsud na. (According to customary law, there is a difference between *patiahntak* and *sarakan togol*. *Sarahakan*

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46 Suku sin Sara' (right of the elder) is a portion of fees and fines remitted to the sara' as part of his right in facilitating disputes and issues in the community. This allows him to be able to use these amount in order to defray costs in providing food, drinks and other expenses related to the handling of these cases/disputes.

47 *Sarahakan togol* involves the prospective groom's family when they feel there is an immediate need to have the marriage officiated and consummated either for fear of rivals or they are simply hurrying. *Patihantak* can be said to be like a suicide mission wherein a prospective groom brings everything he has with the wish that he would rather lose his

*togol* is wherein the parties of the groom visit the Sara' with their dowry and other requirements and if their proposal is accepted a marriage immediately transpires. *Patihantak* is wherein a prospective groom visits the Sara' or the parents of the bride with whatever he has [dowry, jewelry] and is willing to die if his proposal is not accepted.)

- (b.) Bang dakayu min duwaa tasabbut ta hinang sin lellah sabab kapag isunan maka denda ubus bang tinilaw abayah da in denda, in hukuman subay tinaimah diin na sadja in taboah sin lellah. (If one of the two categories is done with the knowledge and consent of the prospective bride, then when she is asked then whatever is being brought by the groom should be accepted.)
- (c.) Bang in Denda maka lellah ga-i magtinauhi sumagawa maka kog baya sadja sin lellah ubus abayah da isab in denda, damikkyan subay tinaymah. (If both groom and bride do not know each other, but it is possible for them to accept each other, then the proposal should be accepted.)
- (d.) Malaingkan bang in denda ga-I tood abayah makajari ga-I tinaymah in lellah maka subay ga-I nilogos denda. Hal sin saitu in pagkaradjaan ma bobowahan sin lellah sabab langgal sara' ma hukuman sin Agama Islam (However, if the prospective bride rejects or refuses the proposal of the groom, then the proposal shall not be accepted or forced into the bride's parties, as this is also against Islam.)

## Section 2.

- (a.) Bang Landuh in bayah sin lellah ma denda, makajari inembanan sin lellah bobowahan waktu kalu aniya pindahan sin pikilan denda abaya ma lellah. (If the prospective groom is really in love with the lady, then he may leave his proposal [with dower and gifts] with the Sara' with the possibility that she may change her mind and accept the proposal.)

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life than face rejection at his marriage proposal. This is generally done as a prearranged agreement by lovers or when the girlfriend has given the go-signal. At other times, it is simply a test of machismo.



- (b.) Bang insah niyah da pindahan sin kahalan ga-I ra tood ta taimah sin denda in lellah, pinapolle sin *Sara'* in bobowahan sin lellah balik maiya ma insah niya kulang atawalabi. Damikkiyan na in lellah ga-I makasokat pa labi min hargah bobowahan na. (If there is no change in the decision of the girl, then the Sara' must return the dower and gifts untouched nor reduced, the male cannot ask for more, then the amount/value he has given as a proposal for marriage.)

**Section 3.** Malaingkan insah niyah aturan maka hukuman sin Sara' anagga-I bang pabalik lellah ma saddi waktu tandah sin bayah na ma denda saingga ga-I takolloh na in maksud na. (However, there is nothing in the adat that prevents a man from returning at another time to again propose marriage to the girl.)

(D.) **MOLEH MAGHELLA MAKA PAGTAHAKIM**  
(Elopement and/or Bethrotal)

**Section 1.**

- (a.) In amoleh maghella<sup>48</sup>, in denda pasakat lumah sin sara' maka binah eh na in maksud na maka bang saiyan lellah poleh na ni hellah. In hukuman sin saitu, subay dinarajat, hika-isa: Bang in denda budjang, In ungsuran ma aturan sin sarah', hikaruwa, bang in denda balu atawa bituanan, ni ungsuran tungah sin ungsuran ma aturan sin sara'. (*Amoleh henda* is the condition wherein a lady will go to the Sara' and propose that she be married to a particular person, and she informs the *Sara'* of her intention to be the wife of this man. In this case, the dower of a virgin shall be based on the current status and amount, while in the case of a widow or a divorcee, the dower shall be half of the current value according to adat.)

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48 *Amoleh maghella* is when a woman is interested with a man, she either goes to a man's house to live as his common law spouse or approach a community elder that she wishes to be wed to a man of her choice. The sara' normally facilitates this in order to avoid conflicts from the parents and relatives of both parties.

- (b.) Bang in denda maw naka budjang, balu atawa bituanan ubus ga-I abaya in lellah, subay tulak maka pilak atawa sin ma aturan sin sara' sumagawa in buhat gaan nag ga-i palabi min tungah ungsuran sin denda balu atawa bituanan (If the lady, whether a virgin or one who was previously married proposes, but the groom/male is not interested or refuses, the payment for the dowry shall not be beyond half of a dowry of a widow or divorcée.)
- (c.) Malaingkan, bang ga-I tagaos ni lellah, sara' ya magpatantu ya ga-I makareyom ma darajat sin denda labi luba bang budyang (however if the prospective groom cannot afford, the sara shall try to reconcile accordingly to both the social status of the lady and the capacity of the groom)

**Section 2.** In magtahakkim.<sup>49</sup> Mattoah sin denda ya pasakat ni luma sara' binah eh pinatahakkim atawa pinahell eh na anak na denda ma lellah kabayaan na. Damikkayn in lellah wajib maiya angungsud ma denda sumagawa kolloh min kagaosan sin lellah (*Tahakkim* is the condition wherein the parents of the bride shall approach the sara to inform him that they wish to marry off their daughter to someone from the community. The groom should also pay a dowry accordingly to his capacity.)

**Section 3.** Ma duwa tasabbut wajib in lellah angawin ma denda sabab in mga kahalan saitū suratan kinahandak sin Tuhan Rabbul Alamin ma manga manusiya, Denda maka lellah (The two conditions make it compulsory for the male to marry the bride as this is allowed by Allahu Taaa.)

**Section 4.** Bang saupama in lellah alahi tandah sin pagmahukaw sin denda amoleh maghella atawa pagtahakkim, ma iyyah ma insah bakas tasalassay sin sarah ma kawman, subay in lellah minultahan mahargah ungsuran sin sara' in bahagi tullu sukuh sin denda, in da bahagi ma sara' (  $\frac{3}{4}$  s ma denda,  $\frac{1}{4}$  ma sara) in Multa taptap pabantang sainga ga-I tasalasay sin lellah. (If a man abandons a wife from tahakkim, he is to pay a fine equivalent to

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49 *Tahakkim* is when parents of a girl wishes that a man of their choice marry their daughter. They normally either approach the community elder or Sara', or inform through an intermediary that they wish to marry a particular gentleman from the community, normally either a, religious person or a very good man. This is considered part of a religious obligation in assisting Muslims find good and religious spouses.

the dowry,  $\frac{3}{4}$  to the wife and  $\frac{1}{4}$  to the *Sara'*, unless the husband explains the reasons for his abandonment.)<sup>50</sup>

II  
Hukuman  
Sin  
Tallak maka Pasa  
(Guidelines on Divorce<sup>51</sup> and Separation)

(A.) **PAGTIMAN ATAWA PASA PAGBUTAS SIN MAGLAKIBINI**  
(Divorce and/or Separation of Husband and Wife)<sup>52</sup>

**Section 1.** In magtiman dakayu sin tinahgoban sin Agama Islam. Sabab in kakahinang sin pagnikah (pagkawin) sin lellah maka Denda tarbilang Sunnah sin Rasulullah (saw) in amatal maiya ninang langgal sara' ma agama. Sumagawa in hinang ni sara' ma hal sin pagtiman ni awwalan masosongan amiyah pajatu. (Divorce is one of the despised things in Islam as this dissolves the marriage bond and anyone who does this goes against the Sunnah of the messenger of Allah. However, divorce must be done if there is nothing left but conflict.)

**Section 2.**

- (a.) Ma aturan sin shariah sin Agama Islam, In lellah taga kapatut amuwan pasa atawa aminan ma denda bang in pangdapat na in henda ga-I magkahagad tino-an sin aturan maka addat sin paganak henda maka ga-I binaugbugan eh

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50 There are instances wherein parents may have married off their daughter to a spouse that is not compatible or their daughter may have had a ongoing relationship with another person which displeases the groom hence, his rejection and subsequent abandonment of the bride.

51 *"Divorce is the formal dissolution of the marriage bond in accordance with Islamic law to be granted only after exhaustion of all possible means of reconciliation among spouses"* (Barangay Agama Arbitration and Conciliation Handbook, 62).

52 *Magtiman* or *Pagtiman* refers to the act of dissolving marriage. Adat law permits *pagtiman* if based on a valid ground presented to the *Sara'* by any or both of the parties through their respective wakil. A *wakil* is an agent, attorney-in-fact, counsel, or representative of a marriage party. *Pagtiman* or *tallak/talaq* may either be revocable or irrevocable. Before termination of the marital union, an *iddah* is set forth by dat.

na kawajiban sn henda ma hella na; (According to the rules of Islam, the male has the right to divorce on the condition that the wife disobeys him or does not take care of the house or her marital/parental duties.)

- (b.) Damikkiyan pinasaran eh denda paghumah lumah sigaam labi lbah na in kaanakan sigaam; damikkiyan tinaikuttan sin denda in panoh sin lellah mag-ibadat makajar pinasaran sin lellah in henda na (Likewise if the wife has not taken care of the home and their children and disobeys her husband's instructions to be a good Muslim, the husband may separate from her.)

