

Philippines: The Indigenous Conflict Resolution Practices of the Higaunon Tribe

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Abstract. *This research explores the indigenous system of conflict resolution of the Higaunon tribe in Kagahaman, San Luis, Malitbog, Bukidnon, Philippines. The data employed in this study includes the responses of the members of the tribal council and a part of the barangay council of San Luis, Malitbog, Bukidnon. The study uses qualitative approach and the data is interpreted by means of descriptive analysis. The study shows the different cases of social discords by which the tribal council heard. It also presents the resolution processes, the nature of penalty imposed and the interface of the tribal council and the barangay (village) justice system vis-à-vis resolution of conflicts. It also presents the problems encountered by the tribal council in the resolution of conflicts. The study identifies eight cases of social discord, namely: thievery, fighting, murder, misunderstandings, adultery, land conflicts, contempt against rituals and conflicts involving rebels. The resolution processes of the Higaunon tribal council varies from one conflict to another. Upon the filing of a complaint, the tribal council would then schedule the time and place for hearing the case. Sala (penalty) varies according to the nature of the offense. Conflicts involving non-Higaunons are resolved by the sitio (zone) representative.*

Keywords: *indigenous conflict resolution; Higaunon tribe; indigenous peoples; tribal conflict, penalty; local government interference.*

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Introduction

Indigenous peoples¹ (IPs) principally refer to pre-colonial inhabitants of the Philippines and their descendants who have resisted

1 Indigenous Peoples is a group of people who, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and culture, became historically differentiated from the majority of Filipinos (Indigenous Peoples Rights Act of 1997).

assimilation or acculturation with their traditional systems, practices and beliefs remaining relatively intact (Tri-people Consortium for Peace, Progress and Development in Mindanao, 1998). They have continuously lived as organized community on communally bounded and defined territory and who have, under claims of ownership since time immemorial, occupied and possessed customs, tradition and other distinctive cultural traits.

The *lumads*² of Mindanao is one of the IPs who is recognized as the true natives of the islands who, at one time, occupied and controlled a substantial portion of Mindanao and Sulu archipelago (Tri-people Consortium for Peace, Progress and Development in Mindanao, 1998). Mercado (1993) argued that unlike the early IPs who embraced Christianity, the *lumads* have retained their original primal religion because they refused to accept neither Islam nor Christianity at the early times of colonization.³

The *Higaunon* is one of the *lumads* in the mountainous areas of Northern Mindanao. Most *Higaunons* still have a traditional way of living. Farming is the most important economic activity for them. The belief in the power of the spirits of ancestors and in the influence of more than one god is strongly rooted in the hearts and minds of many *Higaunons*. Most *Higaunons* still have a strong belief in the existence of gods and spirits. The 'upper god' is *Halangdong Magbabaya*, the creator of all aspects of life. There are several 'lower gods'. Each 'lower god' has dominion over a specific part of the natural environment.⁴ This belief, called "animism", influences the *Higaunon* people deeply. They believe that all problems like illnesses, bad harvests and even death are due to their failure to satisfy the spirits (Valmores, 2008).

The *Higaunons* of Malitbog, Bukidnon are the pioneering settlers of Cagayan de Oro City in Northern Mindanao. They found their way to the mountainous areas of Misamis Oriental, Bukidnon and Agusan Provinces as they resisted the acculturation brought about by the arrival of colonizers. In Malitbog, Bukidnon, the majority of them settled in the most mountainous areas which bound the municipality from the provinces of Misamis Oriental, Agusan del Norte and the municipality of Impasug-ong, Bukidnon. One of these mountains where the *Higaunons* inhabit is Kagahaman.

2 *Lumad* is a Cebuano *Bisayan* word meaning indigenous which has become the collective name for the 18 ethno linguistic group, namely: Ata, Bagobo, Banwaon, B'laan, Bukidnon, Dibabawon, Higaunon, Kalagan, Mamanwa, Mandaya, Mangguwangan, Manobo, Mansaka, Subanon, Tagakaolo, T'boli, Tiruray and Ubo (Rodil, 1994).

3 However, a plenty of *lumads* to date are already converted to either Islam or Christianity, though they continue to practice their indigenous religious activities.

4 There is a lower god (*Igbabasok*) who has dominion over the farms, a lower god (*Pamahandi*) who has dominion over treasures and properties, a lower god (*Bulalakaw*) who has dominion over the waters and fishes and there is a lower god (*Panalagbugta*) who has dominion over lands (Valmores, 2008).

The *Higaunon* tribe of Kagahuman has approximately sixty (60) families. The community started with five families on December 27, 2002 who come from the neighboring mountains of Kalabugao, Impasug-ong and Impahanong. One of the five families then was that of Datu Mansaysayan, who became the tribal chieftain. Before 2002, Kagahuman was just an *unayan* (farm) of the people from Impahanong, Consolacion, Gilang-gilang, Santiago, Abyawan, Bayawa, Kalampigan and Linabo – which all comprise the *talugan* (territory) of Amosig. Residents of Kagahuman visit their farm early in the morning and return in the afternoon. However, they also have nipahuts in the farm where they can stay and sleep in case the Itoy and Pulangi rivers are flooded. Furthermore, as a group and as a community, they are wrought with conflicts.

Because conflict is a universal phenomenon in every society, resolution processes to resolve conflict are also present at all levels of human interaction. Thus, this research tries to present the indigenous system of conflict resolution of the *Higaunon* tribe in Kagahuman, San Luis, Malitbog, Bukidnon. The *Higaunon* tribe of this area in Northern Mindanao has preserved their indigenous political culture, as well as their traditional system of conflict resolution. Therefore, this research presents the indigenous system of conflict resolution of the conflicts occurred within the *Higaunon* tribe in Kagahuman, San Luis, Malitbog, Bukidnon, Philippines.

