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Human Rights and the Periphery: Righting the Deprivation of the Sama Dilaut as Indigenous Maritime Peoples in the Southern Philippines

Hak Asasi Manusia dan Perbatasan: Mengembalikan Kerugian Hak-Hak Masyarakat Adat Sama Dilaut di Filipina Selatan

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ABSTRACT: *The Sama Dilaut, identifying themselves as a seafaring people, consider the sea central to their homeland and cultural identity. Despite formal recognition of their procedural rights under international and domestic legal frameworks, they persist on the periphery of societal hierarchies, not due to material scarcity but because of profound deficits in capabilities and freedoms. This study shifts focus from material deprivation to rights deprivation, specifically examining how their indigenous perspectives are marginalized in the interpretation and realization of human rights. Utilizing qualitative methods, particularly phenomenology and key informant interviews , this research investigates the multifaceted experiences of deprivation faced by the Sama Dilaut across different contexts: on land, at sea, and within both community (horizontal) and state (vertical) frameworks. Furthermore, it critically analyzes potential pathways and strategies to enable them to fully exercise their rights and freedoms. Central to the findings is the Sama Dilaut's conceptualization of human rights ('kapatut manusiya'), which underscores four primary areas of deprivation compared to desired freedoms: knowledge and education ('pangalaman' or 'panghati'), indigenous culture, spirituality, and religious beliefs ('pangaddatan' and 'pag-omboh' or 'pag-paybahau'), traditional and diversified economic livelihoods ('pag-usaha' or ' pagkalluman'), and socio-political leadership and participation ('panglima' or 'nakura') . This study contributes significantly to reframing the discourse on international human rights by foregrounding the experiences of the Sama Dilaut, a community characterized by their deprivation of freedoms despite their rich maritime heritage and worldview. By amplifying their voices and highlighting their lived realities, this research advocates for a more inclusive approach to human rights that incorporates and respects diverse indigenous perspectives. Ultimately, it seeks to inform policy and advocacy efforts aimed at addressing systemic inequalities and promoting the full realization of rights for marginalized communities such as the Sama Dilaut.*

ABSTRAK: *Suku Sama Dilaut mengidentifikasi sumber tanah air dan identitas mereka sebagai suku maritim. Meskipun hak-hak prosedural mereka dijamin oleh instrumen hukum internasional dan domestik, mereka tetap berada di pinggiran dalam hirarki etnis informal, bukan karena miskin sumber daya, tetapi karena tidak memiliki kemampuan dan kebebasan. Berbeda dengan perampasan materi, penelitian ini berfokus pada perampasan hak, yaitu keterasingan konteks dan perspektif masyarakat adat dalam penafsiran dan pemenuhan hak asasi manusia. Dengan menggunakan metode kualitatif khususnya fenomenologi dan wawancara dengan informan kunci, penelitian ini pertama-tama mempertanyakan pengalaman hidup mereka yang mengalami perampasan di darat, di laut, dan di tingkat horizontal (komunitas atau antar etnis) dan vertikal (Negara). Kedua, penelitian ini secara kritis mengkaji jalur dan solusi untuk menikmati hak dan kebebasan mereka sepenuhnya. Hasilnya berfokus pada konsep tentang hak asasi manusia (kapatut manusiya) dan identifikasi empat perampasan signifikan yang berlawanan dengan kebebasan yang diinginkan Keempat hal tersebut terkait dengan pengetahuan dan pendidikan (pangalaman atau panghati), budaya dan spiritualitas adat serta kepercayaan agama (pangaddatan dan pag-omboh atau pag-paybahau), kehidupan ekonomi yang tradisional dan beragam (pag-usaha atau pagkalluman), serta kepemimpinan dan partisipasi sosial-politik (panglima atau nakura). Studi ini berkontribusi dalam menempatkan lanskap hak asasi manusia internasional ke dalam perspektif Sama Dilaut, yang terampas kebebasannya namun kaya akan budaya dan pandangan dunia (maritim).*

Keywords:
deprivation;
indigenous maritime peoples;
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Kata Kunci:
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1. Introduction

The Sama Dilaut in the Philippines is a sub-group of the Sama-Bajau maritime peoples in Southeast Asia. *Sama* or *sama-sama* denotes togetherness, added with a modifier *dilaut* (sea) to pertain to the sea-going Sama. They identify their source of homeland and identity as peoples of the sea, with their history and traditions based on an originally borderless view of the world. Not only their socio-economic life is oriented on the sea, but their worldview and histories were also shaped and occurred in the waters.

Their ancestral territories stretch along the Sulu-Celebes seas, where they traditionally practiced fluid movement as a once-nomadic group. Following the creation of land-based colonial state boundaries from the seventeenth until the twentieth century, they are now separated according to the independent nation-states of Indonesia, Malaysia, and the Philippines.[1] The enclosure of borders and exercise of maritime powers over defined state territory restricted their movement to their ancestral territories. Due to territorial and political demarcations, they were compelled to settle permanently and live within the laws of the nation-states.

This interaction resulted in experiences of marginalization in vertical and horizontal directions. Starting from their integration into the pre-colonial and old Sulu Sultanate system, and later the post-colonial world order creating a highly territorial nation-state and leaving limited cultural space for border-crossing maritime people. This is sustained through their subordinated status under dominant identities, particularly in the Bangsamoro autonomous region—established through a peace agreement as a product of Moro political self-determination. Although they were included in this political settlement, they have their own struggle for self-determination as indigenous peoples. First, as a cultural minority within the Bangsamoro and, second, as an indigenous ethnic group beyond the Bangsamoro region that is in their cross-border ancestral territories.

Although they are collectively entitled to their right to self-determination as any other indigenous group, their distinction as primarily maritime-based, once-culturally nomadic, and as a minority is often overlooked as a basis for protecting their rights. Similar to other transboundary and indigenous nomadic communities, international law-making based on sovereignty over identity and cultural grounds is inadequate to respond to the worldviews, cultural life, and traditional territories of the Sama Dilaut. Their contact with the concept of 'nation-state' and their relationship with settled communities differ from land-based indigenous groups. International law, "a system based on the superiority of the settled way of life," has viewed nomadic communities as not "sufficiently 'civilized' to possess rights over their territories."[2] Amid these shortcomings, developments in international human rights law opened opportunities for the recognition of the Sama Dilaut as indigenous peoples.

Hence, the concept of deprivation used in this study contrasts with the common notion of mere economic and resource-based deprivation. Rather, it relates to patterns of relationships of disadvantage or inequality.[3] In these terms, deprivation and poverty are expressed as racism, inferiority, cultural marginalization, dispossession of traditional lands, and immense pressure to abandon indigenous ways of life. Using rights language, this study defines deprivation as a result of non-fulfillment, limitation, or interference of the collective and individual rights of the Sama Dilaut, affecting their full enjoyment. The manner and extent of how the State respects, protects, and fulfills the collective rights of the group and its members, as enshrined in various human rights instruments, affect the degree to which the Sama Dilaut is freed to exercise or deprived of their rights.