**Section 3.** In aturan sin pagpasa amiyah tullu (3) parbahagian na. yara itu pinagbahasa Tallak tiga (The three categories of divorce, also known as *tallak tiga*, are:

- (a.) Pasa min tedda, makajari agbalik salih sin panagnaan duwa lakibini mareyom sin tullumbulan maka watong allaw insah nyah pag ungsud ma iyah maka pagnikah (For the first time of divorce, they return is as if there was no divorce; their reconciliation shall have no dowry or recital of *nikah*.)
- (b.) Pasa hikaruwa, maksud na magtiman pabalik in maglakibini, salih da in idda na tullumbulan maka watong allaw makajari da agbalik sumagawa niya ungsuran maka pagbassah nikah (The second time they divorce, the woman shall observe an *iddah* of 40 days; if they reconcile before that, he is to pay a dowry and a recital again of the *nikah*.)
- (a.) Pasa hika tullu, yana in tallak tiga, ga-i na makajari magbalik subay puas makahella in denda ma saddi lellah ampa makajari magbalik damikkiyan subay taga ungsud maka nikah bassahan eh na. (After the third divorce, the woman must observe *iddah* for 40 days, but can no longer reunite with her husband unless she marries another man and divorces him.)

**Section 4.** Ma tullu (3) aturan tasabbut lellah in animan maka amuan pasa, sumagawa bang in tiap tiap kahalan bai inungsuran ma sara kawman sara' ya ngahinang sin pasa. (In the 3 categories, the male<sup>53</sup> divorces the wife; however, if the marriage was done through the community elders, the elders should issue the divorce.)

**Section 5.**

- (a.) Bang min kog bayah sin duwa maglakibini pasakat lumah sara' magtiman ma insah pagsababan wajib ma sara' magpa-entom maka pinagdakayu in duwanga supaya ga-I abutas maka apolakkanat in manga kaanakan sigaam. (If by mutual consent both parties agree to a divorce and approaches the community elders for a divorce, it is the obligation of the elders to remind the couple of their obligations as to ensure that the family and their children will not be affected, and the divorce will not push through.)
- (b.) Malaingkan bang ga-i apinda masi na peen bayah agpuas, wajib ma sarah amuwan pasa maka binissara in kapatut sin dangan maka dangan tongod sin manga anak maka altah bang niya binahagi ma aturan sin shariah sin agamah islam (However, if the decision of the couple is already fixed and definite, the elders must give the divorce and explain to them the rights of each other and their children and the division of property and wealth according to the laws of Islam.)
- (c.) In denda puas sin pagpasa ga-I makajari makasod ma bahau nika/kawin atawa maghella subay na puas min tullumbulan maka watong allaw sampay unum bulan supaya atantu main iya bottong. Apabila bottng mareyom sin idda tasabbut in tantu usba atawa amma sin ondeh ya bituwanan sin denda. (The woman is not allowed to enter into a new marriage until her *iddah* of 3 months to half a year has passed to ensure she is not pregnant. If she is pregnant, she is to pass the time in the residence of the father of the child.)

**Section 6.** In kapatut animan maka amuwan sin pasa main sadja tuput ma lellah, misan da in dendda makajari pasakat luma animan maka angamuh pasa ma sara bang hella na<sup>54</sup> (The right to divorce and separate is with the husband. However, the wife may approach the elders to ask for a divorce if her husband falls under the following:

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53 Customary law allows divorce through either the husband, or the community elders (*sara*) who may decide to separate them to ensure that there would be no further conflict that could afflict the relatives of the couple.

- (a.) Agmahsiat, maglango lango, magdenda (does bad deeds, is a drunkard, or womanizes)
- (b.) Tarikus salat ga-i mag ibadat (does not perform *salah*)
- (c.) Ga-I mag-usaha maka amiha kaaluman sin anak henda na (does not look for a livelihood or ways to provide for a living for his family)
- (d.) Apasad mag-anak henda, ga-I apula na (abandons his family)
- (e.) Amakaiya ma henda na beyah na in manga pamikitan atawa kakampungan sin henda pinakaiyah eh lella (embarrasses or shames his wife, in-laws or relatives of his wife)

**Section 7.** In parsababan tasabbutma bahagi (section) 6 sinuanan sin hukuman itu wajib ma sarah amuwan pasa ga-I abayah in lella (By the previous reasons, the elders may give a divorce or separate the couple.)

(B.) **PAGMAHUKAW SIN DENDA**  
(Rules on Wives Divorcing Their Husbands)

**Section 1.**

- (a.) In pagmahukaw sin denda ma hella na subay tood iya katimanan, binanding eh sara' maka sinabab supaya ga-i makalaog, labi luba ma kapatut sin lella (When a wife asserts grounds for divorce, community elders must verify that her declaration is factual and does not infringe her husband's rights.)
- (b.) Apabila in parsababan main bennal maka ga-i tataimah sin sarah I damikkiyan na, in lella masi ra tinunay eh na kawajiban ma pag-anak henda, wajib ma sara ga-I bineya atawakinale daawa sin denda (If her claims are proven to

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54 A wife can seek divorce from her husband provided she has become a liability and have become very irresponsible to his family. In this case the community elders separate the couple to protect the kids from experiencing worse traumas as a result of the irresponsibility of their father.

be baseless, she will be reprimanded and rebuked, much more so if her husband is found to be a responsible spouse.)

**Section 2.** Bang in pamahukaw sin denda ma lella na parsababan ga-i makaboan anak karnah ga-i na makaatu atawa angatu, wajib ma sarah amuwan pasa ma denda (If the cause for divorce is the husband's impotence, then the elders must allow the divorce.)

**Section 3.** Bang in pagmahukaw sin denda ma lellah tabarra bara insah niya poon sabab, makajari amuwan in sara' pasa sumagawa subay in denda angalupit (agpole) sin ungsuran maiya sin hellah ba katibuukan na bang I pagtumpu sigaam mareyom dambulan maka dantahun. Bang palabi na min idda, tongah da kuman in ungsuran; (If the woman's accusations are untrue, yet she insists, she may return her dowry [buy her freedom].)

**Section 4.** Ma manga parsababan maka kahalan tasabbut, insah niyah kapatut sin denda ma altah sigaam ga-i makajari agmahi ma manga kaanakan sigaam sabab topot lellah in taga kapatut ma kahemon. In denda lopus in kapatut ma kahemon maka parbahagian gantih sin pagmahukaw ma hellah na. (In the previously mentioned cases, the woman is not entitled to the conjugal properties as a result of her actions.)

**Section 5.** Sumagawa in kahalan tasabbut ma bahagi (section) 2 sin hukuman itu, harus na in sarah amoan sin pasa ma insah niyah paglupit sin ungsuran sabab in manga kahalan pinagtuuran sin lellah. (However, in the case of section 2, the community elder who may allow the separation without touching the dowry as the husband is the cause of the problem.)

### III

#### Hukman sin Zina Maka Fitna (Ruling on Zina and Gossip)

(A.) **HAL SIN ZINA**<sup>55</sup> (On *Zina*)

##### **Section 1.**

- (a.) Pinag-onan Zina sa mehe-mehe dusa e Tuhan makalanggal sara' maka agama Islam. Bang I lellah maka denda insah ta hal kawin makapagzina in hukuman haram maka subay

nilubakan dahatus maka duwampu (120) lubak maka multa tudju ni sara. (Zina or fornication is one of the biggest sins before Allah and violates the laws of Islam. If a male and a female engage in this haram act, they should be given 120 lashes each and fined for zina.)

- (b.) Bang in lellah tunay atawa hinang na henda in denda kawinan na, damikkiyan subay ra iya nilubakkan ubus angungsud mareyom aturan sara'. Duwampu maka lima nggibu (25,000) maka multa na; itu apabilla in lellah maka denda sibu sibu insah niya paglahat sigaam; damikiyan in denda subay da isab nilubakkan. (If the man has the intention of marrying the woman, he shall still be subjected to the lashes and shall pay ₱25,000.00 and fined. This is if both the man and woman are unmarried. The woman shall likewise be subjected to the lashing.)
- (c.) Malaignkan bang in lellah ga-i na angawin ma denda, damikkiyan subay ra iya nilubakkan ubus minultahan tullumpu nggibu (30,000) tanda sin ubat sin dusah tahinang ma sarah sin agama. (However, if the man does not intend to marry her he shall pay a fine of ₱30,000 and subjected to the lashes as punishment for breaking the law.)

**Section 3.** Bang ma waktu magkahinangan in lellah maka henda zina taabbut sin hellu ubus tabonoh in lella maka denda insa niyah na binisarra sabab in hukuman na wajib ma hellu sin deda amapas sin kadayusan na mareyom sara sin agama. (If the husband catches them in the act, there is no sin on him if he kills both of them, which erases the shame he has been put upon before the community.)

#### **Section 4.**

- (a.) In angakkap tarbilang iya Zina. Bang in denda budyang ubus abayah kinawinan na ma aturan sin sara' beyah maka

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55 *Mang-jina* or *ag-Zina* (illicit sexual cohabitation), is considered a grave crime by the adat law when committed with a married woman or against her through sexual crimes. This can also happen when both parties are unmarried. Penalties, however, may differ. The punishment of flogging is ordered in the Quran, surah 24:2: "The woman and the man guilty for fornication flog each of them with a hundred lashes: let not compassion move you in their case in a matter prescribed by Allah."



multa ma kamaruwan na. (Touching is also considered *zina*; any single woman caught touched should be married according to customary law.)

- (b.) Malaingkan bang in denda ga-I tood abayah kinawinan, maglipat in lellah min tullu (3x) sin hargah sin ungsuran mareyom aturan sin sara ma kauman. (However, if the lady does not want to be married, the man must pay thrice the amount of her dowry accordingly to the *Sara*’)

**Section 5.** Bang in takapkap denda tagapaglahat damikkyian na maglipat in lella min tullu (3x) sin hargah sin ungsuran mareyom aturan sin sara ampa pinamowan maltela sin denda tanda sin pamapas sin kaiyaan na ma kawman maka ma pagkahi na. (If the woman touched is married, likewise the man must pay thrice the amount of her dowry accordingly to the *Sara*’, and the payment must be given to the spouse to erase the shame given to him.)<sup>56</sup>

(B.) **HUKUMAN SIN FITNA** (Ruling on Gossip<sup>57</sup>)

**Section 1.** In fitna abuhah in hukuman mareyom sin sara agama Islam, parsababan in maglasa makapagsasah, in maglakibini makapagtiman atawa dakayu in ruwa makapagbonoh maka hinang laat atawa masiat. In magbowa bowa bissara maka maglimut tarbilang iya min fitna binatal sin sara (Gossiping is a severe crime in Islam because conflicts are caused, fights happen, couples separate. The one creating gossip or rumors is considered a criminal.)

