

CUSTOMARY JUSTICE SYSTEM AMONG THE IRAYA MANGYANS OF MINDORO

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The Iraya Mangyans are the indigenous peoples in the uplands of Northern Mindoro, Philippines. They have a culture distinct from the lowland majority culture. Over the years, some communities have embraced almost all of what the lowland culture provides and have turned their backs on the traditional culture. However, there are still others who, despite the entry of the modern influences into their lives, still abide by and practice the traditional systems, such as those for dispensing justice. This paper will describe cases where the customary justice system was invoked by the Iraya Mangyan elders, review the factors why this practice persists until today, and how the young Irayas view these traditional practices. Lastly, the paper will look into the impact of the customary justice system on the daily lives of the Iraya Mangyans.

Keywords: Iraya Mangyan, customary justice system

Introduction

Various ethno-linguistic groups in the Philippines have been able to maintain their traditional practices and beliefs over time. Among the indigenous peoples, knowledge from the ancestors is passed on to the young generation through various forms such as practice of oral traditions like story-telling, epic-chanting, singing of their songs and reciting their poems. Other community practices such as use of customary law as a form of local governance (Hoebel 1954; Malinowski 1959), rituals and festivals are also examples of the traditional methods by which culture is transmitted and ethnicity is constructed.

This paper will describe selected cases when the customary justice system related to conflict resolution practiced by the Iraya Mangyans in the villages of Mamalao and Bayanan in Baco and Talipanan in Puerto Galera was invoked and will analyze why the system still prevails. Data presented in this paper was gathered during fieldwork in these villages from March to October 2006.

The paper is divided into three sections, as follows: first is a brief description of the Mangyans of Mindoro; second is a discussion of Batas Mangyan as a form of local governance and how it is used to resolve conflicts in the community; and the last section shows sample cases wherein the customary justice system was used.

The Mangyans of Mindoro

The Mangyans are the indigenous ethno-linguistic group who live in the island of Mindoro. There are six major Mangyan groups categorized into the north and south groups, referring mainly to where they live in the island. The northern groups are the Iraya, Alangan and Tadyawan, while the southern groups are the Buhid, Tawbuhid and the Hanunoo. The Iraya Mangyans live in the towns of Puerto Galera, San Teodoro, and Baco in Oriental Mindoro and in Abra de Ilog, Paluan, Mamburao and Sta. Cruz in Occidental Mindoro (See Fig. 1 for the map of Mindoro island). Based on the 2005 statistics from the website of the National Commission on Indigenous Peoples, the Iraya Mangyans number around 30,600 individuals, around 10% of the total Mangyan population at this time (NCIP n.d.).

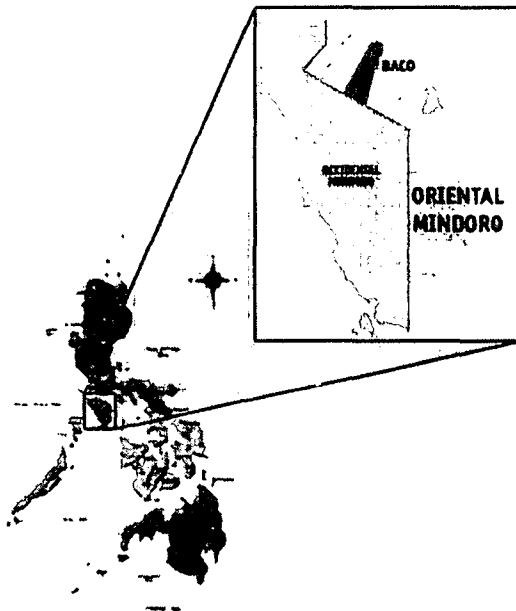


Figure 1: Map of the Philippines and Oriental Mindoro

The Mindoro peoples traded extensively with the Chinese before the arrival of the Spaniards (Lopez 1976). Evidence of this is found in the archaeological excavations in Puerto Galera which yielded 10,000 pieces ranging in date from the 10th to the 15th centuries. Written Chinese references likewise point to and support the historicity of the pre-Hispanic Mindoro culture.

The entry of the Spaniards created a distinction between the Mangyans and the lowland Christians. The Mangyans, who refused to be Hispanized retreated further inland. At the close of the 19th century, the isolated groups in the mountain interiors of Mindoro evolved as a minority group. While there was physical and social distance between the Mangyans and the Hispanized lowlanders, some amount of contact was maintained between them, mainly economic in nature, where forest goods were traded with the lowlanders at a very cheap price and some consumer goods were bought by the Irayas.