Different Cases of Higaunon Tribal Conflicts Arising within the Tribe that Reached to the Tribal Council for Possible Resolution

The *Higaunon* tribe of Kagahuman, San Luis, Malitbog, Bukidnon, with its tribal council composed of a Supreme *Datu*, 11 delegates and 3 *baes* (women delegates), resolves all kinds of conflicts as long as it takes place within their jurisdiction.⁵ It has identified the following cases that reached to the tribal authorities for possible resolution, namely: thievery, fighting, murder, misunderstandings, adultery, land conflicts, contempt against rituals and conflicts involving rebels.

Panakaw (Thievery). Regardless of the stolen object, thievery is regarded as a serious crime. Plants like corn, sweet potato, cassava and taro were the common objects of thievery. These plants are commonly stolen because it can be taken easily. He added that as to coconuts, there were no plenty of it in the tribe before and even today. Even if there were plenty of coconuts in the tribe then, he assured that it would not be an object of thievery, because stealing coconuts creates sound as it falls to the ground. Also, the extreme distance of our tribe from the coconut buyers would discourage anyone who intends to do so.

5 The forty three hectares land area of Kagahuman defines the limits of authority of the tribal council. As noted above, Kagahuman is one of the eight (8) communities composing the *talugan* of Amosid.

Aside from plants, chickens and pigs are the ones mostly stolen. Aside from the fact that they could be taken easily, they could be exchanged or sold easier than a horse or carabao. The occurrence of thievery in the tribe is due to poverty⁶ which is an obstacle of man's natural desire to survive.⁷

Saba (Fighting). Regarded as the most common and least grave form of conflict, the innate sense of *bansa* (pride) among the *Higaunons* is the main cause of this conflict. Hence, a man would actually defend himself if only to protect his reputation. Another reason that people fight is due to misunderstanding. Oftentimes, it occurs between people under the influence of liquor. Thus, "*labi na kung mangahubog, kay magdin-augay na dayon sa ngalan*" [drunkenness usually leads to boasting and then fighting follows]. Also, there are cases that when mild differences in the past are not resolved, the tendency is that these are recalled when they get drunk. *Daog* may also happen between members of one family. However, it is a rare case when a parent and a child fight due to the fact that the *Higaunons'* respect for parents and elders is a very important virtue taught to children and is actually regarded as an attitude worth to practice wherever they go.

Hinanatayandin (Killings). According to the respondents, there were also cases of murder in the tribe. Jealousy is one of the common reasons of murder, triggered when a person is influenced by liquor. *Pagtakin* or the practice of putting one's *badi* (bolo) in one side through a rope tied around the hips may sound threatening to one's companion with *takin*. The rationale of this habit lies to the fact that bolo is a form of weapon against snakes and other lethal animals, to cut trees when a need arises and is a tool in farming. It is not a unique attribute of the Kagahuman *Higaunons* but is in fact a common practice among farmers. In the case of the *Higaunons* in Kagahuman, some residents have one or two *takins* at the side. However, Datu Mansaysayan made it clear that *pagtakin* as a habit among the *Higaunons* does not mean that a *Higaunon* is always ready to kill. A respondent recalled that there was a time in the tribe that killing a culprit is allowed, especially when the latter is caught in the act of committing crimes such as murder, adultery or even thievery. For instance, when someone is caught of stealing something, the owner of the stolen object can actually kill the thief without being himself punished by the tribe. This practice is grounded in their belief that a thief should not be allowed to beget children, who may turn out to be like him. However, this manner is no longer allowed in the tribe today.

6 In 2009, Datu Mansaysayan argued however that thievery is less experienced in the tribe before, especially when death penalty was still practiced (personal communication, May 24, 2008). "Thievery in the tribe now," he added "is actually an influence brought by young *Higaunons* who happen to work in the cities and return home."

7 There is no other means of living in the tribe other than farming.

Misunderstandings. This type of conflict in the *Higaunon* tribe originated from many types of conditions. However, the respondents revealed that women were more prone to this than men. Common reasons cited were miscommunication, backbiting and protecting one's interest. Moreover, misunderstanding between husband and wife is also common. Another source of misunderstanding for the *Higaunons* is their tradition permitting the marriage of tribe members as young as fifteen (15) years old. In fact, *pamalás* (initial wedding to drive away evil) takes place when a man and a woman are caught of doing acts which the tribe considers malicious-sometimes even just holding of hands. *Pamalás* is made to ask the *Halangdong Magbabaya* and the spirits of the ancestors of the couple to forgive them for doing prohibited acts prior to marriage and also to bless them as they start a new family. The wedding proper must be scheduled as soon as possible following the *pamalás*. Due to these mechanisms, there are cases when the couple is actually unprepared for married life. As a result, misunderstandings between the couple become unavoidable. Aside from this, the respondents during the second FGD revealed that another reason of misunderstanding is poverty. When there was no more food in the table, the wife usually starts complaining which would then cause tension between her and the husband. This tension becomes even more terrible when the husband gets drunk. Thus, conversation would turn into debate causing further disagreements between the couple.

Asawahondin (Adultery). The tribal leader Salvador Sagayna said back in 2008 that adultery is considered as a serious crime in the tribe because the *Higaunons* believe that it actually brings bad luck. During a wedding, the *datu* (the one performing religious duty as the *Babaylan* of the tribe), inculcates in the couple's minds the sanctity of marriage, which would become impure when a wife or a husband practices adultery (personal communication, May 24, 2008).

Though *pagduway*, or having two wives, is allowed in the tribe, the consent of the original wife is required; otherwise, the husband could not engage in *duway* (have two wives). A man intending to have two wives must see to it that he could afford to provide the basic needs of his wives and their children. However, the respondents revealed that there was no such case when a wife allowed her husband to have two wives; there were reported cases of adultery instead. These cases of adultery led to *lido* or war between families. This was due to the fact that the *Higaunons* are by nature protective of their family. Thus, in cases like this, the wrongdoers disrespect their own families and the family of the betrayed partner. The *Higaunons* believed that in due time, the spirits of their ancestors would punish them, thus "*magabaan*" (cursed).⁸ As was stressed by one respondent, "*kay ang gaba muduol dili magsaba*" [bad karma comes without warning].