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56 Okon presents how adultery and fornication are defined in Islam:

Adultery and fornication from an Islamic perspective cannot be considered personal and private prerogative; it is a serious violation of the normative principles of society. It is a dishonor and violent aggression against the family of the woman and the society. Adultery demoralizes the social order and may lead to pregnancy, abortion and the spread of venereal diseases. Adultery is the source of illegitimate children and mixing of the lineage when paternity is attributed or claimed by a person who is not the real father thereby resulting to confusion and chaos in the family. Adultery can cause a child to be deprived the honor of claiming genuine paternity, which can lead to injustice in inheritance, such that the wrong person can become the heir while the real biological children may get nothing. ("Hudud Punishments," 230–31)

57 Rumor-mongering or gossip is highly unacceptable among the Banguinguih due to their high premium in ensuring respect for members of the community and frowns on any individual who is engaged in such activity for which adat prescribed penalties when such an act has become harmful to people.

**Section 2.**

- (a.) Bang ma parsababan sin fitna makapagsasah un duwa manusyah atawa makapagtiman in dua maglakibini, in magfitna subay binintangan hukuman, hika isa: minultahan lima ngibu (5,000), karua, pinalahi ma kawman. (If because of the gossip, two people engage in a fight or argument, the gossiper shall pay a fine of ₱5,000 and shall be asked to leave the community.)<sup>58</sup>
- (b.) Bang in antara sin duwa pa labi manusiyah makapagbonoh ampa niyah kapalian, in magfitna subay minultahan lima ngibu (5,000),mag gastu sin magpatambal ubus pinalahi ma kawman; Adapun magdiyat ya makapali manusiya (If because of the gossip, two people engage in a fight and someone gets hurt, the gossiper shall pay a fine of ₱5,000, shall pay for the medical expenses, and shall be asked to leave the community.)
- (c.) Bang in antara sin duwa pa labi manusiyah makapagbonoh ampa niyah amatay/kamatayan, in magfitna subay pinagtaayunan, hika isa pinajail sin sara', karuwa minultahan watong ngibu (10,000),katullu pinalahi beyah in manga ahli na maka ga-I na makajai pabalik ni kawman saiyen saiyen ma sigaam salama lama.(If because of the gossip, two people engage in a fight and someone gets killed, the gossiper shall pay a fine of ₱10,000, the three parties together with their families shall be asked to leave the community, and shall not be allowed to return at any time.)

**Section 3.** Malaingkan bang in balik na in magfitna ni ampun sin manga kafitnahan eh na, insah niyah na binisarahan sumagawa

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58 Okon presents the consequences of falsely accusing someone of committing *zina*:

False accusation of charges of *zina* is punishable for the offense of defamation (*qazaf*). Defamation threatens the legitimacy of a woman's child, the Quran prescribes eighty lashes for a free citizen and forty lashes for a slave: "And those who cast it up on women in wedlock, and bring not four witnesses scourge them with eighty stripes" (surah 24:4). Public flogging is meant to protect the honor, dignity and credibility of the innocent. The reasoning in Islamic criminal system is that there is a room for retaliation if the accused is not punished. From that time, the confession of that person will not be accepted because the court has taken judicial notice of that person as a confirmed liar. ("Hudud Punishments," 231)

subay na minultahan in kaul maka piil sin sara' maka hinangan batang batang (record) bang binalikan eh na, in hukuman tasabbut ma bilang (section) 2 a–c, subay binantang maiya suku na. (However, if the gossip shall ask for the forgiveness of the people affected, he shall be asked not to repeat it but still shall be required to pay the mandatory fines and a record shall be made of his actions and he shall not repeat it for fear of a bigger penalty.)

#### IV

### Hukuman sin Maglakah, Amuka, Mag-entan maka kakahinang Langgal Sara' (Ruling on Acts of Lasciviousness)

#### (A.) **MAGLAKAH MAKAMUKA**

##### **Section 1.**

- (a.) In kahalan maglakah dakayu saki makamudarat ma kawman. Min aiyan aiyan na parsababan in angalakak maw ma denda atawa ma lella subay pinatennaan hukuman. Ampa in subay kalakaan denda. (Acts involving lasciviousness are an illness that destroys the community. When such things happen, penalties must be placed as the normal victims are women.)
- (b.) Ma panagnaan lakah, nihinangan batang batang (record) atawa undang undang (case) ya ga-i na isaban; bang nilanggal eh na in aturan binalikan in kakahinang, subay na minultahan supaya ga-i na tahinang ppameyaan atawa kasengoran sin kaseh-an. (First offenses must merit a warning and shall be recorded as a case that should not be repeated, and shall be subjected to fines so they will not be imitated.)
- (c.) Bang in lakaan budjang in multa na dangibu lima hatus (1500), lima hatus ma sara, in dangibu ma ni lakaan. Bang in lakaan taga hella, in multa na duwa ngibu limahatus (2500) dangibu ma sara', dangibu lima hatus (1500) ma ni lakaan. (If the touched part if the front/chest region the fine shall be ₱1,500—₱500 for the Sara', ₱1,000 for the lady; if she is married, ₱2,500—₱1,000 for the Sara', and ₱1,500 for the lady).

**Section 2.** In hal sin amuka aniyah bandingan na maka subay dinarajaat. Muna muna in amuka subay denda maka sangpot in pangumulan na (In the cases wherein this is taken up, a proper investigation must be made to ensure that the facts are clear.)

**Section 3.**

- (a.) Bang in ma bandingan sin sara' nihinang ninang sadja sin denda supaya makasin atawa kakawinan pasal kabayaan na in lellah, insah niyah binisarrah maka tino'an sin sara' ga-i pinabalikkan arakala tahinang fitna.(If the complaint of touching has no basis or just that the lady desires the man, she shall be reprimanded and reminded so it will not become gossip.)
- (b.) Bang bennal in buka sin denda maka pinagtuuran sin lellah itu in hukuman na ma multa : bang entan duruh atawa alopang watong ngibu (10,000), bang entan ma saddi tampat tullu ngibu (3000), bang siyum mingga minga na tampat baran watong lima ngibu multa na. (If the accusation is true and intentional, the man shall pay the fine ₱10,000 if its frontal touching, ₱3,000 if its other parts, a kiss is ₱15,000 pesos fine)
- (c.) In mangamulta tasabbut labi pa in songan maka buhat bang tahinang majilias mairan, malaingkan ma sarah na in animbang sin buhat-gaan na maka parsukuan sin sarah watong bahagi min dahatus (10%) min manga multa tasabbut. (All fines shall be obligatory and that the Sara'/ community elder shall collect from the amount a 10% fee for his role)

(B.) **MAG-ENTAN MAKA MAGBEYAH SONG MAGPALAHI TAABUT** (For those caught in the act , or about to elope)

**Section 1.** Binanding sin Sara in pangamulan sin denda maka lellah. Bang saupama ga-I lagi ma atura bilangan sin sara patut pinagdakayu, pinatennaan tandah maw maka pilak atawa bulawa panagaran sin kasapngpotan si pangomolan sigaam (In parental arrangements, the community elder shall separate the man from the woman, and if in their opinion it is not time for them to be married, the man shall be required to pay an amount for them to be considered betrothed.)

**Section 2.** Bang mareyom sin idda parjanjian tadugtul sin lellah, in tandah pinatennah eh na ma sara' a'lob bang da isab denda in makadugtul atawa makalarak sin parjanjian wajib pinabalik sin sarah ma lellah in tandah panghogotan. (If the woman breaks off the engagement, she shall not receive any of the dower paid, and this shall be returned to the man.)

V

Sara' Maka Hukuman  
Magbinasa atawa Makabonoh  
Maka

Hinang Langgal Sara'

(Rules on People Engaged in Hurting People and/or Break the Law)

(A.) **MAGBINASA ATAWA MAGSASAH** (Physical Injuries/Fights)

**Section 1.**

- (a.) Bang aniyah magsasah atawa magbinasa muna muna in aturan subay sinulat sin sarah maka sinabab. Bang magpasasah sampay magbinasah niyah lahah atawa alom, in makahinang subay amuwan diat<sup>59</sup> maka pinatambalan in tabinasa maw makadusa na atawa main. (If there is a quarrel, the *Sara'* shall determine who is at fault by investigating the causes, and if anyone is hurt, *diyat* ("blood money") must be paid, and expenses for the medication shall be shouldered by the guilty party)
- (b.) Bang in parsababan fitna ampa in tabinasa ya magfitna, insah niya pag diat maka hukuman fitna in binintang kaniya. (If the cause of the quarrel is a rumor, and the one who is hurt is the gossip, there is no *diyat*, and he shall be punished accordingly to the rules on gossiping and rumormongering.)

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59 Cases resulting from semi-intentional killing, accidental killing, and killing committed by crowd. Generally, they are treated according to context in judgement of the *Sara'* and the fine. It is worth mentioning that there are instances where one group cannot afford to pay for the blood money demand by the victim's party. Most *sara's* make use of their own personal money, which will only be paid at later date by the guilty party. At times, the headman of a neighboring barrio extends his personal money for the same purpose as a gesture of peace offering and cooperation with the *Sara'*

(B.) **MAKABONOH/KAMATAYAN** (In Cases of Death)

**Section 1.** Muna muna sinulut sin sara in duwa pihak. Bang in makabonoh magmalillah amuwan tanda makabangonan wajib ma sara' magpasampay sin amanat maka ni amuh ma pihak kamatayan. (The community elders must first reconcile the two warring factions. If the guilty party who caused the death is willing to pay for the *diyat* and sends feelers for reconciliation, it is *wajib* for the elders to assist in sending the feelers for reconciliation to the aggrieved party.)

**Section 2.** In babangonan kinolloh min kabayaan sin kaujulan sumagawa tinimbang sin sara' in kapatut makakabalan sin ilu-balu maka kaalluman sigaam. Malaingan bang ga-i tasulut ma kamatayan kaujulan, tarpulong ma sigaam anuntut ma aturan sara' parintah. (The penalty/fine/blood money shall be taken from the decision of the aggrieved party. The guilty party must consider the rights of the orphan, the widow, and their livelihood. In case no agreement is reached, they shall be subjected to legal proceedings of the State.)