Compared to other indigenous groups, the Sama Dilaut remains poorly documented and studied from a human rights perspective. In the handful of studies related to the group, these lacked analyzing the issue using human rights as the frame of analysis and offering solutions and remedies coming from the Sama Dilaut themselves. This means that the human rights obligations of the Philippine State as a duty-bearer to the Sama Dilaut are poorly investigated, and empowering the group in the interpretation and claiming of their rights is yet to be explored. Therefore, this research aims to, first, critically examine their lived experiences of marginalization vis-à-vis the deprivation of their free exercise of their rights. Second, based on their indigenous context, the article aims to offer pathways and solutions for them to fully and effectively exercise their rights as an indigenous group. This research can be utilized as a means for the Sama Dilaut to exert greater control over political, economic, and socio-cultural life by (re)orienting duty-bearers on their perspectives on rights. As indigenous peoples and as a minority, they are entitled to several formal and procedural rights under international human rights treaties, with

1 Gusni Saat, Rozaliah Mokhtar, and Kasim Mansur, "Diaspora Impact to Indigenous of Sama Dilaut in Sabah, Malaysia," Quantum Journal of Social Sciences and Humanities 1, no. 3 (August 6, 2020): 1–12, 5, https://doi.org/10.55197/qjssh.v1i3.13.

2 Jeremie Gilbert, "Nomadic Territories: A Human Rights Approach to Nomadic Peoples' Land Rights, Human Rights Law Review 7, no. 4 (October 23, 2007): 681–716, 5, https://doi.org/10.1093/hrlr/ngm030.

3 Eversole, "Overview – Patterns of Indigenous Disadvantage Worldwide," in Indigenous Peoples and Poverty: An International Perspective (London: Zed Books and Comparative Research Programme on Poverty, 2005), 320, https://www.crop.org/Publications/CROP-Book-Series/Indigenous-Peoples-and-Poverty--An-International-Perspective.aspx

some already domesticated by the Philippines as a State Party, but the substantive application of these remains underrealized and not fully enjoyed by the group.

These guarantees are drawn from the principles of non-discrimination, equality, and self-determination in various human rights instruments the Philippines has ratified. Specifically, although not exhaustively, their fundamental human rights include freedom of movement and choice of residence (International Covenant on Civil and Political Rights [ICCPR], Art. 12), freedom from slavery, including modern forms (ICCPR, Art. 8), minority protection (ICCPR, Art. 27), equal participation in cultural life (International Covenant on Economic, Social and Cultural Rights [ICESCR], Art. 15; International Convention on the Elimination of Racial Discrimination [ICERD], Art. 5[e][vi]; Convention on the Rights of the Child [CRC], Art. 30 & 31), and rights protected under the 1951 Refugee Convention and its 1967 Protocol. Domestically, they are also entitled to the four bundles of rights under the 1997 Indigenous Peoples' Rights Act (IPRA): the right to ancestral domain, self-governance and empowerment, social justice and human rights, and cultural integrity. Although it preceded the UN Declaration of the Rights of Indigenous Peoples (UNDRIP) of 2007, the contents of the IPRA are modeled on the drafts of the UNDRIP, which the Philippines has also adopted, and crucially, the 1997 Indigenous Peoples' Rights Act carries the force of law. In terms of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention (No. 169, 1989), although the Philippines did not ratify this convention, the IPRA incorporates the minimum standards set in this document.

However, the IPRA as a national law needs to be operationalized through an enabling law in the Bangsamoro autonomous region which remains unenacted. In the absence of such regional law, ancestral domain demarcations and ownership, indigenous peoples' power to govern their natural resources, and respect for their cultural integrity remain underrealized if not undermined. Although the IPRA and the local enabling law will protect the diminution of indigenous peoples' rights once legislated, its substantive application will remain a challenge due to continuing unjust relations and power imbalance between indigenous communities including the Sama Dilaut, and dominant ethnic groups who also dominate political leadership positions in the region. This makes Sama Dilaut identity and political consolidation challenging, with their political assertion only starting to emerge. They have their own story of historical injustice, which remains hidden due to their sustained peripheral status, making assertions and claiming of rights challenging.

2. Method

The study's sample population and geographic location are the Sama Dilaut in Sitangkai town, Tawi-Tawi province, Bangsamoro autonomous region, where the group is predominantly located and has traditionally lived. The researcher was guided by the 'Principles of Research Ethics for Human Rights Research,' further adapted by the Free, Prior, and Informed Consent process. Qualitative approaches were utilized for the sample population specifically through phenomenology. The researcher utilized a purposive sampling method using the following inclusion parameters: first, self-ascription of the Sama Dilaut ethnicity; second, familiarity with the local history and ethnic issues of the Sama Dilaut; and, third, personal experience and knowledge of marginalization and its impact on the group. To further enrich the study, key informant interviews through snowball sampling were utilized for subject-matter-experts (on indigenous peoples, human rights, and displacement) and duty-bearers representing the Philippine national human rights institution and its Bangsamoro counterpart, the national education agency, and the national maritime police.

To avoid imposing dominant standards on indigenous findings, the collected phenomenological data was interpreted using Reflexive Thematic Analysis. The Democratizing Capability Approach was used as the analytical frame of the study, a conceptualization intentionally framed from the Global South lens. It situates their (in)capabilities into a larger historical, political, and cultural context and is framed beyond resource inequalities. Instead, it is based on historical structures of oppression, resulting in their capability and freedom deprivation. It interrogates the direct and indirect impact of colonial legacies, including values, institutions, and policies that either facilitated or reinforced their rights deprivation.

3. Findings and Discussion

3.1 Context-setting: Three Waves of Minoritization Placing the Sama Dilaut in the Marginal Status

3.1.1 Under the Pre-colonial Sulu Sultanate System

The pre-colonial Sulu Sultanate is described as an "absolute monarch."[4] It was considered the most extensive, structured, and powerful political system centered in Sulu, with its presence felt across the Philippines.[5] It was a highly leader-centered, factional, segmentary, loyalty- and alliance-based system comprising central and periphery sub-units. From the establishment until the conclusion of the system, the Tausug belonged at the top of the ethnic hierarchy. They monopolized and inherited aristocratic titles *(datu)* and served as trading elites. They were believed to be culturally superior and asserted higher Islamic purity.[6]

The Sama Dilaut, in contrast, were 'subject peoples' of the system where religion and political status were intertwined. They were treated as pagans due to their practice of folk Islam. They were referred to as a 'pariah group' demonstrated through the use of derogatory ethnic slurs: *luwaan,* which translates to vomit, spit, or outcasts; *pala'u* to describe them as dwellers of the oceans and living in boathouses; and *kaliaggeh,* denoting them as filthy and crude people.[7] With this structure, dominant groups accelerated their socio-political and economic positions while the Sama Dilaut were furthered down the ethnic ladder.

Amid the system's dissolution, the Sama Dilaut's peripheral status was sustained. Their experiences of inequality have been intergenerational, with new forms of exclusion emerging in present times. While they shared the benefits of the Bangsamoro peace agreement, superior-inferior relationships among ethnic groups in the autonomous region were reinforced in the present regional governance structures, with the indigenous communities at the sidelines.

As described by Bottignolo, the Sama Dilaut society is grounded in solidarity and collective decision rather than wielding power and dominance.[8] For them, humans, as the center of the universe and creation, are an illusion and imagination. The real center is on the sacred land (and waters) which needs to be discovered and navigated outside. This means that their traditional movement is an exercise of their physical freedom and, more importantly, their cultural freedom. They only became peripherals from the viewpoint of the dominant cultures where land-based power centers have been historically located. This distinction in value systems on how they appreciate the world meant that their historical cultural contact and experiences with land-based settlers have been mostly disenfranchising.