8 *Gaba* is quite similar to the doctrine of karma in Hinduism and in Buddhism. It is also similar to the biblical doctrine of reaping what one sows... it is also considered as a form of immanent justice (Mercado, 1993).

Ilugay sa Yuta (Land Conflicts). Land for the *Higaunons* is not just a mere real property but is actually regarded as their life and as their legacy from their ancestors. They inhabited these hectares of lands with the boundaries marked by either a tree alone or by just a *butig* (big stone). Even if the original occupant of the land is not occupying or tilling the territory, the land can no longer be owned by anybody else. Up to the present, the *Higaunons* of Kagahuman do not have land titles. Fortunately, Salvador Sagayna added that the Impahanong Amosig Higaunon Tribal Community Organization (IAHTCO) through the National Commission on Indigenous Peoples-10 (NCIP-10) is actually working towards the grant of Certificate of Ancestral Domain Title (CADT)⁹ for the *Higaunons* in the *talugan* of Amosig (personal communication, May 24, 2008). The lack of clear boundary in Kagahuman, San Luis, Malitbog, Bukidnon usually led to conflicts between the *Higaunons* in the tribe who own adjacent land. It is really a source of conflict when somebody extends his boundary.

Contempt Against Rituals. The *Higaunons* of Kagahuman, like other *Higaunon* communities, place very high respect to rituals and other form of activities that defines their culture and traditions. Rituals which offered prayers to the spirits of their ancestors were usually done when they got some favors such as good harvest, sound health, rain and thanksgiving, including previous and present blessings received. Assemblies such as *singampo* and *tagulambong datu* are at all times marked by a ritual-with animals offered ranges from three to ten pigs and one cow. Therefore, breaking the solemnity and sanctity of these activities is considered a grave crime against the entire tribe and all the spirits therein. Some forms of contempt include making noise (e.g. shouting) and throwing of stones in the vicinity of the assembly. Cases like these were usually committed by those who were under the influence of liquor or by those who are not aware of their culture. However, there were also cases when the contempt was intentional and was done to destroy the solemnity of the activity.

Conflicts Involving Passing Rebels. Another type of conflict in the tribe involved New People's Army (NPA) rebels passing through the tribal community. Camping in the mountains North of the tribe, Kagahuman is the rebels' only route to pass through and reach the areas of Impahanong and Impasug-ong, Malitbog, Bukidnon. Thus, the community is a block to their access to the neighboring places such as the municipality of Impasug-ong, Bukidnon and of the downtown of Malitbog. For this reason, NPAs want them to leave the area and return to Impahanong, San Luis, Malitbog, Bukidnon. The rebels would steal their *lagutmons* (edible plants) such as banana, sweet potato, cassava and taro. The respondents explained that they understood the situation of the rebels who were possibly hungry and needed some food to eat. However, the rebels not only

9 Chapter 2, Section 3 (c) of the IPRA Law of 1997 referred CADT to a title formally recognizing the rights, possession and ownership of IPs over their ancestral domain.

steal from them but destroy their plants as well. They would cut newly planted bananas, taro and destroy their newly planted corn.

Indigenous System of Conflict Resolution Employed by the Higaunon Tribal Council

The tribal council of the Higaunons in Kagahuman inherited the procedures of resolving conflicts from their ancestors who bestowed it through stories alone. Through stories, the procedures were transferred from generation to generation. Even up to the present, they do not have any written documents about their system of resolving conflicts, yet they are assured that their tradition and culture will continue. According to one of member of the tribal council, “even my four-year-old son knows what are to continue in the tribe. We told them stories of our tradition before bedtime and in the morning too. They also witness the rituals in the tribe”.

The process of conflict resolution starts with the submission of the case to a member of the tribal council who is delegated in a particular area. A complaint may be lodged in the house of the *datu* or wherever the complainant meets him. Moreover, lodging a complain can be done daily. Wherever disputes arise, especially concerning a single or a particular group of individuals only, the council waits until someone refers the case to them for possible resolution. However, in cases where the general population is involved, the council acts right away. It is a traditional practice which actually best describes the principle of *motu proprio* (by one’s own motion or initiative). Cases like rebels threatening the people and destroying their properties, or a drunkard inflicting hazard to the community requires no prior submission to the tribal council. Once a complainant referred a case, it is considered filed. As a general requirement, a ritual must be made at all times prior to the hearing of the case being filed. A conflict resolution session was considered legitimate only when there is a ritual.¹⁰ Therefore, the absence of a ritual in conflict resolution processes invalidates all the agreements or decisions made in that session.

The referral of the case in the Higaunon tribe of Kagahuman is hierarchical in nature. Thus, no case is brought to the Supreme *Datu* prior to its hearing in the lower body. All cases must be brought first to a member of the tribal council who is delegated in a particular area. If the case is not resolved, that is, the complainant is not satisfied with the decision and therefore appeals to the higher body, the case is then forwarded to the Vice Supreme *Datu*. At this level, this higher body explores all possible alternatives in order to resolve the dispute. If the decision has been rendered and both parties are satisfied, the case is closed; otherwise, the case is brought to the highest judicial body

10 In the ritual, one or two live chicken is offered to appeal the Halangdong Magbabaya (God) and the spirits of their ancestors to arrive a good resolution of the dispute.

of the tribe-the Supreme *Datu*. The latter will then schedule the time and place of the hearing. Once the Supreme *Datu* has rendered his decision, it is considered final. In case a party fails to come on the hearing scheduled, summon is served through the assistance of the *alimaong*¹¹ (tribal police).

After the ritual is performed, the hearing procedure begins. The discussions that will follow tackle the varying processes of conflict resolution of all cases identified above. It explains in details the procedure employed in the conflict resolution proper (that is, after the performance of the opening ritual).