**Section 3.**

- (a.) Malaignkan subay pinagbuli-bulihan sin sara' ma kawman piniha kasulutan maka kaadilan ma aturan sin shariah ma agama Islam. (However, the elders should find a way how to reconcile according to the laws of Islam.)
- (b.) Bang puas min pagsulut, sartah maka sarat sa salih babangonan maka aayu'an, anipu in aujulan sartag amawos ampa amatay in makabonoh dahuwan, wajib ma sara' pinalahi min kawman in duwa pihak, saupaya ga-i makalamin ma kakampungan sigaam ya ga-I bayah maglengog (In the case that after reconciliation, the aggrieved party avenges the death of their loved one, the community elders shall expel both parties so that the community will not be affected by their conflict.)

(C.) **KAKAHINANG LANGGAL SARA' MAREYOM KAWMAN**  
(Actions That Are Against the Community Laws and Interests<sup>60</sup>)

**Section 1.** Saddi atawa liyu min hinang langgal sara' tasabbut mareyom sin undang undang itu, aniya manga kakahinang ma kawman, salih na in magtangkaw, angullih, amarupang ma

pagkahi namakawman; angusibah ma pag-usaha salih ni lassun maka nihiyakan timbak in manga kadaing daingan (Other than the previously mentioned cases in this code, there are also other violations like theft, taking of things, deception, or using of poison or dynamite fishing in the ancestral domain.)

## Section 2.

- (a.) In hal in pagtangkaw bang kamattanan, subay iya magpapoleh sin tatangkaw na atawa, agbayad sin tinagkaw eh na maka pinalahi mkawman (In the case of theft, if caught, the thief must return the item stolen and/or pay the amount of the item stolen and shall be asked to leave the community.<sup>61</sup>)
- (b.) Damikkiyan in hinang anguilliah, amarupang pagkahi na ma kawman, subay pinagkoleh atawa binayaran ni altah bai takolloh na maka pinalahi ma kawman supaya ga-I makalamin ma kase'an. (Likewise in deception or false promises, the culprit shall be asked to refund the amount taken and shall be asked to leave the community.<sup>62</sup>)

**Section 3.** In maglassun maka magtimbang daing mareyon lekosan tahik sin kareyoman lahat Simariki ga-i makajarisabab hinang pangusibah minsah pa in maksud mangusaha. Saka ula-ula ni longkagan na in kaaluman sin pagkahi na ma kawman. Bang linok na in hukuman sara' subay ya pinalahi ma kawman. (Any member of the community using poison and/or dynamite shall be asked to leave the community.<sup>63</sup>)

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60 In Islam, public interest and welfare is known as *maslaha* which refers to the fulfillment of the objective of the Sharia which lies in safeguarding their faith (*Din*/Religion), their human self (*Nafs*), their intellect (*Aql*), their posterity (*Nasl*) and their wealth (*Maal*) and the community interest in general.

61 Restitution and leaving the community is considered a lighter punishment over the Sharia's rule on amputation for theft.

62 False advertising or scamming is technically considered as theft since in addition to deception (lying to obtain money) there is no genuine interest to provides equal goods or services for the purchase/transaction.

63 Dynamite fishing or other environmental destructive fishery techniques are considered a major crime in the community and equivalent to killing the community hence they are asked to leave the community. Normally these cases of forced exile would not allow these individuals to return.

## Glossary of terms in Sinama (Sama Banguinguih)

<b>Ameyah</b>	join, accompany, go home to
<b>Agama</b>	faith/religion
<b>Angulillah/amarupang</b>	fool or deceive someone
<b>Ampun</b>	forgiveness
<b>Animbang</b>	balance or assess
<b>Ag-jina</b>	adultery
<b>Ag-pitna</b>	gossip-mongering
<b>Amiha kaaluman/ag-usaha</b>	seek livelihood, work
<b>Agpasad</b>	abandon
<b>Amakaiya</b>	embarrass, scandalize
<b>Angakkap</b>	inappropriate touching/caressing
<b>Aglipat/maglipat</b>	forget, memory lapse
<b>Agmahsiat</b>	does immoral actions
<b>angkap</b>	normally a room on the upper portion of the house
<b>agliling pangantin</b>	the groom and bride is to be seated on separate cushions and rotated clockwise three times by their respective pandala.
<b>Agsarahakan togol</b>	shortcut of whole process wherein the prospective groom goes to the father of the bride without his relatives' knowledge which in most cases both the prospective groom and bride have already known or have had special romantic relationships and are in mutual understanding



**agpole denda or moleh aghella**

the process wherein a woman who initiates a marriage process. This is normally called where the woman most likely has had sexual relations with the man and goes to a *Panglima* (tribal chief) to help arrange their marriage

**Aghengkot**

this is when the father of a prospective groom approaches the father of a prospective bride to request that their children be betrothed and arranged for marriage. This normally happens when both parties are still of young age and the father of the groom wants to ensure the marriage of his son to the bride

**Budjang**

single unmarried lady

**Bituanan**

divorcee

**Balu**

widow

**Batang-batang**

records

**Babangonan**

penalty

**Bandingan, binanding eh**

assessment, estimated, ascertain or ensure

**Binaugbugan**

maintain, loyally comply, dutifully follow

**Basingan**

ring or something of value (gold, silver, or bronze), normally used for dowry

**Boahan Kamattoahan/Ilmu Kamaasan**

way (or teaching) of the elders, another tern for indigenous Islam

**Buyu Bunga**

normally consists of tobacco, betel nut, and lime (for chewing purposes and to spark the discussion among elders

**Diat**

blood money

**Darajat**

social status

<b>Guru</b>	spiritual leader or teacher, taken from Sanskrit guruh
<b>Goyod</b>	kidnap
<b>Harus</b>	may either mean prohibited (hinang na inaan harus toongan) or allowed (harus in bahagi sin ungsud yan)
<b>Hatib</b>	one who does sermons
<b>Hukuman</b>	rulings or policy, taken from the Arabic word hukm (rulings)
<b>Imam</b>	prayer leaders
<b>Ijab wa qabul</b>	also known as <i>turul maka tayma</i> (offer and acceptance) wherein the parties of the groom make an offer or proposal for marriage and there is acceptance of the marriage proposal of the family of the bride
<b>Kawin</b>	Marriage
<b>Kuntum</b>	one who maintains the masjid
<b>Kammatannan</b>	obvious
<b>Kaujulan</b>	aggrieved/damaged party
<b>Kahalan</b>	case or situation
<b>Kasengoran</b>	imitated or repeated by others
<b>Kamaruhan/Maru/sipug</b>	Public shame, dishonor, scandal
<b>Kawman</b>	community
<b>Kakampungan</b>	relatives
<b>Kagaosan/ginaos/Gaos</b>	achieve, attain, do, afford
<b>Kamattoahan</b>	way of the elders, or a group of elders

<b>Langgal sara</b>	acts prohibited by Islam and the law
<b>Lassun</b>	poison
<b>Longkopan</b>	impose
<b>Mattoah</b>	elders or parents
<b>Magbinasa</b>	fight or physical injuries
<b>Magsasah</b>	engage in conflict or quarrel
<b>Magpapole/pinapole/ pinakole</b>	to return something
<b>Makabonnoh</b>	kill or injure
<b>Maglakah lakah</b>	acts of lasciviousness
<b>Magsasah</b>	quarrel, fight or be in conflict
<b>Makapali</b>	harm, injure, wound someone
<b>Maglakibini</b>	couple, partners or spouses
<b>Multa</b>	fine/penalty
<b>Moleh maghella/Moleh hella</b>	elope with husband, go home to husband
<b>Magdenda</b>	womanize
<b>Mahaladjah/Maharadjah</b>	a chieftain normally with powers similar to a mayor but with military roles as well
<b>Panglima</b>	community chieftain
<b>Pamikitan</b>	in-laws
<b>Pagmahukaw</b>	accusation
<b>Parsukuan</b>	share

<b>Pinatenna</b>	placed or place of stay
<b>Pinalahi</b>	exiled, asked to leave, forced to leave
<b>Pinagtaayunan</b>	mutually agreed upon
<b>Pagtiman/Pasa</b>	divorce
<b>Pagbutas</b>	separation of spouses
<b>Patihantak</b>	can be said to be like a suicide mission wherein a prospective groom brings everything he has with the wish that he would rather lose his life than face rejection at his marriage proposal. Generally done as a prearranged agreement by lovers or when the girlfriend has given the go-signal. At other times, simply a test of machismo. <i>Sarahakan togol</i> involves the prospective groom's family when they feel there is an immediate need to have the marriage officiated and consummated either for fear of rivals or they are simply hurrying
<b>Pagtahakkim</b>	parentally arranged marriage
<b>Pagdakop/agdakop</b>	eloping with someone
<b>Pag ta'ayunan</b>	consensus or mutual agreement
<b>Pangdapat</b>	right or obligation
<b>Pasakat Luma</b>	marriage proposal by elders to the identified "bride to be" residence
<b>Paghenda</b>	marriage
<b>pagpasihil</b>	wherein ten to 15 people from the prospective groom's family with a spokesman/mediator to visit the prospective bride's parents to ask for the daughter's hand in marriage.
<b>pinagsulutan</b>	mutually binding agreement

<b>"pagtunggo tunang"</b>	guarding your betrothed; the groom would be expected to render some service to the family of the bride, termed as "this practice," however is not obligatory in most cases
<b>pagtambuko</b>	wherein the groom's party/relatives would bring the agreed dowry and other materials to the bride's family
<b>pagpaigu</b>	ritual wedding bath
<b>pangantin lella</b>	groom
<b>Pangantin denda</b>	bride
<b>pag bahtal</b>	ending of singlehood and beginning of married life
<b>pandala lella</b>	groom's man
<b>pandalla denda</b>	bridesmaid
<b>Palahi</b>	elopement, this is when sweethearts fear that their parents will not agree to their relationship, then boy and girl elope and seek a community elder to negotiate a marriage on their respective behalf
<b>Pagpandih/pagpayguh mayat</b>	this is the ritual washing of the <i>mayyat</i> (corpse), if the mayyat is male then it is the Imam who does the ritual washing, if its female, the Panday does it. While the body is being washed three times with water, soap, and camphor incense is being burnt. Generally, this is done with the mayyat placed on top of banana trunks while the washing process is being undergone
<b>Pagsaput/pagbadju</b>	this is the ritual wrapping of the deceased
<b>Pagsambahayang Mayat</b>	after the ritual wrapping of the deceased person