3.1.2 Under the Philippine Colonial Period

Parallel to the cultural unfreedom resulting from the creation of international borders, the minoritization and categorization of peoples began in the Philippine colonial era. During the Spanish period (1521-1821), its colonial government evicted native inhabitants from their traditionally held lands. It introduced the Regalian Doctrine wherein lands became centralized and owned by the Crown of Spain, extinguishing indigenous land ownership.[9] In addition, with the arrival of Catholicism, the Philippines was informally divided into the "Christianized north and the resistant Islamic south."[10] The unconquered Sulu Archipelago—having a distinct political system through the Islam-based Sulu Sultanate—was illegally and forcibly annexed as part of the Philippines when it was ceded to the United States (US) by Spain. The Sama Dilaut, traditionally occupying the archipelago, were among other ethnic groups subjected to US colonial rule.

4 Orosa Sixto, *The Sulu Archipelago and Its People* (Yonkers-on-Hudson, New York: World Book Company, 1923), 58.

5 Cesar Adib Majul, "Political and Historical Notes on the Old Sulu Sultanate," *Journal of the Malaysian Branch of the Royal Asiatic Society* 38, no. 1 (1965): 23–42, 23.

6 Sather, *The Bajau Laut: Adaptation, History, and Fate in A Maritime Fishing Society of South-Eastern Sabah,* 42.

7 James Francis Warren, *The Sulu Zone, 1768-1898: Dynamics of External Trade, Slavery and Ethnicity in the Transformation of a Southeast Asian Maritime State* (Quezon City, Metro Manila: New Day Publishers, 1985), 68; Jose Arong, "The Badjaw of Sulu. Philippine Sociological Review," *Philippine Sociological Society* 10, no. 3/4 (1962): 134–47, 137; Nimmo, "Reflections on Bajau History," *Philippine Studies: Historical and Ethnographic Viewpoints* 16, no. 1 (1968): 32–59, 35.

8 Bruno Bottignolo, *Celebrations with the Sun: An Overview of Religious Phenomena Among the Badjaos*, Revised Edition, vol. VIII (Quezon City, Metro Manila: Ateneo de Manila University Press, 1999), 149, 154.

9 Jose Molintas, "The Philippine Indigenous Peoples' Struggle for Land and Life: Challenging Legal Texts," *Arizona Journal of International and Comparative Law* 21, no. 1 (2004): 269–306, 283.

10 Samira Gutoc-Tomawis, "The Politics of Labeling Philippine Muslims," *Arellano Law and Policy Review* 6, no. 1 (April 2005): 7–19, 10.

Under the American colonial regime (1898-1946), through its Bureau of Non-Christian Tribes, the categorization among peoples was legitimized through official categories of 'Christian' versus 'non-Christian' tribes and 'civilized' versus 'wild.' The non-Christian or wild category was described as communities of either Mohammedans or Islam in religion or practicing varying "degrees of barbarism."[11] The colonial classifications of peoples, notions of ethnicity, and social hierarchies placed the Sama Dilaut on the margins of Philippine society.

When the Philippines gained independence in 1898, the uncolonized south became among the subjects of minoritization—an institutionalized subordinate status adopted from the aforementioned colonial classifications. The colonial majority-minority classification was reinforced and institutionalized by the Commission on National Integration (CNI) through its official listing of indigenous cultural minorities.[12] The Sama Dilaut as a sub-category did not emerge yet but was subsumed under the broader Badjaw grouping, a non-Christian and wild tribe. The American colonial government's self-assumed responsibility to civilize and assimilate the "wild" and the Philippine Republic's integration of the "minority" prompted violent resistance and attacks between Moro secessionist movements and government forces. After almost three decades of peace negotiations, a peace agreement was reached in 2014, paving way for the creation of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM). This included the Sulu Archipelago as among the pre-colonial territories of the Bangsamoro.

The Sama Dilaut—who have a largely non-confrontational culture—were pushed to maritime outskirts and nearby territories such as Sabah and Semporna, most notably during the Marcos dictatorship (1972-1986). The Philippine government did not view them as threatening, unlike other Bangsamoro ethnic groups, such as the Tausugs and Maranaos, who had notable resistance movements. These groups now majorly compose the Moro Islamic Liberation Front (MILF) and Moro National Liberation Front (MNLF)—the political fronts that have negotiated and presently implementing Bangsamoro peace agreements with the Philippine Government.[13]

3.1.3 Under the Philippine Republic and the Peace Agreement-created Bangsamoro Autonomous Region

In succeeding ethnic classifications, the Sama Dilaut are separately designated as among the 13 Bangsamoro or Islamized ethnolinguistic groups by the National Commission for Muslim Filipinos (NCMF) and among the 10 indigenous groups classified by the National Commission for Indigenous Peoples (NCIP). Based on an interview with one Sama Dilaut leader, it was only in the recent listing of the NCIP that "Dilaut" was specifically labeled (which now reads as "Sama Bajau/Dilaut") for the reason of emphasizing and recognizing the group within the broader umbrella of the Sama-Bajaus. However, their inclusion into the Bangsamoro ethnolinguistic grouping and territory was a "non-consensual identification" but was due to their strategic geographic settlement in the region.[14] The identification of territories subsumed under this region was conducted through a plebiscite per province and some independent cities. As a numerical minority and due to their scattered population, the votes of the Sama Dilaut for inclusion or non-inclusion were insignificant. While the one-person, one-vote system is a democratic practice, it disregarded their need for special protection as indigenous peoples and a minority. It was instead a confirmation of the historical territorial claims of the Bangsamoro majority.

According to the 2021 national ethnicity census, the Sama Dilaut comprised 0.0064 percent (69,644) of the total 109 million population. Out of the 13 Bangsamoro ethnolinguistic groups, the top three ethnicities with the most ethnic population are Maguindanao (28.4 percent or 2,021,099), Maranao (25.3 percent or 1,800,130), and Tausug (22.7 percent or 1,615,823). The core population of the Sama Dilaut is in Tawi-Tawi, where they comprise 2.88 percent (4,996) out of the 173,242 total population of the predominant Tausug. As a highly dispersed and mobile community, the census reflects their internal migration patterns across the Philippines, with some moving as far as the northern part. Compared to the Bajos in Indonesia, the second most populous ethnic group, the Sama Dilaut is grossly at the numerical bottom.

11 United States Bureau of the Census, "Census of the Philippine Islands: Taken Under the Direction of the Philippine Commission in the Year 1903: In Four Volumes, Volume II, Population.," in *The United States and Its Territories, 1870 - 1925: The Age of Imperialism*, vol. II, IV vols., 1 (Washington, United States: United States Bureau of the Census, 1905), 1048, 15, https://quod.lib.umich.edu/.

12 Rudy Buhay Rodil, *The Minoritization of the Indigenous Communities of Mindanao and the Sulu Archipelago*, Revised Philippine Edition (Davao City, Mindanao: Alternate Forum for Research in Mindanao, Inc., 2004).

13 Mucha-Shim Quiling Arquiza, "Sama Dilaut—Fishers of Coins: Case of Sea Nomadism in Sulu Seas, Mindanao, Philippines" (Speech, UN OHCHR, Sub-Committee on Human Rights Promotion and Protection, Working Group on Minorities, Geneva, Switzerland, March 1, 2004), https://www2.ohchr.org/english/issues/minorities/docs/AMANP3a.doc.