Panakaw (Thievery). *Datu* Mansaysayan contended that “no matter how small the stolen item is, it is still theft, and such transgression must be resolved”. If the robber is identified, which implies that he/she is caught in the act of stealing or somebody testifies to his/her guilt, investigation usually takes place as soon as possible so that the stolen object can be returned before it disappears from the theft’s possession. However, in case the robber is unidentified, the *tagbala* (quack doctor) is employed. With his/her extraordinary ability, the *tagbala* proceeds in identifying the culprit with the use of round stone and other paraphernalia. According to *Datu* Man-unohan, the *tagbala* hangs a round stone from a stick. He will then mention a name of a suspect and asks the stone as to how many objects were taken. The stone moves if the culprit’s name is mentioned. After this, the *alimaong* will then search the suspect and bring it to the tribal council for a hearing. *Sala* will be imposed if upon the investigation, the suspect is proven guilty.

Saba (Fighting). According to the respondents during the first FGD, the procedure employed by the tribal council in solving fighting conflicts varies and depends upon the weight of the damage incurred. If it leads to a serious physical injury which may lead to the death of one party, then the tribal council schedules the investigation as soon as possible. However, if no serious damage is incurred during the fighting, the conflicting parties are given two options. First, they are given the choice to continue the fighting in front the public without using any weapon; or second, they would rather agree to reconcile with each other. If the parties choose to pursue the second option, the case is closed automatically with an agreement in front of the *datu*. If the conflicting parties, however, concurred in favor of the first option, then the public shall witness the fighting. This tribal practice aims not to put anybody into a deadly situation, instead it aims to release the intense feeling of being in a state of intense anger.

Hinanatayandin (Killings). In cases involving taking away of life, the intention of the accused matters most. If it is because of self-defense, the case would not prosper and

11 Currently, the tribe has three sets of *alimaong*, each of which has six members. They are also delegated by the Supreme *Datu* alone. The *alimaongs* are responsible for arresting a culprit who runs away from the tribe.

is automatically dismissed upon the presentation of substantial evidences to prove that the crime was not committed out of malicious reasons. However, if it is proven to be a premeditated murder, the tribal council would hear the case and formally render the necessary penalties against the culprit. The *Higaunons* believe that if justice is not rendered to somebody's death, the spirit will not live in peace and may cause sickness and other problems in the tribe.

Asawahondin (Adultery). The system of resolving cases of adultery is initiated in the presence of three families: the families of the adulterer, of the mistress and of the betrayed party. In the first offense, the wrongdoers are warned not to repeat the act of betrayal for it is not a crime against one family alone but is actually against the entire tribe. After the agreement, the hearing ends and a ritual is offered to appeal for forgiveness from the ancestors of the disturbed families.

If the crime is committed again for the second time, punishment and not just warning is imposed in favor of the betrayed party. Yet, the couple can still live together if the wrongdoers promise not to continue their shameful crime and upon the payment is made. After the hearing, a ritual follows to ask forgiveness from the ancestors of the disturbed families. If an offense is committed for the third time, the same punishment is imposed in favor of the family of the betrayed partner. However, the couple can no longer live together again.

Misunderstandings. The respondents disclosed that mediation is employed in cases of misunderstandings. Upon the submission of the case to the tribal council, the hearing is scheduled as soon as possible. In cases like these, a usual problem is when one of the parties will not attend the hearing; so a team of *alimaong* is called to fetch the party concerned. During the hearing, both parties are given the time to explain their side regarding the problem. After the two explained their side, the *datu* mediates towards the resolution of misunderstanding. A ritual follows after the mediation process-where parties are deemed to have compromise towards satisfaction.

Ilugay sa Yuta (Land Conflicts). The resolution of land conflicts are done in the presence of the members of the tribe. Both parties are given the time to defend themselves about the issue at hand. After the explanation of both sides, their witnesses follow. Also, if the members of the crowd have something to share to make a claim substantial, they may do so. Since through time they are actually familiar with land boundaries, the tribal council honors any statements from a tribe member. Until now they do not have land titles yet; thus, the statements provided by the elders in the tribe is a good source of justifying a claim regarding real property. After the investigation, the two parties are advised to always observe the boundaries in order to avoid further occurrence of conflicts.

Conflicts Involving Passing Rebels. Conflicts in the *Higaunon* tribe of Kagahaman, San Luis, Malitbog, Bukidnon which involves NPA rebels who uses Kagahaman as a route, have already an agreement between the commander of the rebels and the tribal council.

The agreement provides that the rebels can still make their way through the vicinity of Kagahuman, provided that they will not steal and destroy the *lagutmons* (root crops) and other properties of the tribe; otherwise the *Higaunons* cannot be held liable of any death from the rebel group—even if the culprits are the *Higaunons* of the community.

The schematic diagram in Figure 1¹² shows the conflict resolution processes of the *Higaunon* tribe in Kagahuman, San Luis, Malitbog, Bukidnon and the interface with the barangay justice system for cases involving outsiders. Within the tribe, the following cases reached to the attention of the tribal authorities (tribal council and the *sitio* representative) for possible resolution, namely: thievery, fighting, murder, misunderstanding, adultery, land conflicts, contempt against rituals and conflicts involving passing rebels. Various factors are involved that triggers the occurrences of these conflicts.

Cases involving members of the tribe are submitted directly to the tribal delegate (refer to the red arrow in Figure 1) who is a member of the tribal council; if the case is not resolved, it is forwarded to the Vice Chieftain. If the Vice Chieftain still cannot solve the case, it is forwarded to the Supreme *Datu* for final resolution. The decision of the Supreme *Datu* is final and irrevocable.

In cases where one or both parties in conflict are outsiders, the *sitio* representative (refer to blue arrow in Figure 1) has the authority to resolve the case. It is only forwarded to the tribal council if the *sitio* representative refers the case to the former. In the tribal council, the tribal delegate brings the case to the Vice Chieftain for possible resolution. If the Vice Chieftain still cannot resolve the case, it is forwarded to the Supreme *Datu*. The case is then returned to the *sitio* representative (refer to brown arrow in Figure 1) for possible resolution in the *barangay* level if the Supreme *Datu* still cannot resolve the case.

The tribal authorities in effect employ conflict resolution procedures which actually vary from one conflict to another. In almost all cases, a ritual marks the start of hearing the case. After the ritual, the trial follows which includes interrogation, presentation of witnesses (if any) and a decision to agree or not to agree.