<b>Pagkubul</b>	burial, the body is placed in a wooden coffin as it is transported to the burial ground/cemetery. A grave is dug up in an L-shape around 6 to 7 feet deep facing Mecca (normally facing the west in the Philippines/sunset)
<b>Pagpanganak</b>	birthing is the process wherein the <i>Panday</i> (midwife) would assist the mother in giving birth to their child
<b>Pag duwaa hinang, Pag duwaa Salamat or Pagduwaa Hinang Parkala</b>	is normally done by the family of the deceased after 7 days, 10 days, 40 days, and one year (death anniversary)
<b>Riddah</b>	this is the decision and sincerity of a man to marry and take care of his bride in marriage
<b>Saksih</b>	witnesses are normally four, but in an emergency, two may be accepted to ensure that the wedding has been made in accordance with Islam and the customs of the community. Witnesses should be of social standing in the community such as religious leaders, teachers, professionals, or community elders
<b>Song palahi</b>	about to leave or about to elope
<b>Sarah/sara'</b>	Law, Law-giver, Implementor of Law, those in authority taken from the Arabic word Shurut/ Sharia
<b>Sosokatan, siyukat, sokat</b>	stipulate, measure, or appraise
<b>Tallak tiga</b>	triple divorce or third divorce
<b>Tahakkim</b>	this is normally when the father of a girl knows a good man and offers his daughter to be wed by him. This is based on the practice of the Prophet of Islam where the companion Abubakar (RTA) wed his daughter to the Prophet Muhammad (peace be upon him)
<b>Tarikus-salat</b>	abandonment of prayer
<b>Taga paglahat</b>	married, or takes residence in the place

<b>Tampat Pagmatto-ahan</b>	place of elders, or residence of leaders
<b>Tapil Dila</b>	to bring gold and money signifying their intention or purpose to open conversations and negotiations and that they are serious in pursuing this matter to its fruition and consider this process to be important and of crucial value. This process is normally done with little introduction and not much elaborate. In most cases both the groom and the bride know each other as well as their families and relatives
<b>Tinambahan/Ginanapan</b>	added, to add to something that is lacking dower
<b>Timbak</b>	explosive, guns
<b>Tampan Maru</b>	cover one's shame (literal), fine, appeasement money
<b>Tayma</b>	acceptance
<b>turul tayma</b>	formalization of the engagement
<b>umpat saksi Kawin</b>	four witnesses, two from the groom's side and two from the bride's side
<b>Ungsud</b>	dowry
<b>Ungsud pagsusulutan</b>	the dower or <i>mahar</i> , which is the bridal gift and mandatory in Islam
<b>Wali</b>	the presence of a guardian and consent of the parents of the bride for marriage

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## **Council of Elders**

### **Panglima**

- (1.) Hji Barahim Esmula  
former Tribal Chieftain
- (2.) Hji Nasser Esmula  
Tribal Chieftain

### **Tribal leaders**

- (1.) Hji Ilahan Maani
- (2.) Abdulmalik Tanasara
- (3.) Hji Saleh Ismael
- (4.) Hji Mutalib Ismula
- (5.) Hji Raida Hussein
- (6.) Hji Jamil Quraiz
- (7.) Hji Ismael Anawari
- (8.) Jainab jikiri
- (9.) Amilhamja Salih
- (10.) Hji Salkia Arip
- (11.) Ismael Bandaying
- (12.) Anibal Quraiz
- (13.) Han Abdulghani
- (14.) Hji Giray Hanapi
- (15.) Hja Maima Tulawi
- (16.) Hon Tungku Hanapi  
Tribal Chieftain, former Brgy Chairman,  
Kasanyangan and present City IPMR

## Official Government Communications and Issuances

- Letter from commission on human Rights addressed to Mayos Isabelle Climaco dated September 16, 2014, on the IDPs of Simariki island
- Letter from DENR to Commissioner Mamauag, CHR dated April 1, 2014, on Simariki island
- NCIP Memorandum from the Executive Director to the regional director, Region 9 dated April 2, 2014, re: pending Ancestral domain application communication from CHR
- CHR Human Rights Advirory 2014-004 on IDPs of the Zamboanga siege
- Sanguniang Panglungsod ng Zamboanga Resolution 1055 dated September 16, 2014, on the Sama Banguinguih of Simariki IDPs on their wish to return
- Summary report on Ocular inspection to Simariki Island addressed to Mayor Isabelle Climaco dated September 30, 2014, from Nasir Esmula, Tribal Chieftain
- Letter of NCMF regional director dated December 23, 2015, addressed to Mayor Climaco re: return of Sama Banguinguih to Simariki island
- Local Inter-Agency Committee Resolution number 1 series of 2015 dated January 26, 2015
- Testimony of Sama Banguinguih Elders of Simariki island, Barangay Talong Talon, Zamboanga City, Mindanao, Philippines dated January 8, 2015
- NCIP documentation-application for CADT of Sama Banguinguih of Simariki Island

## Appendix

### Appendix A

#### The Indigenous Political structure of the Sama Banguinguih in Zamboanga Pre-Spanish and Spanish Era

The Sama Banguinguih, according to *tarsilas* together with the *iranun* formed one of the most feared seafaring tribes in the history of Southeast Asia. The records looked at their important role in governance in Zamboanga City.

##### *Historical Narrative*

The Sama Banguinguih in Zamboanga City existed as early as 12th century as part of the maritime merchants who used Jamboangan (the old name of Zamboanga City) as a major port where they used as a stopover from their journeys to other parts of Southeast Asia.

The fall of Kaulungan and Datu Julano Taupan in 1848 caused the scatter and the dismemberment of the unified Banguinguih leadership, leading to the rise of *Tumpukan* (collectives) or *Kakampungan* (communities) where *Panglimas* or *Datus* would rule the community.

The presentation of the Indigenous Political System is an attempt to show how the Sama Banguinguih survived the 1848 fall of *Kaulungan*.

##### *Governing Structure*

#### **Lima Haag sin Tumpukan Balanguinguih**

(Five Pillars of the Banguinguih)

- (1.) **Hag sin Simariki**  
comprises Simariki, Sta Cruz, Rio Hondo, Sta Barbara, Sta Catalina, Talon-Talon, Mampang, Arena Blanco all the way to the area of Landang Laum, Landang Gua
- (2.) **Hag Kampung Islam**  
comprises of the areas of Baliwasan towards Upper Calarian
- (3.) **Hag Recodo**  
comprises of the areas from Sinunuc to the fringes of LPL

**(4.) Hag Kapuuan**

Curuan and the fronting Islands of Zamboanga City

**(5.) Hag Talluk Sangay (Taluk Sangay)**

the Hag (pillar) of Talluk sangay is the Nuno family which descends from the Taupan clan and is one of the traditional leaders of the Sama Banguinguih Community. The present leadership is headed by Dato Hadji Abdurahman Nuno a direct descendant of Datu Taupan

**Tumpukan Kama-Toahan Balanguinguih**

(Sama Banguinguih Council of Elders)

**(1.) Panglima sin Lima Hag**

these are the standing community tribal chieftains who presently are the recognized and acknowledged community leaders of the 5 pillars of Sama Banguinguih (Lima Haag sin Balanguinguih) considered the highest governing structure. They are both recognized as *Panglima* and *Maharaja sin Qauman* (Maharajah sin Haag).

**(2.) Kadatuan sin Kauman (kikilah sin panubuan)**

these are the descendants of the Banguinguih Datus who are recognized and acknowledged by the Lima Haag (i.e Datu Sakaluran, Datu Taupan descendants who claim datuship). Acknowledged and recognized as the council of ministers.

**(3.) Panubuan sin Kapanglimahan (Kikilah sigaam nakurah maka panubuh sin Kadatuan maka Panglimahan)**

descendants of the *Panglimas* from both the local and the resettled Sama Banguinguih, who are recognized political, socio-cultural leaders. Considered to be the next successors of the Panglima Lima Haag sin Balanguinguih.

**(4.) Panglima/Datu Sama Bajau**

acknowledged leader of the Sama Bajau Community in Zamboanga City.

**(5.) Panglima Datu Yakan**

acknowledged leader of the Yakan Community.

**(6.) Panglima/Datu Kolibugan**

acknowledged leader of the Kolibugan community in Zamboanga City.

**(7.) Timuay Subanen**

acknowledged leader of the Subanen community in Zamboanga City.

**(8.) Kumpulan sin Kaguruhan**

collective of religious leaders who are Hatib, Imam, Guru, and Panditas.

### *The Function of Structures*

The Panglima sin Lima Haag are considered to be the highest authority with the rights to transact business and other executive functions of leadership in the community. The *Kadatuan sin Kauman*, originally recognized and acknowledged by the Sulu Sultanate as governors and Ministers but eventually becoming part of the communal governance system, functions as second liners assisting the Lima Haag in governance. They, however, do not possess any authority to select or be elected as part of the Lima Haag. The *Panubuan sin Kapanglimahan* function as the second generation wherein probable successors to the five pillars are taken as well as potential leaders who join the regular systems of governance (Philippine political system). The *Panglimas* belonging to the other tribes functions as tribal chieftains in their respective communities. The *Kumpulan sin Kaguruhan* determines the relevance and time /dates of religious events and occasions and customary keepers of IKSP.