14 Laisa Alamia, "The Sea Nomads of the Philippines: On the Verge of Extinction?" (Speech, UN OHCHR Sub-Committee on Human Rights Promotion and Protection, Working Group on Minorities, Geneva, Switzerland, May 30, 2005), https://www2.ohchr.org/english/issues/minorities/docs/11/Lumah_3a.doc.

Amid this data, confusion remains as separate categories of 'Badjao,' 'Bajao,' 'Bajau,' and 'Sama Badjao' also emerged, which means some Sama Dilaut may have self-identified to one of these categories as their main ancestral origin. A coast-based Sama Dilaut who moved to the land may also prefer to self-identify already as Sama Daleya (Daleya means land). This fluidity of self-ascription to indigenous identity has an implication in protecting the rights of the Sama Dilaut as distinct from other groups. The numbers are expected to increase, with some Sama Dilaut still not legally documented due to their sporadic movement. This unnuanced and unreliable statistical representation was termed 'statistical genocide' by Alamia, making the extent of their socio-economic deprivation and inequities also undetermined.[15] However, the absence of reliable data does not relieve the State of its obligation. On the contrary, it is even more accountable to protect their rights. The Philippine State's neglect of its obligation can be characterized as a human rights violation—the inability to protect the group's distinct culture (positive obligation) and to prevent their assimilation into the mainstream population (negative obligation).

The Sama Dilaut, as a vulnerable group, is not only categorized as an indigenous group in this study but also as a minority within a minority. The dynamics of how they claim their rights are not only based on their indigeneity but how their identity was impacted by their historical relationship with dominant communities and the State. In Gilbert's words: "If indigenous peoples are often labeled as a 'super' minority it could be argued that nomadic peoples constitute a 'super indigenous minority'.[16] In the context of nomadic or once-nomadic indigenous maritime peoples, current classifications are not sufficiently nuanced. Following the results of the phenomenological inquiry, the following sections intend to delve deeper into their concept of human rights and their lived experiences of marginalization-cum-incapabilities. Based on their direct narration, this study aims to better understand their context and viewpoints on rights—as a concept, incapability (deprivation), and as entitlement to claim (pathways and solutions).

3.2 Concept of Human Rights or *Kapatut Manusiya* and Articulations of (In)capabilities

The Sama Dilaut describe their identity as peace-loving, gentle, conciliatory, and accepting of others. For them, to be peace-loving is to protect their community from conflict and violence. Amid unjust relations with dominant groups, they speak of positive principles of harmony, peaceful co-existence, and nonviolence. They find meaning in their sense of belonging to the broader communities and how they exercise their identity within the environment they live in and co-inhabit with other people. In this regard, rights can be viewed as an ecosystem and a collective pursuit not only connected with the practice of their culture but with how they value their relationships with other beings and the environment.

Although the language of rights has yet to come into their collective consciousness, they have expressed their notion of human rights or *kapatut manusiya* (native language) as having equal levels of treatment as human beings (individually) and as people (collectively). The term seemed distant to them but their narration was heavily rooted in their collective experiences of historical marginalization and minoritization. Further, it was defined by the group as being recognized by the government without discrimination, primarily at the local level. This is consistent with the same foundational rights to non-discrimination and equality expressed under the Universal Declaration of Human Rights (UDHR) and as a cross-cutting principle and clause contained under several international human rights instruments.

If the issue of the Sama Dilaut is framed in racial and collective terms under the ICERD, this can be used to protect their rights. However, nomadism is not explicitly categorized as a form of discrimination, making it not widely discussed among UN bodies and experts.[17] In terms of individual rights to citizenship and nationality—based on the criteria of birth and habitual residence—this appeared neutral but discriminatory in effect as this was inapplicable to nomadic communities who are challenged to prove local residency and domicile status necessary to register for civil documentation. As opposed to the 'first body of nationals'—those who have immediately gained nationality during decolonization for having established their residence within clear state borders—nomadic communities have only claimed this right recently through the 1954 UN Convention relating to the Status of Stateless Persons.[18] This means that upon the creation of nation-states, their geographical settlement in the Southern Philippines did not immediately accord them rights as Philippine nationals. Amid the gradual democratization and treaty ratification of the Philippine State, rights became inaccessible to them due to neglect to respond to their distinct context and worldview and lack of positive measures by the State to support their

15 Alamia.
16 Gilbert, "Nomadic Territories: A Human Rights Approach to Nomadic Peoples' Land Rights."
17 Gilbert.
18 Heather Alexander, "The Nationality and Statelessness of Nomads Under International Law" (Published Ph.D. Thesis, Netherlands, Tilburg University, 2020), http://dx.doi.org/10.2139/ssrn.3762178.

indigenous culture.

Hence, rights to non-discrimination and equality are foundational to exercising their right to self-determination, with greater emphasis on their distinction as an indigenous group with a maritime-based and once-nomadic lifestyle. These principles were further deepened when the group shared their collective valuable capabilities. However, as emphasized by the group, rights are not simply about correcting their deprivations or incapabilities. It is also a struggle to maintain their positive relationships and peaceful co-existence with other peoples, even their oppressors. In this case, rights are linked with reconciliation and the common good.

3.2.1 *Pangalaman* or *Panghati* (Knowledge-seeking and Equitable Education Governance)

As opposed to subsistence living, commonly defined as living at the bare minimum or in a marginal life, their philosophy of 'simple living' is described as their ability to obtain, produce, and consume basic food daily. It is to live based on happiness and love and to maintain harmonious relationships. This simple living as a part of cultural life is misunderstood and negatively associated with mere poverty and economic needs, that is, subsistence living. Whereas, from the Sama Dilaut perspective, it is about, first, sustaining productive livelihood on the seas as their primary resource base and, second, maintaining healthy relationships with members of their own and other communities. It is to live in abundance not based on material excesses but on being and doing good. Within this philosophy of simple living, formal education was not previously regarded as valuable by the Sama Dilaut. Their primary source of *pangalaman* or *panghati* (knowledge) is their indigenous systems and ways of life. The realization that formal education is essential was due to their observed reduced socio-economic mobility and opportunities compared to educated land-based groups.

Historically, the Philippine education system benefitted the privileged and further marginalized the most marginalized. The American colonial education—a system created to accelerate the 'civilization' of the colonized—was designed "to reshape and control the body," having observed low education participation from nomadic communities.[19] Apart from this, only those in the upper class *(sultans* and *datus)* of the Moro society benefited. Having been formally educated, they formed the 'new colonized elites' and were later appointed political leaders under the colonial government.[20] For apparent reasons, the Sama Dilaut were left behind, being not a part of the Moro elites and leaders. This sustained gap between them and dominant groups at present became evident due to their limited, perhaps unavailability of, choices and freedoms—to diversify modes of livelihood and participate in the socio-political arena—wherein education has an enabling role.

For the Sama Dilaut, education is valued as a foundational and empowering capability, enabling the fulfillment of their other desired capabilities. The lack of education, in contrast, results in their unfreedom to protect their culture and to participate economically, socially, and politically. The presence or absence of education either enables or disables the group's mobility in all these aspects. While education is seen as an enabling right to other capabilities, there is little association with the right to education as a State (in)accountability. Article 14 of the UNDRIP specifically guarantees them to establish and control their own educational systems and institutions, for a culturally appropriate education, and for the State to initiate effective measures for them to access education. However, most of them blame themselves for their lack of mobility due to being uneducated. They recognize that the government has made efforts but remarked that these are insufficient. Although education decentralization and indigenization of curricula became a national government policy, they benefitted little and remained unfelt by the group. Being geographically and socially peripheral, education for them became a forced competition with dominant groups that are more capable of acquiring education.