Such pattern of exploitative economic exchange between the two groups persisted until today. The Irayas live a very basic subsistence form of living from slash-and-burn farming of rice, corn, and root crops, production of abaca and charcoal, basket-weaving and gathering forest products such as honey, timber, vines and wild orchids. These and other farm products are sold to the lowlanders at prices dictated by the latter. From the money they get from this transaction, they usually buy consumer items such as rice, dried fish, salt and kerosene.

In the uplands, the Irayas have been able to practice their traditional beliefs, practices, rituals and customary laws (CCA 1983; OTRADEV 2001). In each village, there is a group of elders who decide on village concerns, such as peace and order and relating with the lowland government. But slowly, external influences have entered their daily lives, e.g. different religious groups have come in to convert the Irayas, primary and elementary schools have been set up by the government, and non-government organizations have helped them through development programs like livelihood and adult literacy. In some Iraya villages, chapels of different religious groups such as Catholic, Evangelical, and Born Again can be found.

There have been intrusions as well into their ancestral domains. In the past, government and private corporations came in with their timber licenses, mining agreements and logging and pasture lease contracts. Organized Mangyan groups protested against these activities. A review of a few newsletters of non-government organizations (NGOs) working with indigenous peoples such as Organization for Training, Research and Development Foundation Inc. (OTRADEV) and the Catholic Bishops Conference of the Philippines Episcopal Commission on Tribal Filipinos

(CBCP-ECTF) show these headlines: “Mangyan – Peasant Communities Oppose Planned Chromite Mine” (Mangyan – Peasant Communities 1993), referring to a 120-hectare mining claim in Sablayan, Occidental Mindoro; “*Katutubo Nanindigang Di Aalis*” (Indigenous Peoples Will Not Leave) (Katutubo Nanindigang Di Aalis 1993), referring to the land dispute in Camurong, Abra de Ilog; and “IFMA: Lupa para sa mga Berdugo?” (IFMA: Land for the Military?) (IFMA 1997), referring to the 1,000 - hectare Industrial Forest Plantation Agreement awarded to the Rebolusyonaryong Alyansang Makabansa Foundation Inc. (RAMFI), a foundation composed of military personnel, located at San Teodoro, Oriental Mindoro.

Other lowlanders also came and grabbed land from the Mangyans, who moved further to the mountains to avoid conflicts. The loss of ancestral domains had rendered negative impacts on their life. Their upland farms on marginal soil can no longer sustain their food requirements. Consequently, their economic woes have brought them to lowland communities to look for wage labor, such as construction and tourism-related jobs.

On a much larger scale, the militarization in the country, which is also ongoing in the island of Mindoro, has caused displacement in some communities which experienced firefights between the military and the New People’s Army. Aside from land grabbing and militarization, modernization has likewise made inroads into the daily lives of the Irayas. Education has become a very effective tool for acculturation and modernization. This is evident in their material culture and in the socio-political-economic aspects of their daily life (Bawagan 2004). In Talipanan, Puerto Galera, many students now enroll in the elementary school, which is being supported by the Ayala Foundation, a non-government organization. Those who finish grade six and are still interested to study until high school and even college are provided with scholarships. A few have finished their college education, in courses such as education, social work and midwifery. In Mamalao, Baco, some of the children are enrolled in high school and in the provincial agricultural college with the support of the Baco Mangyan Kalakbay Foundation.

Despite the changes however in the daily life of the Iraya Mangyans, there are still some traditional practices, such as the customary justice system, which they still adhere to and are continually passed on to the next generations. During my own research, when I asked the Iraya Mangyans how they learned of their cultural practices, they quickly answered, “*Kinalakihan na namin*” (We grew up with it), or “*Naikwento ng aming mga magulang at lolo’t lola*” (Our parents and grandparents told us these things). Examples of these traditional forms are story-telling where stories from the past are relayed over and over again to the younger generation. The young also learn

values from the older generation such as respect for the spirits which roam in their mountain territory through ceremonies and rituals.

Batas Mangyan

Aside from the customary laws on ancestral lands, the Iraya Mangyans in Mamalao still observe what they call "*Batas Mangyan*" (Mangyan laws) in resolving conflicts between Mangyans. The uses of the customary laws in the Mangyan society, as mentioned by Martinez (1999), are as follows: define proper behavior, provide protection, empower the elders to decide the manner of resolving conflicts and passing judgment on the guilty, and is a mechanism to maintain law and order in the community. These laws find the following acts as improper: murder, damage to person, animals or crops, adultery and other cases of marital problems, and theft. Hence, the Irayas always try to avoid conflicts with their co-Irayas by abiding with these laws which have become a standard for ethical behavior among Irayas.