***Sala*: An Institutional Case of Indigenous System of Forms and Nature of Punishment Employed by the Higaunon Tribe**

The *Higaunon* tribe impose *sala* (punishments) which varies depending on the nature, motive and incidence of the crime. Through the years, the form and nature of *sala* in the tribe have undergone a number of amendments already. Among others, the abolition

12 The arrows in Figure 1 are in three colors. Blue arrows indicate the resolution processes for conflicts involving outsiders until the case is referred to the Supreme *Datu*. Red arrows point to the resolution processes for conflicts involving *Higaunons*. Brown arrows signify the Supreme *Datu*'s return of the case to the *sitio* representative for possible resolution in the Barangay Council.

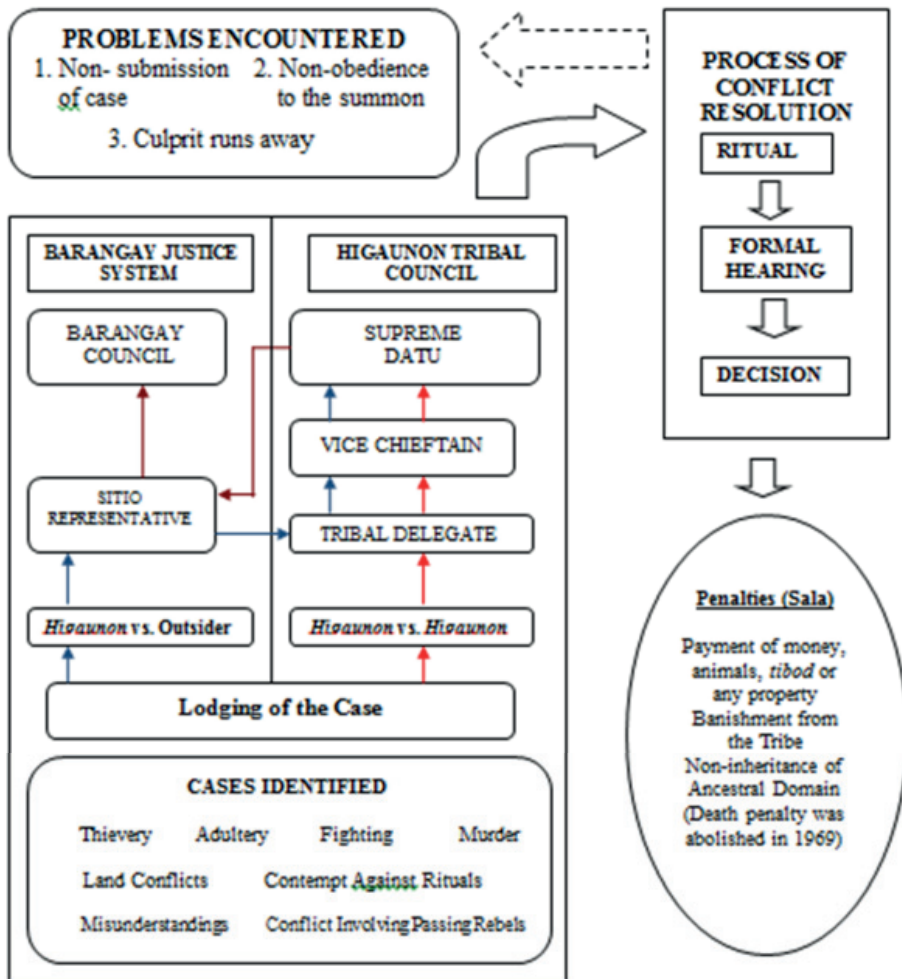


Figure 1. Conceptual Framework showing the Conflict Resolution Processes of the *Higaunon* Tribe in Kagahaman, San Luis, Malitbog, Bukidnon and the Interface with the *Barangay* Justice System for Cases Involving Outsiders.

of death penalty was agreed upon by the tribal chieftains of the eight (8) *talugans* during a *tagulambong datu* held in Impahanong in the year 1969 through the initiative of Datu Indangag of Impahanong. Also, Datu Mansaksihan recalled that pigs were never used as payment before, until the time when the people learned to raise pigs. Penalties include payments in the form of animals, *tibod*,¹³ money, non-inheritance of ancestral domain and banishment from the tribe. The following discussions tackle in details the

¹³ *Tibod* is a special kind of jar made from clay and has gold inserted in the inside part.

varying forms and nature of *sala* of the conflicts identified in this paper. Notice that adultery and land conflicts have exactly the same *sala* on the grounds that, according to Datu Mansaysayan, both involve "*pagpangilog*" or grabbing.

For cases of thievery, there is no such thing as small item or big item-for as long as there is the malicious intention in the act, punishment will be rendered fairly. For the first and second commission of the same offenses, the punishment is the return of the object or the value equivalent to the stolen item. However, if the crime is committed for the third time, the culprit is banished from the tribe and can no longer own ancestral domain.

In cases of fighting, a warning from the tribal council is given to both parties in the first offense. When the crime is committed for the second and third time, the punishment is at least the payment of three pigs or one carabao to the tribe. Both parties will work together to produce the penalty in favor to the tribe. These penalties can be used then in festivities or any social gathering in the tribe. Punishment for murder cases is actually varied relative to the intention of the one committing the crime. Such intention however must be proven by the tribal council to be accepted. If a crime was made to defend one's self, no penalty or any form of payment is asked from the one who committed the crime. It is believed among the Higaunons that self-preservation is but a primary right of every individual. Thus, to defend oneself from any crime is but a way of invoking such primary right. However, if a crime was intentionally done due to anger, pride and the like, penalties are imposed. Before death penalty was abolished as a sanction, it is actually the life of the accused that is sacrificed. It is believed that nothing can pay for a person's life but the life still of the one who committed the crime. However, upon the abolition of death penalty in 1969, a carabao, three pigs and one *tibod* are given to the family of the victim. This penalty is applied during the first and second offenses. Salvador Sagayna confirmed that punishment from the tribe and non-inheritance of ancestral domain is the punishment for those who committed murder for the third time (personal communication, May 24, 2008).