## Appendix B

### Pictures of the elders of Simariki Island and community members

Focused group discussion with community elders of Simariki together with the late Prof Hassan Kiram



Discussion with Simariki community elders at masjid Uthman ibn Affan Talon Talon

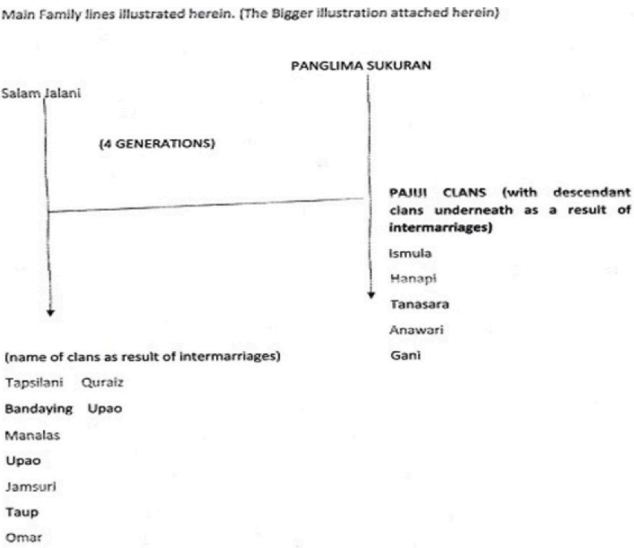


Discussion with community elders at Panglima Barahim Ismula residence in Talon Talon



Appendix C  
Genealogy

Genealogical tress of the Sama Banguinguih Family in Simariki





# HANAPI & TANASARA FAMILY



# LAMSI FAMILY



# ISMULA FAMILY



# QURAIZ FAMILY



## ISMAEL FAMILY



**Ismael Family**



## BANDAYING FAMILY



# HUSSEIN FAMILY



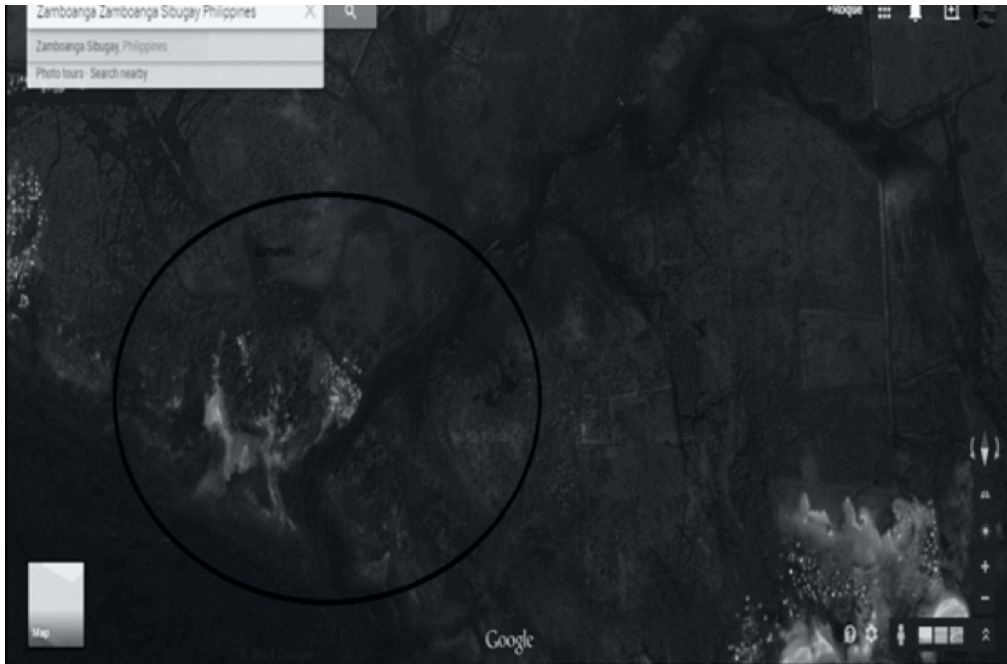
## JIKIRI FAMILY & OTHER RESIDENTS





## Appendix D

Location of Simariki ancestral domain on Google Maps





## Appendix E

### Pictures of Simariki Island post Zamboanga 2013 Siege

The only remaining structure was the mosque after the 2013 Zamboanga Siege



Source: Sheryl R. Morales, May 1, 2015

Soldiers from the Philippine Army are stationed to guard the remains of Simariki Island and regular discussions are being done with the community elders



Source: Sheryl R. Morales, May 1, 2015

Houses are being rebuilt in Simariki. This is a typical house of the Banguinguih tribe



Source: Sheryl R. Morales, May 1, 2015

## Appendix F

### Rebuilding Simariki Island

Mangrove planting along Simariki estuary





Houses are rebuilt around the mosque



Reconstructed foot bridge in Simariki Island after rehabilitation and return of the Sama Banguingih. Bridge constructed courtesy of NGO and academe partners



Formal opening of the bamboo bridges with partners



Community elders of Simariki Island



Turnover of the Bamboo bridge to the people of Simariki



Women representation for economic activities in Simariki





Agar-agar livelihood for women in Simariki



Signing of demarcation line and map of the ancestral domain claim for Simariki





The people of Simariki in year 2015



Turn-over of fishing boats as part of their livelihood program



Fishing boats that were given as livelihood assistance are used both for fishing, seaweed culture, and transportation of residents



House reconstruction in parts of Simariki ancestral domain



Mangrove area along Simariki Island now being visited by tourists in their ecotourism program



Tribal chieftain at the traditional community cemetery post-rehabilitation in Simariki



Cottages built for ecotourism in Simariki Island



## Appendix G

## Legal Documentation on Simariki Island



*Republika ng Pilipinas*  
**Komisyon ng Karapatang Pantao ng Pilipinas**  
*(Commission on Human Rights of the Philippines)*

16 September 2014

**HON. MA. ISABELLE CLIMACO SALAZAR**  
Mayor  
Zamboanga City

Dear **Mayor Beng**,

Greetings from the Commission on Human Rights!

We write to express our support for the desire of the residents of SIMARIKI ISLAND SAMA BANGI-NGI ASSOCIATION to return to their place of residence.

We strongly endorse their call to allow at least 10 families to return and help secure their area. This is to allay fears of the community that their residence, place of worship, livelihood will be taken over and they will be relocated elsewhere against their will without their free prior informed consent.

We trust that this issue be given preferential immediate attention and utmost consideration.

Thank you.

Very truly yours,

**JOSE MANUEL S. MAMAUAG, MNSA**  
Commissioner, Focal for IDPs

Cc: Mr. Nasir A. Ismula,  
Simariki Island Sama Bangi-ngi Association  
CHR-Region IX





Republic of the Philippines  
Department of Environment and Natural Resources  
**PROTECTED AREAS AND WILDLIFE BUREAU**  
Quezon Avenue, Diliman, Quezon City  
Tel. Nos. (632) 924-0681 to 36 Fax: (632) 924-0199, 0962 9234426  
Website: <http://www.pawb.gov.ph> Email: [planning@pawb.gov.ph](mailto:planning@pawb.gov.ph)

APR 03 2014

Hon. JOSE MANUEL S. MAMBAUAG  
Focal Commissioner  
Commission on Human Rights of the Philippines  
SAAC Building, Commonwealth Ave.  
UP Complex, Diliman, Quezon City

990

12/2/14

Dear Hon. Mambuag,

This is in connection with your letter dated 7 March 2014 seeking clarification if Layag-layag, Leha-leha, Samarn and Samariki are declared as Protected Areas under the National Integrated Protected Areas System (NIPAS). This Bureau hereby confirms that the said areas which are within Barangay Talon-Talon, Zamboanga are not part of the initial components nor proclaimed protected areas under the NIPAS.

Further, there was no suitability assessment undertaken yet in the area by the DENR which is a requirement pursuant to RA 7586 or the NIPAS Act of 1992 due to insurgency. Thus, there is no truth about the designation of such areas as no build zones or equilibrium zone. We hope this information will serve your purpose.

Our best regards.

Very truly yours,

  
TATYRESA MUNDAYA S. LIM  
Director



Protect & conserve our forest to save our wildlife





OFFICE OF THE PRESIDENT  
NATIONAL COMMISSION ON INDIGENOUS PEOPLES  
1000 N. 10th Street, 10th Floor, 1000 N. 10th St.  
1000 N. 10th St., Building 1000  
1000 N. 10th St.

**MEMORANDUM FROM THE EXECUTIVE DIRECTOR**

**FOR:** THE REGIONAL DIRECTOR  
Region 8

**SUBJECT:** QUERY ON PENDING ANCESTRAL DOMAIN CLAIM OF THE  
BADJAOS, FROM THE COMMISSION ON HUMAN RIGHTS  
(CHH)

**DATE:**

APR 02 2014

Respectfully transmitting hereto attached letter from MR. JOSE MANUEL S. MAMAUAG, CHR Focal Commissioner for your information and appropriate action.

Please validate the areas mentioned by Commissioner Mamauag and advise the undersigned as soon as possible if there are affected ICCs/IPs in the mangrove sites specifically the Battoes of Luyag-luyag, Loha-doha, Sumatra and Sumorai, Brgy. Talsan within Zamboanga areas. Further, kindly ascertain if said ICCs/IPs (Badjaos) has pending Ancestral Domain application thereof.

MARLEA P. MUÑOZ

2014 3 25

cc: Corin Mamauag, CHR  
Records  
File

*Handwritten signature and date: 4/1/14*

January 18, 2013

CITY LEONOR QUINTAYO

**Journal of Management Education**

National Commission on Indigenous Peoples

1992

Consultant Wong Lim P. Wong, MPS

Regional Director

page 404 Quantized

Meetings of Peace

Why we respectfully request processing of our Certificate of Ancestral Domain Claim (CADC) and Certificate of Ancestral Domain Title (CADT) respectively. Currently we are shouldering the expenses in the documentation of Ancestral Domain claim.

Attached herewith is our initial documentation results of an ethnographic study of our community with attached pictures and maps. Documentation on the CADIC is being prepared by Prof Yusef Morales of the Ateneo de Zamboanga University.

Thank you for your consideration and meritorious approval of this request.

## Discussion



tribal leaders of Sumariki Island

☐ I have signed the agreement to

MAH A. ISMAIL

ISMAEL O BANDA YNO

FADIL KURAI

ISMAIL AMHARI

Hi Ma  
W. ELDHAN MANN  
TAMMAB & JIKIRI  
JAMS ABDULGANI



January 8, 2015

ATTY LEONOR QUINTAYO  
Chairperson  
National Commission on Indigenous Peoples

Atty.  
Timothy Wey Lim P. Wong, MPS  
Regional Director

Dear Atty Quintayon:

Greetings of Peace.