How is *Batas Mangyan* practiced? If ever there are differences between two Mangyans, this is resolved through the intervention of the village elder. He first gathers facts about the case, especially if he did not witness the event when the conflict transpired. He then arranges for a discussion between the two parties, and invites other elders or persons who are aware of what happened to provide more information. Usually the problem can be discussed between the two parties without resorting to the lowland justice system. When the case is settled amicably, accompanying penalties can be through payment of fines or labor exchange. In case the problem cannot be resolved, only then will they bring the problem to the barangay justice committee and if need be to the municipal justice committee. In the lowland justice system, the village elder is consulted since he is also a member of the *Lupon Tagapamayapa* (Justice Committee).

When amicable settlement is not possible, a *tigian* can be arranged by the elders. This is a kind of ordeal where the plaintiff and the defendant prove their innocence, through the use of boiled stones or hot iron rods. One incident was told to me by one of the elders in the community. There was once a case where an Iraya accused another Iraya of theft. The defendant said he was innocent and was willing to prove it through the *tigian*. Hence, the elders decided that this will be the best way to determine whether one was guilty or not.

The *tigian* is done during daytime in a place far from the *baryuhan* or village. A few persons are assigned to get firewood. A prayer ritual is

observed in the gathering of these important ordeal paraphernalia. Then the iron rod is burned (like roasting) under the wood until it turns red hot. Both parties wash their hands first and say, "*Kung ako ang may kasalanan, kainin ako ng apoy*" (literally translated as "If I am at fault, may the fire eat me"). Even the water used for washing their hands was also prayed over. In succession, each one takes hold of the hot iron rod.

In this particular case, only the accuser's hand was burned while the hand of the accused was unblemished. This means that the accuser was telling a lie and the accused did not commit the crime of theft at all. Once this has been decided, the blood of either a chicken or pig is sprinkled all over the place where the tigan was done. This is done to keep the place 'cooler' and to avoid causing illnesses to the people who observed the ritual and avoid damages to the crops and animals near that area.

There are many people who are allowed to observe the whole procedure; even *tagbari* (or outsiders) also watch how the tigan is done. In this incident, the Tagalogs admired how the Mangyans dispense justice. At the same time, it also invoked some fear in them not to falsely accuse the Mangyans of any wrong-doing.

The rituals accompanying the whole tigan are conducted with prayers. The whole community, even the children, can observe the goings-on since almost everyone is asked to be present in the tigan since each one will dip their hands into the boiling water to get the stone or hold the hot metal. In Mamalao, I witnessed a tigan being scheduled because one family lost some bananas and coconuts. However, it was postponed since a child of one family was in another village that time. The community elder said, "*Kailangan lahat nariyan, para walang masabi ang mga magulang at ang mga tao, paano pala kung siya nga ang kumuha?*" (Everyone has to be present so that everyone can observe and all arguments be heard. And what if the person who is not here was the one who stole the coconuts?)

Here are four examples of conflict resolution conducted by the Iraya Mangyans, two which I personally observed while the other two cases were told to me by the elders.

Case of the Missing Lanzones

In September 2006, a tigan which has been postponed for some time was finally performed. The village elder called for a general community meeting to discuss the case of theft of lanzones fruits. The owner of the lanzones trees, Manong Tipan, relayed the incident and his estimate of the volume of fruits he believed was stolen. The elder, Mamay Bernie, facilitated

the discussion, first trying to encourage whoever got the fruits to own up now so that the *tigian* need not be conducted. Individuals who had knowledge of the incidence told what they remembered from that day the theft happened. "*May mga nakita akong mga bata na palakad papunta doon sa lanzonesan*" (I saw some children walking towards where the lanzones trees are), said one father. He mentioned a few names of the boys that he saw.