In adultery cases, prior to the *tagulambong datu* of Impahanong in 1969, where death penalty is practiced, the wrongdoers are actually put to death publicly. Both the man and mistress will face each other-between them is a hole of seven to nine meters deep. They are put into death by being hit with a metal rod in their nape; this is done by a person designated by the tribal council. This punishment was imposed before on the grounds that adultery shall only bring bad luck to the people of the tribe. Thus, it is better to sacrifice a life or two than to sacrifice the whole tribe. At present, the penalty is different. During the first commission of an offense, the wrongdoers are given warning not to repeat the malicious act. No other form of payment is required and the legitimate couple can live again together. When the crime is committed repeatedly, the wrongdoers are sanctioned to pay the offended party with at least one carabao and three pigs. Again, the couple is allowed to live together as husband and wife. However,

if an offense is committed for the third time, the husband and wife are mandated by the tribal council to live separately.

The same process and penalty applies to cases of land grabbing and other types of conflicts related to land issues. In cases of misunderstanding, the guilty party is punished by requiring him/her to pay not less than three pigs or one carabao. This penalty is actually applied if someone has been involved in misunderstanding cases for the first, second and third time.

Cases of contempt against rituals are punishable with the payment of a pig in favor to the tribe. The frequency of committing the crime constitutes the number of pigs to be produced. However it is until three offenses only. If the crime is committed for the fourth time, the culprit is banished from the tribe and can no longer own an ancestral domain. Datu Mansaysayan revealed that in case the culprit cannot produce the required payment, the tribal council may eliminate the punishment provided that the culprit admitted his/her guilt and would pledge not to get involve in any crime from time on. However, if the culprit cannot produce the required payment and does not acknowledge one's guilt, the tribal council would then refer the case to the barangay council for further hearing.

Based on the data presented, it can be inferred that the penalties imposed in the *Higaunon* tribe of Kagahuman is restorative in nature since "the application of punitive sanctions such as death penalty would," according to Datu Mansaysayan "make the situation worse". This traditional system is recognized as providing a win-win situation to all parties involved. It is very evident also that a warning is applied to four out of eight cases identified. Moreover, the abolition of death penalty in 1969 is an implication that the *Higaunons* cherish the value of a person's life. However, banishment from the tribe and non-inheritance of ancestral domain can be considered as the worst punishment though it is only applied if a crime is committed for the third or fourth time. Properties such as animals and *tibod*, or the amount equivalent to the required penalty can be used also as payment for the crime committed.

Interface of the Indigenous System of Conflict Resolution with the Philippine *Barangay* (Local) Justice System

Under the 1987 Philippine Constitution and the 1991 Local Government Code, indigenous traditional units are gradually brought into a new scheme of the national and local political organization. The links between the traditional community and the local government are further facilitated by the traditional elite in their capacity as leaders of their respective communities (Barcenas, 1985). Further, section 15 of the Republic Act No. 8371, otherwise known as the Indigenous Peoples Rights Act (IPRA) of 1997 provides that indigenous cultural communities have the right to use their own com-

monly accepted justice system, conflict resolution institutions, peace building processes within their respective communities.

In accordance with this provision, the conflict resolution processes of the *Higaunon* tribe are actually independent from the intervention of the local government. Moreover, the people in the tribe pay very high respect to the tribal council on the belief that the *datu*s are the living instruments used by the Halangdong Magbabaya to govern and render justice in the tribe. In line with this, Datu Man-estudyo added that “the tribal council is considered as the father in the tribe. They will render justice against evil to attain decency and take away wickedness”. Furthermore, the people had given them the authority to resolve conflicts using their traditional methods and processes that are based on their culture (personal communication, October 29, 2008). Culturally, the *Higaunons* of Kagahaman do not want to remain a dispute unresolved especially if it happens within their tribe. With this, the tribal law provides the resolution of all conflicts that happen within the tribe regardless of who is involved. Thus, even if a crime involves an outsider, it must be resolved within the tribe through the aid of the sitio representative.

If a conflict involves a Higaunon and an outsider, it must be referred first to the sitio representative for possible resolution. The sitio representative serves as the extension of the local government unit and thus is directly accountable to the barangay council of Barangay San Luis. If the sitio representative resolves the conflict, then the case is considered closed; otherwise it will be forwarded to a tribal council member delegated in the area where the dispute happened. The case is then referred to the Vice Chieftain for arbitration. Members of the tribal council would help the Vice Chieftain in arriving at the most preferred decision by giving suggestions towards the resolution of the case. If both parties are then satisfied with the decision by the Vice Chieftain, the case is closed; otherwise it will be forwarded to the Supreme Datu.

As the current Supreme Datu, Datu Mansaysayan said that he always convince both parties not to let the case be brought to the barangay council because more problems and complications would surely arise (personal communication, May 23, 2008). Taking the file to court (other than in the tribe) would make them first of all feel dependent on the judgment of an outsider and would secondly require patience in view of the overloaded courts (Pailig Development Foundation, 2007).

If upon the decision of the Supreme *Datu*, both parties are satisfied, then the case is considered closed. However, if one party would appeal for further resolution, the Supreme Datu would write a letter to the sitio representative returning the case for further trial in the barangay level. Resolution processes in the barangay council starts with a prayer. In an interview with Barangay Captain, he said that after the prayer, a short sermon is done-which actually include convincing both parties to reconcile so as to avoid the case be brought to the municipal level and reminding them for their obliga-