More importantly, often overlooked, is that gaining *pangalaman* is a means for sustaining and transmitting indigenous knowledge. Education is a reinforcement of 'simple living,' that is, to benefit and empower their community, and is not only limited to individual agency and mobility. Educated Sama Dilaut members are expected to impart knowledge, improve their community, and use these learnings to better protect and preserve their culture. Although they have their customary laws and rules to relate and participate with the broader community, they value seeking information from authorities to know what is "right" and "wrong." These may be in the form of laws, policies, and ordinances, including prohibitions and accepted modes of fishing. They narrated cases of being caught by the police in the Sabah-Sulu Archipelago maritime borders, a part of their ancient commercial route, because of the "lack of knowledge of the law," specifically maritime policies.

An internalized form of spatial unfreedom, they are now subsumed by rules and a system of order in contrast to an originally borderless worldview. Information as rules from the 'center' determine their choices

19 Nobutaka Suzuki, "The Trajectories of Colonial Education and Muslim Filipinos under American Rule," *Islam and Cultural Diversity in Southeast Asia*, 2015, 41–70, 46.

20 Suzuki.

and have consequently dispossessed them of their freedom to exercise their identity. Education or knowledge capability, in this regard, is an adaptation to others' rules rather than their interpretation of the maritime world. For them, to be educated and informed is to "help the government so they will not become a burden." In Bottignolo's description, the Sama Dilaut are accustomed to obeying the law and are more fearful of men than spirits.[21] They are accountable to their own community but do not assign strong accountability yet to the State.

3.2.2 *Pag-usaha* or *Pagkalluman* (Traditional and Diversified Modes of Livelihood)

For every maritime movement, there is a reason. The *lepa,* the traditional houseboat of the Sama Dilaut and among the Sama Bajaus, functions as a house and transportation. They use detachable *sapaw* (roof) made of cloth or bamboo, mimicking a house-like structure. The entire life cycle revolves around the *lepa*, from birth to wedding until death. As their main source of livelihood is based on the sea, *lepa* serves as their main mode of inter-island transportation. This practical mobility enables them to freely decide when and where to fish, trade, and sell their marine products. Already extinct in Sitangkai and elsewhere in the Sulu Archipelago, these are now replaced by motorboats built using wood. They use these as they navigate in Sulu, Semporna, and Sabah—their pre-colonial traditional economic zones where they engage in informal maritime trade.

Amid territorial borders, this pattern of transnational movement remained fluid yet infrequent due to strict border control, with some of the informants narrating encounters with the police. In a similar account, the group experienced harassment by both Philippine and Malaysian maritime security forces, wherein they were often accused of smuggling and their trading goods seized.[22] Most Filipinos deported at the border by the Malaysian government are reportedly Sama Dilaut by origin.[23] Their movement is misunderstood as a mere economic activity independent of their identity. The ancestral homeland of the Sama Dilaut is beyond the Sulu Archipelago. Their great ancestors, as narrated by them, are from Semporna and Johore. This movement is not only for livelihood but for them to reconnect with their ancestral ties and traditional ways of life, already preexisting prior to the creation of borders.

As an adaptation, their movements have been mainly concentrated within State borders, and members now live sedentary lifestyles. They live in *pondohan* or coastal houses erected on the sea ground, with their boats moored beside their stilt house. According to their shared oral history, the first ones who developed Sitangkai were the *datus* under the Sulu Sultanate. The *datus* served as the chiefs, while they were the ones who planted and cultivated the land because they feared them. This relationship also resulted in their cooptation to dominant systems and identities. It was only when the Spanish colonial forces entered and ruled the Philippines that the system declined. However, the legacy of subordination remains in the present day.

The Sama Dilaut have a sense of collective ownership of the sea, but as peace-loving peoples, they acknowledge that these should be shared with other peoples who economically rely on the seas. Consequently, their traditional non-aggressiveness and conflict avoidance also became the reason for their subordination. Some members of dominant ethnic groups restrict them from accessing some fishing grounds, according to one informant. Also, some of their *pondohan* are already owned by individuals of dominant ethnic groups, a historical account recorded as a form of land dispossession in the context of transitional justice.[24] Based on the report of the Office of the Sama Indigenous Cultural Communities (ICCs) and IPs Representatives to the Provincial Government in 2016, there was a proposed 79,200 hectares of shoreline for ancestral titling in Sitangkai, which remained unprocessed and unawarded up to this day.

In response to this unfreedom, they saw the need to adapt using modern fishing methods and diversifying their livelihood modes. Similar to the first capability, this is born out of comparison to other ethnic groups with better living conditions. Although there were some levels of economic cooperation with other dominant groups, their livelihood remained for daily sustenance. There is nominal empowerment for them to collectively self-govern their aquaculture, specifically to freely develop and control their products' production, management, and exploration without interference. It also contrasts their guaranteed right under UNDRIP to be "secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities" (Art. 20).

21 Bottignolo, *Celebrations with the Sun: An Overview of Religious Phenomena Among the Badjaos*.

22 Aurora Roxas-Lim, "Marine-Oriented Sama-Bajao People and Their Search for Human Rights," *Public Policy Journal* 18, no. 1 (2017): 49–66.

23 Arquiza, "Sama Dilaut—Fishers of Coins: Case of Sea Nomadism in Sulu Seas, Mindanao, Philippines."

24 World Bank and International Organization for Migration Technical Team, "Land: Territory, Domain, and Identity: A Report Submitted by the WB-IOM Technical Team to the Transitional Justice and Reconciliation Commission (TJRC)" (WB-IOM, March 2016), https://www.tjrc.ph/report.

3.2.3 *Pag-omboh* and *Pangaddatan* (Indigenous Spirituality, Religious Beliefs and Cultural Practices)

Omboh, in Sama Dilaut and broader Sama Bajau mythology, refers to their ancestors, of which *Tuhan* is their supreme deity. To *pag-omboh* is to perform this indigenous ritual periodically to pay homage to their ancestral spirits. It is a moment of reconnection and coming together not only among the Sama Dilaut in Tawi-Tawi but also with other members from Malaysia and Indonesia, including their relatives who are expected to attend the rite. Using their traditional boats, they narrated conducting the ritual while circumnavigating Sitangkai.

Pag-omboh is a process of remembering but also of unforgetting their customary practices amid the Islamization and Christianization of some members. According to one Islamized Sama Dilaut, they may not have been formally educated, but they did not forget to practice their indigenous practices and seek religious knowledge. Blending the two is a way of preserving their indigenous beliefs as Sama Dilaut of the past and harmonizing with new faiths as Sama Dilaut of the present.

Their dispersed populations caused by the war, most notably during the Marcos dictatorship (1972-1986), and succeeding "boxing" according to geography and citizenship also meant the dispersal and fragmentation of their rituals once celebrated together. Compared to other ethnic groups with cohesive geographical and accessible locations within the Philippines, their ancestral ties connect beyond the Philippine archipelago. They not only have an indigenous linkage with the Sama Bajaus of Malaysia and Indonesia, but their immediate relatives and kin also live in these areas. Recognizing these ancestral ties, according to the group, regional governments are less strict in their inter-island movements, including during celebrations of *pag-omboh.* This provides a legal ambiguity on international maritime boundaries but not to the extent of legal clarity on the free exercise of their right to connect with other members from nearby territories.