This comment caused quite a stir among those present. The mothers were particularly worried and begged their children to say something. "*Ikaw ba umakyat ng lanzones? Umamin ka na para maayos na ito*" (Did you go up the lanzones tree? If so, own up to it so that all of this will be cleared). "*Kumain nga ako ng lanzones pero binigay sa akin yun ni Manong Tipan*" (I ate some lanzones, but these were given to me by Manong Tipan), said one boy. Another said, "*Yung nakain namin galing sa pag-tirador pero hindi namin inakyat ang puno*" (What we ate came from using the slingshot but we did not climb the tree). Manong Tipan replied, "*Ayos lang naman kung kinain ng mga bata, ayos lang yun sa akin, pero huwag lang yung naibenta yung produkto*" (I don't mind if the children ate the fruits, but not if the fruits were sold at the market). He strongly believes that the huge volume of fruits lost could not just have been consumed by the children.

But since no one owned up to the theft, the elder said that the *tigian* would be done in a spot outside the village. So the people went to an area near a small brook around a kilometer outside of the village center. When most of the people were already there, I noticed that some men formed small groups and talked among themselves, all in whispers. The elder instructed a few men to gather some firewood. He started to unwrap some of the things that he brought with him, one of which was the metal to be used for the *tigian*. Before he cut down the tree branches to be used for firewood, he prayed aloud saying that, "*Ang mga kahoy na ito ay gagamitin para sa tigian at hindi gagamitin para pangluto*" (These firewood will be used for the *tigian* and not to be used for cooking food).

He then reminded everyone that this *tigian* is not just for the lanzones but for the other things that have been lost in the village for the past few months such as coconuts and bananas.

When he was about to assemble the firewood, Manong Tipan stood up and said that there was already one who owned up to the coconuts and bananas. This startled the onlookers. We all looked at the group where Manong Tipan came from, guessing who among the men in that group owned up to the theft. Again there was a buzz of small talk going around. When the buzz started to clear out, the elder said, "*Kung ganoon, ang pinagtitigian na lamang natin ngayon ay ang sa lanzones*" (If that is the case the only thing that will be decided by this *tigian* are the lanzones).

At this instant, Ate Jocelyn, the wife of Manong Tipan, uttered, "*Kung yung lanzones na laang ay huwag na. Hayaan na lamang yun, at hindi ko matatanggap sa aking konsensiya na may mamatay dahil lamang sa pagkain ng lanzones. Hayaan na yung sa lanzones at mamumunga pa naman yun. Pero kapag namatay na yung tao ay hindi na maibabalik yun*" (If it will only be the lanzones that will be settled in this tigan, then let us stop this. My conscience will be forever bothered if the tigan will lead to the loss of someone's life. Anyway the lanzones will still bear fruit, but the life will not be brought back again). Her voice broke, but she was already firm in her decision to stop the whole ritual. She did not even consult her husband and the other family members before uttering these words.

To which the elder admonished them, "*Akala niyo ba ganito lang kadali ang magpatigi at itigil ang tigi? Ilinaw ninyo muna ang inyong desisyon*" (Do you think it is that easy to ask for a tigan and then to cancel it? Please clarify your decision first). Ate Jocelyn explained further her decision, repeating her logic that the lanzones tree will still bear fruits for a few more years while the one who will be judged by the tigan will suffer a slow death. She will not be able to bear that, much more look directly into the eyes of the family members who will be left behind once death occurs.

Mamay Bernie then decided to stop the tigan and told the people to return to the village. When they were able to gather once more, the elder admonished the man who owned up to the theft of the coconuts and bananas to ask for forgiveness from the community members. The offender went to the middle of the circle where everyone gathered, and said, "*Ipagpaumanhin ninyo na nagawa ko ang mga bagay na iyon. Nangailangan lang ako para sa aking pamilya. Pero alam kong mali ang aking ginawa. Sana hindi ako gayahin ng mga kabataan*" (I apologize for my wrongdoing. I just needed some money for my family. I know what I did was wrong. For the children, please do not emulate what I did.) The other older people then explained that everyone should plant trees and crops in their farms so that they will not steal crops from other people. Even if it is difficult work, this is the only way to ensure food can be served to their families.

Case of Frustrated Homicide

I was also privy to a conflict resolution facilitated by an elder over a case of what can be called in the lowland legal system as 'frustrated homicide.'

The peace and quiet of one afternoon in Mamalao was suddenly broken by shouts and cries of help. People who were watching a basketball

game and the players themselves all rushed to where the noise was coming from. The people panicked when one drunken man attacked another man with a bolo. Fortunately, he was not able to inflict any physical damage on the other. The families of both men and other individuals tried hard to keep them apart to avoid any harm.