May we respectfully request processing of our Certificate of Ancestral Domain Claim (CADC) and Certificate of Ancestral Domain Title (CADT) respectively. Currently we are shouldering the expenses in the documentation of Ancestral Domain claim.


Attached herewith is our initial documentation results of an ethnographic study of our community with attached pictures and maps. Documentation on the CADC is being prepared by Yusuf Morales of the Ateneo de Zamboanga University. We concur that the information and data collected is correct and accurate based on our knowledge.


Thank you for your consideration and meritorious approval of this request.

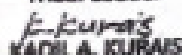
**NCIP-IX**  
INDEPENDENT LITIGANT OFFICE  
**RECEIVED**  
DATE: 03/12/15  
TIME: 3:40 pm  
SIGNATURE: \_\_\_\_\_

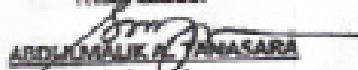
Thank you.



  
**NASIR A. ISMAIL**  
Tribal Chieftain

  
**HIL. I. MAHAN O. MAANI**  
Tribal Leader

  
**HIL. ISMET ANUWARI**  
Tribal Leader

  
**KADILA A. KURAI**  
Tribal Leader

  
**ARDUN MALIK A. PANASARA**  
Tribal Leader

  
**HIL. SAIBIN I. ISMAIL**  
Tribal Leader  
  
**ISMAEL O. BANDAYANG**  
Tribal Leader

**HIL. JAMIL OLRAIZ**  
Tribal Leader

**TUNGKU MANAPI**  
Tribal Leader

Republic of the Philippines  
**SAMA BANGINGI COUNCIL OF ELDERS**  
 Simariki Island, Talon-Talon, Zamboanga City

**Testimony of Sama Bangingi Elders/Leaders of Simariki Island,  
 Barangay Talon-Talon, Zamboanga City, Mindanao, Philippines**

We are the Sama Bangingi people of Simariki Island of Barangay Talon-Talon, Zamboanga City strongly maintain our claim that the land and the whole area we presently occupied and possessed belong to our ancestors. The occupation of the area started communally and individually since time immemorial by our ancestors and continued up to the present time without disruption, our ancestor and great, great grandparents were born and buried in the same ancestral domain.

We the people living in Simariki Island is Sama Bangingi and our language is Sinama Bangingi. The name Simariki derived from the native vernacular which means "small".

We are the owner of the domain which was handed down on to us by our ancestors when we reached of age as we have been in the area they possessed since time immemorial. Tangible proofs of our long-term occupation are the improvements we have in the area, our burial grounds, fishing ground, the vast rivers/creeks, language and sandbars (kud) the mangroves (pahapat) that indicated landmarks named in our very own dialect Sinama Bangingi.

Landmarks are the indicative of our boundaries such are rivers/creeks, takot (where varieties of numerous fish found), different type of mangroves-kaluk (mangrove look a curved object), panda pandak (small mangroves where plenty of seashells, small fish and crabs could be found), sawang (where their fishing boat bangka put to rest), sawang pahapat (where fish pens are installed), galomon (leads toward thicker mangroves) and leha-leha (fringe areas).

Facts and agreements entered into by us concerning our boundaries are embodied in our orals that is passed from generation to generation and has been respected since then.

Our seas and rivers are used as fishing grounds by our fisherfolks, seashells harvesting, seaweeds farming and mangroves production for firewood (consumption and commerce).

At present, we have maintained and actively exercised our customs, traditions, and institution that our ancestors handed down to us such as the rituals and customs practices by our tribe are the following:

1. On marriage wherein the bride then is being kept in upper portion of the house (mezzanine) until they are married; steps of marriage — a) pagpasihil or pagsulufan agreement between the parents of the bride and groom regarding the whole set up of the marriage; b) magpangasawa or paghahanda wherein the parents of the groom formally asked the hand of the bride and give tapil dilah like a gold ring or buyuh bunga (small box of cigarettes) as a sign of their sincerity; c) pagtutul taymah (engagement) wherein the dowry (money, sacks of rice, cow and jewelry which is in line with Islamic sharia or law) is put forward for the parents of the groom has to give before the wedding take place; d) pagkawin or marriage ritual wherein the Imam or the Muslim priest will do the marriage ritual by asking first the name of the bride three times, exchange of rings between the bride and groom as a symbol of their willingness to the marriage, and once the Imam will put the right thumb of the groom to the forehead of the bride then the marriage if through the newlywed couple are already considered man and wife;
2. On burial of the dead has also four steps — a) rukun pagpayguh bathing and thorough cleaning of the dead body by water mixed with incensed called kamanyan performed by 3-4 Imam and they are given a gold ring or money respectively for the services they had rendered; b) saputun the dead body is wrapped by a white cotton cloth; c) prayer for the dead by the Imam and close male relative of the dead; d) putting the dead body inside the lalungan or coffin e) bury the dead in the burial ground wherein the wrpped dead body is placed in a cum like pocket of earth facing the kiblat or the Holy Makka or facing sunset then the hole or pocket is closed by a flat bar of lumber then the dig-hole is made flat and the lalungan is placed on the top;
3. Fasting and Celebrating two Eid - Eid el Fitri (Hari Raya) or feast or celebration after the culmination of the thirty days fasting and Eid el Adha (Hari Rava Halil) or feast of sacrifice wherein the Muslim whether they went for Hajj or pilgrimage in Makka or not are offering cow or goat as a sacrifice or offering the meat to charity or less fortunate.
4. Celebrating the Maulod month or the birth month of Prophet Mohammad wherein reading of the autobiography in Arabic of the Prophet Mohammad is done inside the mosque and food of different varieties are also brought in to feast on by the Imam and the members of the community.
5. Pagtulak balah or bathing during every Wednesday of Safar (second Islamic month) in the shoreline by the Imam pouring or splashing seawater on their backs and they will throw pebbles thereafter as a sign of getting away from natural calamities or getting rid of evil spirits then the Imam will offer thanksgiving prayer with burning incensed hovering in the air. On the last Wednesday of the month is the culmination wherein after the splashing of seawater rituals they will bring out varieties of food to eat at the same

time they will also put food on the makeshift mini house to let it go into the ocean for the sea mammals to feast on after the thanksgiving prayer is offered by the Imam.

6. Nisfu Shaban celebration during the eight months of Shaban by offering prayer or dua tampil or recitation of tasilah (religious story)
7. Aquilqa or paggungting (Muslim baptismal of a newborn baby)
8. Circumcision for male Muslim and pagsunnat (optional) for Female baby wherein a prayer is offered so that the baby will grow a law abiding and righteous lady.
9. Dress code a male is observed to wear at times kantiyu and sablay or binatawi for women.
10. Use of Adjung or sappit (big boat powered by banug (single sail or leha double sail equipped with big oars called dayyut or busay with armaments like kalis/sword, budjak long spear sharpened at the tip, and pana/bow/arrow) by their ancestors as a protection in travelling to another place.

We are the original settlers in Simariki, the present families/clan who stayed in this area since time immemorial are descendant of Ibrahim Amanu, who first settled in the said area. As far as they can remember, around 11<sup>th</sup> century, there were around two to three families or fifteen individuals who first started living in Simariki with Ibrahim Amanu.


Our Elders/Leaders are chosen through our Customary Laws by succession. The Political Structure of our Community is headed by a Panglima, Maharadja and Tribal Chieftain/Leaders and the following who were once a tribal chieftain or a Panglima.

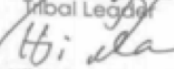
Ibrahim Amanu, who lived in the 11th century  
 Abdulsalam Amanu, who lived in the 12th century  
 Abdulmajid Amanu, who lived in the 12th century  
 Yusup Abirin, who lived in the 13th century  
 Ahmad Latip, who lived in the 13th century  
 Abdurasa Abdurasad, who lived in the 14th century  
 Abdulmunid Sampang, who lived in the 14th century  
 Sukuran Abdulmunib, who lived in the 15th century  
 Jalali Siddik, who lived in the 15th century  
 Salam Jalali, who lived in the 16th century  
 Pajji Usman, who lived in the 16th century  
 Sahisa Usman, who lived in the 17th century  
 Imam Barahama, who lived in the 17th century  
 Quraiz Dawa, who lived in the 18th century  
 Barahim Ismula, who lived in the 19th century

The other families/clans who have been in long term occupation and also in ownership of the domain are the following: a) Ismula b) Ismael c) Quraiz d) maani e) Lamsi f) Bandaying g) Tanarasa h) Hanapi family.

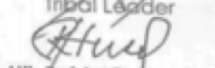
Attached hereto the documentary of Sama Bangingi of Simariki Island Talon-Talon, Zamboanga City dated January 8, 2015

IN TESTIMONY WHEREOF, we affixed our signatures this 4th day of June 2017.