Not only have their celebrations become fragmented, but their material culture has also been poorly preserved and protected. An emphasis was given to their indigenous musical instruments already lost. The group fears that the customary practice of their celebrations will gradually vanish. For them, using contemporary instruments such as electric keyboards and guitars diminishes the meaning and purpose of their traditional creation of indigenous sounds and how their celebrations are communally practiced.

Indigenous instruments and ceremonial objects are essential in the holistic cultural life of the Sama Dilaut. During weddings *(kanduli*), the traditional horizontal ensemble of gongs *(kulintang)* and vertically suspended wide-rimmed gongs *(agong or agung)* are used to produce melodies. The faster the rhythm of the sound, the slower the dance movements are, the group narrates. They reasoned that their inability to afford cultural trainers, among others, resulted in the diminishing passage of and interest in their indigenous music, especially among the youth. Compared to Sama Bajaus groups in Semporna who use sophisticated materials, boats, and musical instruments during their community gatherings,[25] the Sama Dilaut in Sitangkai are economically and technologically behind. This poverty of material culture and hampered practice of cultural life was already early noted by Arong and Nimmo in the 1960s, remaining unaddressed up to present.[26]

3.2.4 *Panglima* or *Nakura* (Socio-political Leadership and Participation)

The *datuship* is a feudal system accelerated by the arrival of the Islam-based Sulu Sultanate.[27] The *sultan* as the new ruling power emerged, and new local officials were introduced, including the *panglima,* which served as the extension of the *sultan* at the district level. However, "social levels below the ruling class, whether free or slave, underwent no significant structure changes vis-à-vis the new political arrangement."[28] Historically, as narrated by one Sama Dilaut, they were former slaves of the *datus* in Sitangkai.[29] The ruling class gained socio-political mobility under the Sulu Sultanate, while the Sama Dilaut remained in their position as subject peoples.

This leadership system was carried over into the contemporary indigenous political structure of the Sama in Tawi-Tawi, where the Sama Dilaut is subsumed. The *datu* or *rajah* serves the titular heads of the overall ancestral land at the provincial level. The subordinate chiefs are the *maharaja,* who exercises jurisdiction at the municipal level, and the *panglima* at the town level. In this structure, based on one Sama Dilaut, they perceive themselves as

25 Rodney Jubilado, "On Cultural Fluidity: The Sama-Bajau of the Sulu-Sulawesi Seas," *Kunapipi: Journal of Postcolonial Writing and Culture* 32, no. 1 (2010): 89–101.

26 Arong, "The Badjaw of Sulu. Philippine Sociological Review"; Harry Nimmo, "Social Organization of the Tawi-Tawi Badjaw," *Ethnology* 4, no. 4 (October 1965): 421–39, https://doi.org/10.2307/3772791.

27 Samuel Tan, "Decolonization and Filipino Muslim Identity," *Philippine Social Sciences Review* 48, no. 1–4 (January 19, 2012): 1–80, 6.

28 Tan.

29 Anonymous, Phenomenological Interview with Sama Dilaut, Sitangkai, Tawi-Tawi, June 2, 2023.

politically inferior as their highest leadership position is limited to *panglima,* while other Sama sub-groups have *datus* and *marajah*s. *Datu* is a nobility and ruling class position based on wealth, control, and influence. These elements, which the Sama Dilaut historically lacked, hindered them from ascending to such a position.

In 2018, the Bangsamoro Organic Law (BOL)—an outcome of the Comprehensive Agreement for the Bangsamoro (CAB)—created a new regional political structure. The BARMM is the new regional political entity, and the Bangsamoro Transition Authority (BTA) serves as the interim legislative body. It comprises 80 members, 41 from the MILF and MNLF and 39 from the National Government, with none from the Sama Dilaut and the broader Sama represented. This is the same case in the Bangsamoro Government, which comprises 28 Cabinet offices. A justification used by some, according to Saada, is that the BOL did not give explicit provision for ethnicity-based representation.[30]

Prior to the peace agreement, the group narrated that they did not participate in the series of armed confrontations between resistance movements and the government compared to Sama Banaran and Sama Simunul (Sama sub-groups) and Tausugs and Maranaos (non-Sama and dominant ethnic groups) who had guerilla commanders and combatants. Because of their cultural aversion to violent confrontation, according to them, they chose not to take up arms. Instead, they were victims of the conflict, among those who were forcibly displaced and pushed to the maritime outskirts, with some moving to Sabah and Semporna. In the mechanisms created for the political self-determination of the Bangsamoro, from negotiation and in the ongoing peace agreement implementation, participation of the Sama Dilaut is absent. They are considered mere constituents or beneficiaries as they have not participated directly as combatants in the armed conflict.

Regarding indigenous rights, the BOL recognizes the IPRA as a national law and provides legal assurance against the diminution of the rights of indigenous minorities in Bangsamoro. However, its application remains a contentious issue up to this day, including the pending Indigenous Peoples (IP) Code, which should serve as the regional counterpart of the IPRA. This means that ancestral domain demarcations and titling also remain uncertain. Another guarantee of IPRA is the institutionalization of the traditional form of leadership of IPs in the local legislative through the IP Mandatory Representation (IPMR). According to the group, Sitangkai has an IPMR, but its implementation remained a challenge elsewhere in Tawi-Tawi. IPMRs are identified through a community selection process, but some are subjected to acceptance by the local government. However, by law, the selection process should not be interfered with and is not conditional to local government acceptance.

3.3 Righting Lived Deprivations: Pathways and Solutions

Cholewinski's study focused on Article 27 of the ICCPR, which articulates the protection of individuals and communities belonging to ethnic, religious, or linguistic minorities.[31] He argued that the State's duty towards ethnic minorities not only covers negative obligations or passive duty—non-interference and not to be denied of rights—that is often presumed in the Article's content. Instead, based on State Party and Human Rights Committee (HRC) reports and exchanges, this also covers positive duty, particularly affirmative action or special measures to ensure and realize minority rights, an expanded interpretation of the Article similarly forwarded by Szalai.[32]

Although Article 27 is phrased as an individual right, he argued that cultural rights are inherently a collective interest. In the interpretation and jurisprudence of the HRC, culture is viewed "as an activity rather than a good" and the "right to enjoy culture can be meaningfully exercised only 'in the community'".[33] This also supports the economic, social, and cultural rights of individuals belonging to indigenous and minority groups protected under the ICESCR and the obligation of States to provide effective remedies and to progressively realize their rights. In the State's fulfillment of its negative and positive duty towards indigenous minorities, this relationship and collective viewpoint is emphasized. This includes, as applied to the context of the Sama Dilaut, their positive differentiation from the majority population in State interventions. Also, as members of their community are

30 Noor Saada, "KISSAH AND DAWAT: Exclusion of Sama People from BARMM Leadership: A Travesty of Democracy," Online Newspaper, MindaNews, April 12, 2023, https://www.mindanews.com/mindaviews/2023/04/kissah-and-dawat-exclusion-of-sama-people-from-barmm-leadership-a-travesty-of-democracy/.