After the commotion, both parties headed for home. But the emotional and mental torture to both men and their families was very heavy. The man who was attacked was unable to sleep peacefully for two nights; he couldn't fathom why this happened and likewise feared that another attack may occur again. Obviously he was pained, he kept mostly to himself for almost two days. The attacker was also not in peace, he stayed home most of the time and could not face the villagers, many of whom were witnesses to what happened.

A community meeting was originally scheduled the day after this mishap occurred. However, the people didn't come to attend the meeting. They too were worried and restless about the events of the other day. They kept mostly in small groups, holding hushed talks. And since there was no meeting in sight, the elder then began to gather facts about that day since he himself did not see what happened. I saw him talking to as many people as possible to get their views on the event and what they thought went wrong. After recreating the events in his mind, he could not find any valid reason for the attack. In the meantime the wife of the attacked man already told the Tagalog *konsehal* (local government official) about the event; she said that she was really in fear for their lives.

But after two nights, the attacker, accompanied by his wife, humbled himself and personally came to the house of the person he attacked. The elder facilitated a discussion between the two parties that lasted around two hours. The talk was not done in closed doors; children heard the exchanges as they were free to walk back and forth. But they were scolded when they became too noisy. A few of us were listening to the goings-on at the backyard. Other leaders were also present during this reconciliation when both men and their wives shared their views, feelings, opinions and even their own questions. At one point, both men were in tears. Finally, everything was clarified and their differences were resolved peacefully. They apologized to each one, shook hands, hugged and patted each other's back. I heard everyone heave a sigh of relief that everything went well. No case was filed with the barangay justice committee; everything was settled using *Batas Mangyan*.

I learned the day after that the attacker had a deep-seated grudge with the other person since the latter's goats jumped over the fence and almost consumed all of his crops in the nearby farm. The attacked however

said that this should not have happened only if he told him right away. It would have been resolved a long time ago since he was willing to pay for the damages that his goats caused. Moreover, I also learned that they are distant relatives, which made it more painful to the attacked.

Case of the Hacked Cow

There was one case where the cow of one Iraya was hacked by another Iraya. This did not result to the death of the cow, but the aggrieved party asked that the aggressor pay him with another cow. This was discussed in the presence of the elders and they all agreed on the settlement of the case with the payment of one cow. This is a sample of a case where fines are meted out. The same procedure is followed when crops are damaged by stray animals. The offender will pay a fine commensurate to the cost of the damaged crops.

Case of Adultery

There was one case where a married man eloped with a married woman. The spouses of both offenders talked with the elders about the situation. After careful deliberation, both offenders were punished through the *pangaw*, a wooden contraption which is raised at least a foot from the ground and attached to a big mango tree. There are at least two holes in the wood where the legs of the offender are inserted. S/he can be in this position for a certain number of hours or days, depending on the gravity of the offense. A pangaw can have two holes for one offender or four holes where two offenders can be detained at the same time. For the whole duration of detention, there is one person assigned to give food to the detainees and bring them to the toilet whenever necessary. For the case above-mentioned, both offenders were placed in the pangaw. After the sentence was meted out, both offenders promised not to do the offense again. Their spouses received them back to their homes.

Other Methods

There are other ordeals and sentences which are part of the Iraya customary laws but there were no data gathered as to its practice to date. Martinez (1999) and OTRADEV (2001) describe one more manner of

determining guilt and two more types of sentences. An additional manner of determining guilt aside from the *tigi* is the *pagtatari*. In this procedure, the elder uses a piece of wood the length of which covers the span of his two arms spread wide. He also prays before the *pagtatari* is done to ask the *diwata* if the accused is guilty. If the answer is 'yes', the length of the wood would change, either it may shorten or lengthen. If the answer is 'no', there will be no changes in the wood's length. The *diwata* will be asked three times. With even one affirmative answer, the elder will then ask that individual to be arrested and will have to undergo a *tigian*.

As to the additional types of sentences, first is the use of vines or rattan to hit individuals who are guilty of some crimes (*paggarote*). The person assigned to hit the guilty needs to be hit first, 1 for every 25 hits that has to be given to the guilty person. Due to this, there are very few Irayas who volunteer to be the 'hitter'. Second is the death sentence, but with the use of a chicken. The chicken head will be severed by the guilty person. Before the actual ceremony, the guilty will recite a prayer to Apo Iraya that if ever he will commit the crime again, his life should be taken. There have been cases when the person who was meted the death sentence repeated the crime and for unexplainable reasons, this person soon died (Martinez 1999).