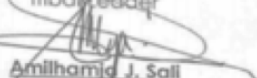
  
Lunakun Hanapi  
Tribal Leader

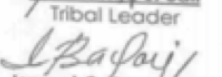
  
Hiji Ilahan Maani  
Tribal Leader

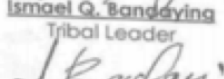
  
Hiji Saleha Ismael  
Tribal Leader

  
Hiji Ralda Q. Hussien  
Tribal Leader

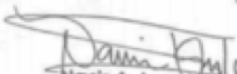
  
Hiji Ismael Anuwari  
Tribal Leader

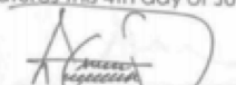
  
Amilhamia J. Sali  
Tribal Leader

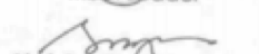
  
Ismael Q. Bandaying  
Tribal Leader


  
Ismael Q. Bandaying  
Tribal Leader


  
Hiji Giray Hanapi  
Tribal Leader

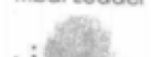
  
Nasir A. Ismula  
Tribal Chieftain

  
Hiji Amilhamia Ismael  
Tribal Leader


  
Abdulmalik A. Tanasara  
Tribal Leader

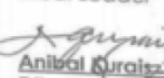
  
Hiji Muralib P. Ismula  
Tribal Leader

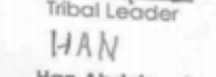
  
Hiji Varnil Quraiz  
Tribal Leader

  
Jahab K. Jikiri  
Tribal Leader

  
Hiji Salkia A. Arip  
Tribal Leader

  
Anibal Quraiz  
Tribal Leader

  
HAN  
Han Abdulgani  
Tribal Leader

  
Hiji Marmo Q. Tulaw  
Tribal Leader



**Zamboanga City Indigenous Peoples Council of Leaders**  
Office of the Indigenous Peoples Mandatory Representative  
Zamboanga City

**RESOLUTION FOR UNITY AND ADVOCACY FOR INDIGENOUS PEOPLES OF ZAMBOANGA CITY  
AND URGING MEMBERS AND OFFICERS OF THE ZCIPCL TO REMAIN APOITICAL**

**WHEREAS**, the Council of Leaders of the Indigenous Peoples is the advisory committee of the IPMR Ismael I. Musa and the Executive Leaders of the Zamboanga City Indigenous Peoples Council of Leaders.

**WHEREAS**, the Officers and members of ZCIPCL remained steadfast and do away from any political undertaking by any of our council leaders – members.

**WHEREAS**, the members and officer of IPCL remained united as much as to the advocacy to protect the rights of Indigenous Peoples though we also recognized the rights of everyone to have their own political inclination but to date the council of leaders headed by Dr. Pendatun I. Talib and co-chaired by IPMR City Councilor Ismael I. Musa remained strong and united and keep on working with all stakeholders of Zamboanga City for the interest of our Indigenous Peoples provided by law.

**WHEREAS**, the Council of Leaders thru IPMR Ismael I. Musa have requested the help of Ateneo de Zamboanga University thru Prof. Yusuf Morales to help us in our advocacy as formalized in the letter dated September 19, 2014 and to date we believe on Prof. Morales genuine gesture and undertaking for the common good of Indigenous People.

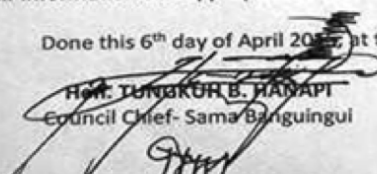
**WHEREFORE**, the Council of Leaders united and strongly firm in our stand to inform the general public in our commitment to the stake of our City, to help ensure the interest of the common good above self.


**RESOLVED**, the officers and members of IPCL remained uncommitted to any political party or groups and we adhere to one voice and free spirit and internal democracy to our council leaders-members.

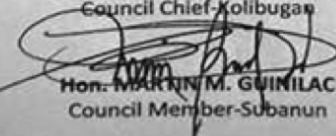
**RESOLVED**, that IPMR - City Councilor Ismael I. Musa to be cautious in his political inclination as we have to date strong recognition of his influence over us and we remained confident of his true genuine interest to promote, respect and protect the indigenous peoples, thus we confidently rest for him to remain non-committed to any political group unless otherwise the ZCIPCL Leadership so decide.

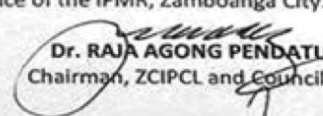
**RESOLVED FINALLY** to send this resolution to ADZU, NCIP, DILG and other agencies for their information and appropriate action.

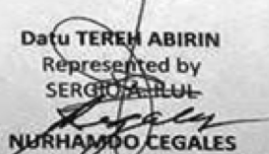
Done this 6<sup>th</sup> day of April 2015, at the Office of the IPMR, Zamboanga City.

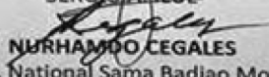
  
Hon. TUNGKUH B. HANAPI  
Council Chief- Sama Banguingul

  
Datu HANNO A. GUMAGA  
Council Chief-Kolibugan

  
Hon. MARKIN M. GUINILAC  
Council Member-Subanon

  
Dr. RAJA AGONG PENDATUN I. TALIB  
Chairman, ZCIPCL and Council Chief- Bajau

  
Datu TEREH ABIRIN  
Represented by  
SERGIO A. RUL

  
NURHAMMOO CEGALES  
President, National Sama Badjao Movement

**COUNCIL OF ELDERS**  
**Simariki Tribal Council**  
**Simariki Islands, Talon-Talon, Zamboanga City**  
**Contact No. 09264129460/09322233361**  
**zbl\_02nash@yahoo.com**

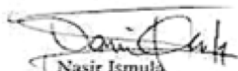
Whereas, understanding the rights of the indigenous peoples, we fully understand the need to file for ancestral domain also known as Certificate of ancestral domain title (CADT) whereas based on RA 8371, there is a need to file for application for CADT with the NCIP to ensure that our ancestral domain will be protected and ensured to be in our community's disposition and custody

Whereas we understand that there is a need for documentation of the Simariki island ancestral domain of its physical boundaries, community, Indigenous knowledge skills and practices (IKSP) and culture, wherefore we the tribal chieftains agree to:

1. Designate and appoint Prof. Dato Yusuf Roque Morales, PhD to document our customs, traditions, beliefs and other aspects of our community to be used in the documentation of the Ancestral Domain Claim
2. Allow him to use such documentation for any other purpose he may require such as publication of articles, books or monographs for dissimination of information of our people, the Sama banguinguh and Simariki island.
3. Recognize Prof. Dato Yusuf Roque Morales, PhD as an adopted member of the community

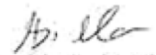
Signed this 5<sup>th</sup> day of May, 2015 at Simariki island, Zamboanga City

Tribal council of Simariki Island

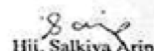
  
 Nasir Ismulu  
 Tribal Chieftain

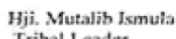
  
 K. Kurais  
 Tribal Leader

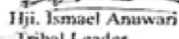
  
 Jainab Jikiri  
 Tribal Leader

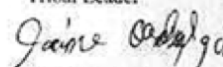
  
 Hji. Ilhan Maani  
 Tribal Leader

  
 Hji. Salim Ismael  
 Tribal Leader

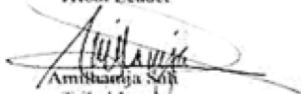
  
 Hji. Salkiya Arip  
 Tribal Leader

  
 Hji. Mutalib Ismulu  
 Tribal Leader

  
 Hji. Ismael Anuwari  
 Tribal Leader

  
 Jaibi Abdulgani  
 Tribal Leader

  
 Abdalmalik Tanasara  
 Tribal Leader

  
 Ambhaerja Sali  
 Tribal Leader

  
 Hji. Jacot Qurais  
 Tribal Leader

  
 Pangku Hanapi  
 Tribal Leader

  
 Ismael Bandaying  
 Tribal Leader

  
 Hji. Raida Hussein  
 Tribal Leader



Republic of the Philippines  
Office of the President  
**National Security Council**

25 October 2019

**DATO YUSUF ROQUE SANTOS MORALES, PHD**  
Commissioner  
National Commission on Muslim Filipinos

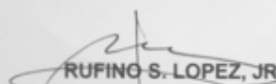
**Dear Dr. Morales:**

In light of the recent adoption of the National Action Plan on Preventing and Countering Violent Extremism (NAP CPVE) via the Anti-Terrorism Council Resolution no. 38 last 27 May 2019 and the subsequent implementation by our implementing agencies, we would like to take this opportunity to express our utmost gratitude for serving a critical role in the crafting of the NAP CPVE and providing your expertise during the consultations and workshops that have been conducted in coming up with this national strategy. You have represented the community of Muslim Filipinos well through your efforts for the National Action Plan.

Again, we thank you and we hope you never get tired of providing your services and technical knowledge for the benefit of the citizens of this Republic.

***Mabuhay!***

*Very truly yours,*

  
**RUFINO S. LOPEZ, JR.**  
*The Deputy Director-General  
And Chief of Staff  
National Security Council*

**CC: EDUARDO M. AÑO**  
Secretary  
Department of the Interior and Local Government



National Security Council



0110-1910-013



## About the Author

Yusuf Roque Santos Morales is a former commissioner of the National Commission on Muslim Filipinos (March 2016–March 2020) and former Muslim Affairs Coordinator of the Ateneo Peace Institute, Social Development Office, Ateneo de Zamboanga University, and former member of the Board of Advisers of the Al-Qalam Institute, Ateneo de Davao University.

He is presently the lead Convener for the Consortium of Peacebuilders, a multi-stakeholder group of civil society organizations, religious institutions, public intellectuals, development workers, and peacebuilders. He is also a senior fellow for ICAS Phils., a think-tank institute for comparative research as well as a member of the SAF Advisory Council. In addition to this commentary on the customary law of the Sama Banguinguih of Simariki, he has written two other articles on the Sama Banguinguih of Simariki: “A Comparative Analysis between the Customary Law of Simarikii, PD 1083 and Shariah” (to be published in the Mindanao Reader, by Ateneo Press) and “Compending Struggles and Challenges: The Journey of the Sama Banguinguih Towards Returning to Simariki, Narratives of Displacement and Return,” which was presented at the Fifth Mindanao Peace Studies Conference in Father Saturnino Urios University last November 20, 2019, in Butuan City. His interests are geopolitics, developmental security studies, peacebuilding, cultural studies, Islam in the public sphere, Islamic studies, PCVE, and educational philosophy.

## About the Co-Author

Sheryl “Sharima” Renomeron Morales is currently an Associate Professor and Faculty researcher at the Polytechnic University of the Philippines. Her extension and community engagement with Indigenous People started in 2005. Her travels inspired her to help advocate the rights of indigenous communities, particularly in the Zamboanga Peninsula where her husband resides.

Her extension and community work in the National Capital Region primarily focus on youth advocacy. The National Youth Congress of 2013, which she mentored has successfully advanced its interest in youth, peace, and nation activities.

She was given recognition and awarded by the Armed Forces of the Philippines of the CMO Soldier Award in 2013 and the Bayanihan Award in 2014.





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