31 Ryszard Cholewinski, "State Duty towards Ethnic Minorities: Positive or Negative?," *Human Rights Quarterly* 10, no. 3 (August 1988): 344–71, https://doi.org/10.2307/762122.

32 Anikó Szalai, "Article 27 of the ICCPR in Practice, with Special Regard to the Protection of the Roma Minority," in *Hungarian Yearbook of International Law and European Law* (The Hague, Netherlands: Eleven International Publishing, 2016), 115–38, https://ssrn.com/abstract=2956845.

33 Athanasios Yupsanis, "Article 27 of the ICCPR Revisited - The Right to Culture as a Normative Source for Minority / Indigenous Participatory Claims in the Case Law of the Human Rights Committee," in *Hague Yearbook of International Law*, vol. 26 (Leiden and Boston: Brill Nijhoff, 2013), 345–83, https://doi.org/10.1163/9789004287365_013.

highly dispersed, the protection of the members' rights should respond to their identity as a minority regardless they are residing within or outside their traditional territory.

The capabilities identified by the Sama Dilaut are not independent of their cultural perspective but rather a reinforcement of their right to self-determination. As an overarching framework, Reuben Lingating, a former Chairperson of the National Commission on Indigenous Peoples (NCIP), cited the IPRA as the legal basis for protecting them. In the number of lengthy and numerous legislative deliberations, two main arguments were used which gave weight to its passage: *parens patria* and native title, that is, the obligation of the State to protect those who cannot amply protect themselves and to give due and legal recognition to their traditional ownership of ancestral waters and land. These two principles are the same principles the Sama Dilaut are entitled to. Anchored on this, the following recommendations from the group themselves and experts complement these principles for the State to better protect their rights.

Firstly, on ***pangalluman* or *paghati.*** The Sama Dilaut sees the need to review the system of providing educational assistance by giving preferential slots for the marginalized within the marginalized. Broad or blanket educational assistance projects may appear objective but are discriminatory. The Sama Dilaut are procedurally included but must be empowered to access and claim their rights. As an alternative to merit-based scholarships, the community recommends their participation in the scholarship selection process. The community co-decides who qualify based on economic need, ability to finish education, and the verification of the authenticity of Sama Dilaut membership. They also emphasized that acquiring education differs from the actual practice of the knowledge gained. Hence, aid or subsidies may be provided for taking board exams and obtaining licenses to allow graduates to practice their profession.

According to the Department of Education Indigenous Peoples Education Office (DepEd-IPsEO), beyond preferential treatment is required for inclusive and equitable education. The education system must be responsive to their historical and cultural context, worldview, and 'world feel.' Education is still seen as closer to a privilege than a right, and the education services that reach them are not necessarily rights-based. The Sama Dilaut first need their own schools, gradually introducing them to how to interact with other communities to strengthen their confidence and competencies. The education system should be experiential-based, sensible to and interfaced with their context, and not limited to building cognitive abilities.

In terms of knowledge acquisition to enable participation in the broader society, education is not only about knowing the rules of the land but also for Sama Dilaut to be informed of their rights and duties. This recognizes them as not merely passive recipients of rules and order but for them to participate freely based on informed and autonomous decisions. Cecilia Jimenez-Damary, a former UN Special Rapporteur for internally displaced persons and former delegate to the Philippine TJRC, states that identifying rights, how these are to be protected, and what constitutes their violation must be done and articulated by the Sama Dilaut themselves. In redeeming their indigenous sovereignty, their traditional knowledge of the world should be equally valued in rights determination and interpretation.

Secondly, on ***pag-usaha* and *pagkalluman***. Given the inability to continue ancient commercial practices in their traditional maritime routes, they see the need to adapt to modern ways of fishing. They also recommend inviting experts for skills development and livelihood training. This recommendation reinforces the State's duty to protect their right to culture (Article 27, ICCPR), not only by maintaining their traditional fishing practices but also by adapting to modern technologies. However, when placed into context, this does not automatically guarantee them autonomy over their livelihoods. Their economic life is affected by the interference of dominant ethnic groups and their traditional coasts lacking legal demarcations.

Domestically, demarcation is challenging for it is often a source of dispute and is marked by violence in the Bangsamoro region. There are Sama Dilaut communities that did not exclusively occupy coastal land areas, including those they have co-inhabited with dominant ethnic groups since the pre-colonial period. They can claim ownership, as also argued by Göcke, if they intend to "exclusively control the land and can generally enforce such an exclusive control."[34] However, in *Lubicon Lake Band v. Canada*, Göcke reiterated the decision of the HRC that "historical inequities, which threaten the way of life and culture of indigenous peoples, constitute a violation of Art. 27 ICCPR as long as they continue."[35] This means that their right to claim should not be restricted by the definition of "exclusive" occupation alone but also the historical (unequal) relationship of the Sama Dilaut with dominant groups, depriving them of their control over their ancestral waters. To enjoy a higher level of

34 Göcke, 142.
35 Göcke, 152.

protection, their indigenous claims must be regarded with utmost importance over non-indigenous interests of either individuals or groups. With the Philippines being a State Party to the ICCPR, the Sama Dilaut can take advantage of this jurisprudence and interpretation of this right.

In addition, the quality of the historical relationship between the Sama Dilaut and dominant groups must be revisited, according to the Philippine Association for Intercultural Development (PAFID). Their concept of ancestral domain ownership is present. They define their borders based on the positions of the coral reefs through a mythical and shape-based identification. However, there is limited capability to assert it. Most portions of the land and the sea coasts are owned and enjoyed by the mainstream 'political warlords,' with some they consider their protectorates and *amos* ("bosses"). Although they value peaceful co-existence with others, they need autonomy and competence to control their lives and not only relatedness or connectedness with others—the threefold elements of the right to self-determination.

Nonetheless, their failure to assert their right shall not be interpreted as waiving access to said rights or remedies for violations. In this regard, greater emphasis should be placed on the positive obligation of the State, that is, to act and take necessary measures to safeguard them, including their freedom to practice traditional and modern economic livelihoods. However, benefitting fisherfolks in regional government agrarian and fisheries interventions are determined according to locality and individual-based and not necessarily based on special and collective rights, including the indigenous rights of the Sama Dilaut. If this were done differently, indigenous groups could be granted fishery rights through effective co-management and co-governance of their traditionally used coastal lands and resources. This includes security over access to fish, building their capacity to manage their resources, forming their fisher union or organization, and benefit-sharing from resource use. However, failure of co-governance may arise because of unequal partnership due to power imbalance, elite capture, and restriction from participation.[36] In addition, the 'responsibility to manage' is interpreted as a general public right as opposed to a sacred responsibility and a cultural right.[37]

Given the lack of capability to compete and self-determine their traditional economic activities, they see the need to diversify their livelihood modes through employment in the formal sector, which they described as "land-based" and "office-based." However, social protection and equitable and decent work opportunities must be ensured to avoid generating additional vulnerabilities for the group in the labor market. Their participation in wage labor could further be realized when appropriate competencies are first gained through education, an enabling right.