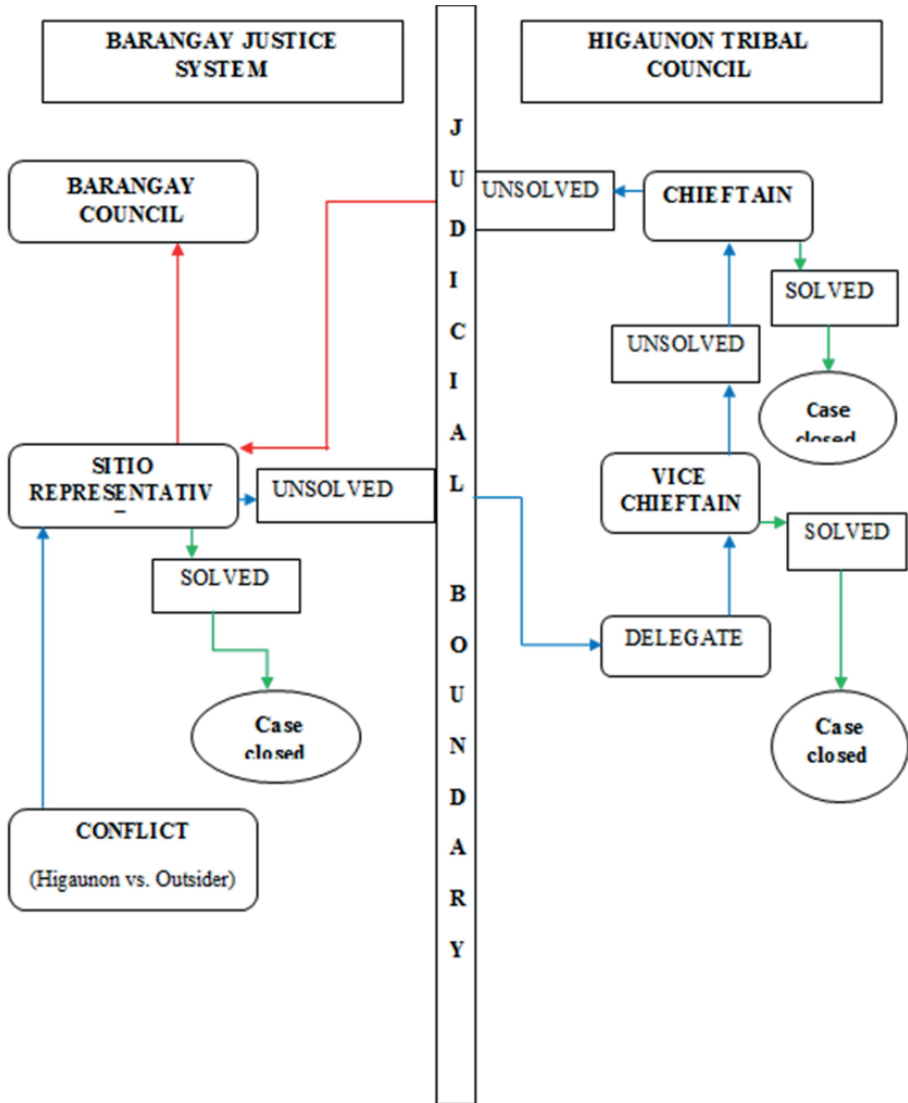


Figure 2. Interface of the Indigenous System of Conflict Resolution with the Philippine *Barangay* (Local) Justice System.

tions in the barangay. Currently, the complainant pays Php100.00 and the respondent pays Php30.00. After the sermon, both parties are then given time to present their side. The complainant is given 3 minutes to talk while reminding the respondent not to interrupt while the other party is talking. The respondent will then follow in expressing his side for three minutes. Mediation and arbitration are then employed, depending on the nature of the case.

Conclusions, Implications and Recommendations: Valuable Lessons for the Present Justice System

Conclusions

The conflict resolution processes of the *Higaunon* tribe in Kagahuman, San Luis, Malitbog, Bukidnon is mainly anchored on their tradition and customary law. This clearly shows that the *Higaunons* give value to the legacy that their fore parents inherited them. It can be inferred further that the tribal council plays a very crucial role in maintaining the peace and order of the tribe. Cases that reached the attention of the tribal council are caused by different factors that trigger its occurrences in the *Higaunon* tribe of Kagahuman, San Luis, Malitbog, Bukidnon. Negative behavioral practice of the people in the tribe, influence from outside, along with its life style like drunkenness and impoverished economic condition have direct relationship towards the occurrences of various crimes that actually causes societal discord. This agrees with the contention of Abu-Nimer (1999) that conflict is caused by many different kind of specific events and that it is a natural process which can have constructive or destructive outcomes.

Starr (1992) theorized that conflicts can be resolved in many ways which includes compromise, third party arbitration or adjudication of some sort. This theory correlates with the tribal council practice of using diverse approaches in resolving varying cases which actually hasten the dispute resolution. Moreover, hierarchical nature of conflict resolution can also lead to a more egalitarian practice since a case can be forwarded whenever a party is not satisfied with the decision of only one judicial entity. Also, the credence for a Divine Intervention is seen to be an important preliminary habit in a resolution process-both in the *Higaunon* tribal council and in the *barangay* as manifested in the opening ritual and prayer, respectively. *Sala* or penalty in the tribe is restorative in nature as manifested in the abolition of death penalty and the giving of warning during the first time offense. This system is recognized as providing a win-win situation to all parties involved-a condition which would best describe the theoretical point of Stewart (1990) that in the early stage of struggle, one possible outcome is the accommodated agreement between parties which may lead then to the situation that both parties are satisfied.

There is a systematic juridical coordination between the tribal council and the *barangay* justice system which in effect hasten the resolution of conflicts for cases that involves outsider. Thus, there is a relative parallel relationship between the existing conflict resolution processes of the *Higaunons* and the *barangay* justice system vis-à-vis conflict resolution. This correlates with the contention of Barcenas (1985) that with the introduction of local government, indigenous traditional units are gradually brought into a new scheme of the new, legal local organization. It was further argued that the links between the traditional community and the local government are further facilitated by the traditional elite in their capacity as leaders of their respective communities. The

Higaunons of Kagahuman, San Luis, Malitbog, Bukidnon have preserve their traditional processes of conflict resolution. It is a manifestation that the *Higaunons* value their culture and tradition that their fore parents transferred to them through stories alone.