Common Elements of Batas Mangyan

Some common elements of the customary justice system of the Iraya Mangyans can be identified from the four cases cited above. These are as follows:

- 1) The aggrieved party talks to the elders about the incident and asks that justice be meted out. The elders then talk with both parties and decide on the process that will be undertaken to determine whether an accused is guilty or not;
- 2) The elder, in some cases, may be related by blood or by affinity to either one, or even both, of the parties involved in the case. This does not however hamper him or her from dispensing justice; the elder remains fair to each one. The people likewise trust the judgment of the elder and the personal relationship with either party becomes irrelevant;
- 3) In the process that the customary law is applied, social pressure is applied to both the guilty person and the accuser who lied so that they may not err again. They also experience shame from what they did;

- 4) The children are not excluded in the process of conflict resolution. They are allowed to hear the discussions, express their opinion and observations and observe the forms of punishment. The young Iraya Mangyans learn their responsibilities to maintain peace and order in their communities and to be honest in their relationships with other Irayas. Through this manner, the elders hope that the cultural practice will be followed in their generation and the ones after them;
- 5) As much as possible, the methods used allow for the plaintiff to get justice and for the offender to apologize to everyone and amend his or her negative behavior. The offenders are not marked as criminals for their entire life, but instead are given the chance to make amends and restore their dignity;
- 6) Honesty is encouraged because it eases the burden on the elders and the parties concerned; and
- 7) Case resolution is done in a swift, inexpensive and peaceful manner.

Sustainability of the Mangyan Customary Laws

While there have been very radical changes to the lifestyle of the Irayas, the existence and practice of customary laws pertaining to dispensing justice still prevails. This section will look into the factors why these customary laws continue to be practiced.

First of all, the practice of the customary laws continues to be appropriate to the Irayas' situation. The low economic level of the Irayas will not allow them to follow the lowlanders justice system which exacts a heavy price on the plaintiff and the defendant. Even if the case is only raised to the level of the barangay, there is still some amount which have to be spent for the resolution of the case; more so when the cases really need to get the services of legal counsels.

Secondly, they are not familiar with how the system in the lowlands works. They have only heard about it from some Tagalogs who have experienced a case brought to the courts. A high level of literacy (reading and writing in both Tagalog and English) is required from them, something which the Iraya older generation lack. They need to file affidavits, read and sign documents, and when it will reach the formal courts, will hardly understand the English language used in hearings.

Thirdly, the various cases over time where these laws have been practiced are evidence of their effectiveness in maintaining order among the

Irayas. They are satisfied with the process applied in resolving conflicts, the methods used to determine guilt and the decisions arrived at by the elders. The outcomes of the ordeals are highly credible to the Iraya society. Their faith in the diwata partly explains the credibility of the ordeals, where prayers are offered to the spirits for every step in the whole procedure.

Fourthly, some of the lowland barangay officials recognize these customary laws. In fact, when disputes between a lowlander and an Iraya are brought to barangay officials, the latter would advise the parties to apply *Batas Mangyan* in settling the issue. When the parties could not reach any agreement on their case, only then will they return to the barangay and use the lowland barangay justice system. Such recognition strengthens the Irayas' belief in their own law and its effectiveness in maintaining order, even with non-Irayas as a contending party. Moreover, the village elder is currently a member of the Barangay Justice Committee, in recognition of his abilities to resolve conflicts between Irayas as well as between Irayas and non-Irayas. He hopes that this system will be followed in the future so that the Iraya system will be continuously recognized by the lowlanders.

Conclusion

The older generation of Iraya Mangyans has shown that *Batas Mangyan* works for them and fervently hopes that the young will continue to observe this traditional practice in the years to come. The young too acknowledge the power of the customary justice system in their lives. Referring to the case of the missing lanzones, the youth said that they will strive to work hard in their upland farms and never commit theft. They also recognize the authority of the elders and trust that they will arrive at the most just decision regarding the cases.

The inclusion of the Mangyan elder in the barangay justice committee is one way to ensure that the customary justice system will be sustained. It is important to formalize this practice among barangays where Irayas live as a recognition of the traditional governance system. The organized people's organizations among the Iraya Mangyans can include this as part of their advocacy in local governance. A continuing documentation of other cases of conflict resolution, both those from the past and the contemporary, will provide a strong basis for the clamor and advocacy for respect and use of indigenous laws such as *Batas Mangyan* and local governance in Iraya villages towards stronger protection of their rights as indigenous peoples.

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