Thirdly, on ***pag-omboh*** **and** ***pangaddatan***. Regarding their right to religion and spirituality, the Sama Dilaut recommends providing adequate madrasah (Islamic schools), assistance in attending the *Hajj* pilgrimage, and rehabilitation of the 1938 mosque in Sitangkai. Although their syncretism or practice of folk Islam—embracing a dominant religion at the same time practicing their ancestral worship of *pag-omboh*—is not necessarily characterized as an undue restriction on their right, it results in the downplaying of some of their indigenous spirituality and unfreedom of practicing their belief due to discrimination, hostility, and denial for equal participation in society by dominant groups who do not share the same syncretic practice.[38] These all warrant the positive duty of the State to promote the inclusion and free practice of their religious and spiritual practices.

On material culture crucial to their practice of communal rites, they proposed the (re)acquisition of their traditional musical instruments and other ceremonial objects with them as the primary custodians. They also suggested providing appropriate training on conserving and protecting their cultural artifacts. By Philippine law, local governments must document, preserve, and protect their cultural heritage. However, the Tawi-Tawi Alliance of Civil Society Organizations (TACOS) argued that government ministry interventions focus on dominant ethnic groups, lacking official documentation of oral histories and traditions of the most deprived communities. Establishing a model community was suggested where they can relive, reintroduce, and sustain their cultural practices. This may be through a School of Living Traditions (SLTs), where intergenerational transmission of

36 Barbara Quimby and Arielle Levine, "Participation, Power, and Equity: Examining Three Key Social Dimensions of Fisheries Comanagement," Sustainability, Power, Emancipation and Justice in Natural Resource Governance—Towards "Critical and Transformative Sustainability Sciences," 10, no. 9 (September 18, 2018): 1–20, https://doi.org/10.3390/su10093324.

37 J. Marty Holtgren and Nancy Auer, "Forging a New Path for Multi-Cultural Fishery Management," Journal of Great Lakes Research 49, no. 1 (June 2023): S116–27, https://doi.org/10.1016/j.jglr.2022.09.001.

38 Ahmed Shaheed, "A/77/514: Interim Report of the Special Rapporteur on Freedom of Religion or Belief" (Office of the United Nations High Commissioner for Human Rights, October 10, 2022), https://www.ohchr.org/en/documents/thematic-reports/a77514-interim-report-special-rapporteur-freedom-religion-or-belief.

their intangible cultural heritage is promoted, and the ceasing of their cultural practices is prevented.

As the legal order is territory-based, human rights treaties are also restricted to ratifying State parties. As such, a transboundary solution based on multiculturalism and shared cultural grounds can better protect the group from exercising their identity beyond State boundaries. The Philippines, Malaysia, and Indonesia, the three States hosting the Sama Bajau maritime peoples, have not ratified the ILO Convention No. 169, and Malaysia is a non-state party to the ICERD. Despite these limitations, shared values and cultures can serve as leverage to bring these three countries into dialogue, as they are all a part of maritime Southeast Asia, where shared histories and identities were uniquely shaped. For the Sama Dilaut to recover their identity, allowing them access to and sustained connection with their ancestral roots reinforces their right to develop their culture. In contrast, restricting access to and use of ancestral territories is comparable to prohibiting their indigenous spiritual practices and intergenerational transmission.[39] The UNDRIP guarantees their "right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects" (Art. 12).

In the context of forced displacement, whether conflict-induced or natural disaster or climate change-induced, the lack of an identity-based response exacerbates their vulnerabilities. In the account of PAFID, during humanitarian assistance, minders from dominant groups were tasked by government agencies to distribute humanitarian aid, reinforcing the role of the Sama Dilaut as mere recipients. Hence, the non-contextualized response to displacement detaches indigenous maritime peoples from their identity, reinforces social hierarchy, and deprives them of their rights as a vulnerable displaced population. If the response would have to be done differently, according to Jimenez-Damary, the treatment of the rights of the displaced population should be identity-based. Humanitarian assistance and the guarantee of the protection of their rights are not merely based on the generality of normal displacement. This means that their right to a durable solution as forcibly displaced should protect, if not reinforce, their right to practice their identity as indigenous maritime peoples.

Fourthly, on ***panglima*** **or** ***nakura***. On the ongoing formation of a Sama political party for the upcoming 2025 Bangsamoro elections, the Sama Dilaut as a Sama sub-group agrees their inclusion in good faith, provided their political representation is not diluted. According to the group, they may not be discriminated against within the Sama, but the mere fact that they are a minority within the minority and the most neglected does not guarantee their meaningful participation. Although they agree to consolidate Sama members for political reasons, the group's identity must still be clearly distinguished from the larger Sama. They can maximize this platform, but an attribution of their demands and rights as part of the party should be ensured. This connects with their right to be identified as a distinct cultural group.

Although the Bangsamoro political entity complies with parliamentary-political party system *norms*, it can be explored how its *form* or *structure* can be adapted to allow meaningful and inclusive participation of various ethnic identities, according to Jimenez-Damary. Placed at the bottom of the ethnic ladder, this affected their confidence to participate politically, and they became accustomed to giving way to the dominant groups. Instead of being treated as mere beneficiaries of development, the group needs their competencies built on political participation and leadership. However, a structural response is also required to change the negative attitude against the group, such as sensitizing political spaces and the broader society to the Sama Dilaut identity. This may be concretized through legislation of a comprehensive national policy on inclusivity, cultural sensitivity, and non-discrimination—which remains pending in the Philippines.

On the other hand, the legal solution sought by Lingating is the urgent legislation of the BARMM IP Code to serve as a counterpart of IPRA at the regional level. In the BOL, the ancestral domain belongs to the autonomous government. Hence, it is their standard that applies. He remarked that the political leadership in the region "think of the IPRA as divisive, especially that they have already gained headway in their revolutionary struggle." The regional law not only aims to promote their rights but also to ensure any acts are not violative, do not deviate, and result in the diminution of the rights of indigenous communities, as already guaranteed in the national law and international covenants. In the absence of regional law and to build their political confidence, spaces for learning exchanges, exposure visits, and alliance-building with other (maritime) indigenous communities within the Philippines and the Asia-Pacific region can be explored, according to PAFID. Building alliances, coalitions, or movements can magnify their stories and internationalize their struggle. Although the issue is within the ambit of the regional government to resolve, that should not prejudice the Sama Dilaut from their right to seek partners, advice, and support from others, including the international human rights community.

39 Shaheed.

4. Conclusion

This study presented the breadth of Sama Dilaut's worldview while also illustrating the depth of their deprivation. Their lived incapabilities, also seen as human rights violations and freedom deprivations, while distinct from each other, are interrelated experiences limiting their free exercise of indigenous self-determination. Their aspirations to change the status quo counterargue the common misconception that they are incapable and not wanting of leadership, dependent on their land-based neighbors, and inherently non-assertive. Their rights were generally articulated as individual rights rather than collective and subsumed under dominant claims, that is, the political right to self-determination of the Bangsamoro over their indigenous right to self-determination. To right these deprivations, rights fulfillment needs to be fashioned according to their worldview, interpretation, and meaning-making. Greater emphasis should be given to their cultural identity rights through solutions and pathways that do not alienate and deviate from their cultural perspective. When the Philippine State and the broader international human rights community co-reflect rights with indigenous communities and encounter their worldviews, their relationship with peoples and territories becomes more meaningful and strengthens democratization. Incorporation and respect for their worldview should not, however, contradict the universality of human rights and their practice in the modern democratic state. This may include traditional patriarchal gender roles limiting land ownership and socio-political leadership of women, and tribal loyalties exploited to gain political support and legitimization.

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