Implications

Conflicts which are caused by factors such as negative behavioral practice of the people in the tribe, influence from outside, along with its life style like drunkenness and impoverished economic condition will never cease to exist in the tribe as long as these factors are not changed or if there be no immediate remedy to counter these factors is employed. For instance, if poor economic condition is a trigger, then economic plans to counter it is necessary. This implies that, as theorized by Abu-Nimer (1999), conflict is a creative force that generates new options, alternatives and solutions to the existing problems. Abu-Nimer (1999) argued that conflict resolution skills include analyzing the conflict situation, bringing parties together, assisting parties to shift focus from win/lose competition to joint problem solving, building cooperation and trust and communication skills for observing, listening and speaking. In like manner, the use of diverse approaches in resolving conflicts, which in effect hastens the conflict resolution processes, is an effective practice among the *Higaunons* in Kagahuman. Also, it implies that the tribal council is a just and responsible judicial entity that favors justice and peace. Further, it can be deduced also that the *Higaunons* in Kagahuman treasure their laws and traditions by employing it up to this day.

The restorative nature of *sala* in the tribe is an apparent implication that the *Higaunons* in Kagahuman believed in the capacity of man to change if given the chance. The abolition of death penalty also implies that the *Higaunons* cherished the value of one's life and that the application of punitive sanctions would only make the situation worse. Concisely, it correlates with the theory of Burton (1986, as cited by Abu-Nimer) that no matter what form of degree or coercion is exercised, there will be no societal stability unless human needs of individuals and groups are satisfied. The systematic coordination between the tribal council and the *barangay* justice system in the resolution of conflicts involving outsiders implies that there is a high level of communication between the two entities. It can be inferred also that the local government unit of Malitbog, Bukidnon values the traditional conflict resolution processes of the *Higaunons* in Kagahuman, as stipulated in the IPRA law of 1997.

Recommendations

The following are the recommendations gleaned from the study. It is intended for the *Higaunons*, the local government, and for the future researchers.

A. For the Higaunons

They should have a record in every *paghusay*. These records will contain the date, time, venue, present persons during the hearing, and also agreements or decisions made.

More so, a secretary must be appointed to perform the recording tasks. Also, a written document on the resolution processes and penalties imposed is necessary to have clear and detailed presentation of their traditional methods of settling disputes. Penalties must be presented in a very detailed manner, especially on murder cases wherein self-defense does not warrant any penalty. The tribal council must formulate programs for the prevention of early age marriage (which is seen as one of the reasons of dysfunctional families who also suffer from poverty), or counseling activities that will teach the youth the vulnerabilities of marrying at an early age. Also, programs discouraging too much drinking of liquor/ alcohol be formulated also. As of the making of this research, the tribal council is actually formulating policies that will ban the sale of liquor in the tribe. These policies should be strictly implemented.

The female representation in the tribal council, though accounting for only 20% of the populace, is a good sign of gender-awareness and development in the tribe. However, role of women in the resolution process is actually very limited. They must therefore have a higher role so as to hear their voice. A tribal hall for conflict resolution is very necessary for two reasons: first, there is a fixed place for settling disputes; second, it actually develops the sense of justice, peace, and belongingness among the *Higaunons* in the tribe. Therefore, the researcher recommends for a functional tribal hall within the Higaunon tribe of Kagahuman. Young *Higaunons* must preserve and continue to practice their *lumad* tradition and culture. To make this happen, they must put into practice the teachings and activities that are conferred to them by their adults.

B. For the Local Government Unit of Malitbog, Bukidnon

Poverty is one of the identified reasons for thievery. Therefore, the local government must provide livelihood programs for the people in Kagahuman who need to walk for five hours before reaching the town proper of Malitbog municipality. Currently, abaca production accounts more than half of the income of the people. The government must provide trainings and necessary machinery to strengthen the abaca industry and develop their creativity in making more and better products. The local government must provide a school in the tribe. Currently, the community has a kindergarten which was started in 2001. The building was donated by the Joint Together Society (JTS), a non-governmental organization (NGO) based in Korea. Additional classrooms must be provided to offer elementary education. Through this, the *Higaunons'* children will better understand and appreciate their culture.

Immediate security measures must be provided by the government to protect the *Higaunons* of Kagahuman from the threats of the NPA rebels. As the making of this paper, a group of NPA rebels has surrounded the tribe and warned the people to vacate the place. Extrajudicial killings are actually happening. Therefore, the researcher recommends for a permanent presence of soldiers in the tribe to counter the rebels who actually camping in the mountain adjacent to Kagahuman. The local government through

the Department of Agrarian Reform X (DAR-X) must help the *Higaunons* of Kagahuman in their desire of acquiring land titles by recognizing the 33-hectare ancestral domain, which until now is still a dream.

Legislations in the local government to address the usual suspects must be passed to help in the enhancement of rendering justice and would lessen the occurrences of conflicts in the tribe. The local government must at least develop the road towards Kagahuman that will enable a motorcycle to pass through it. This will help the *Higaunons* in their transport of agricultural products and at the same time, it will enable the visitors to explore the splendor of the place.

C. For Future Researchers

Future researchers conducting related studies may focus on the evolution of the system of conflict resolution of the *Higaunon* tribe of the entire *talugan* of Amosig, thus including the *Higaunon* communities of Impahanong, Consolacion, Gilang- gilang, Santiago, Abyawan, Bayawa and Linabo. A study focusing on the ancestral domain of the *Higaunon* tribe of Kagahuman is also a good subject for further research. Until now, the tribal council is looking forward for the ultimate recognition of the ancestral domain that they inherited from their ancestors. Development regarding this issue is being monitored by the tribal chieftain, Datu Mansaysayan, at the Regional Office of the National Commission on Indigenous People X in Malaybalay City.

The existing conflict involving the passing rebels in Kagahuman is also another subject worthy of exploring. Future researchers should look into the motives of NPA rebels for the damage they inflicted to the *Higaunons* in Kagahuman. Future researchers may conduct a comparative study of the conflict resolution processes between two different Indigenous Cultural Communities (ICC) so as to distinguish and compare indigenous cultures and traditions.

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