

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FOURTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5221



Introduced by Gabriela Women's Party Representatives Luzviminda C. Ilagan and Liza Largoza-Maza, Bayan Muna Party List Reps. Satur C. Ocampo and Teodoro A. Casiño and Anakpawis Party List Rep. Rafael V. Mariano

EXPLANATORY NOTE

The Tumanduk is the largest group of indigenous people in Panay, with a population of around 20,000, spread out in the municipalities of Calinog, Jamindan, Lambunao and Tapaz. They are predominantly peasant-farmers relying heavily on land for survival. Their method of farming – the swidden or *kaingin* system – is highly climate dependent and labor-intensive, so that men, women and children need to work side by side.

Like most peasants, the Tumanduk people are burdened with low productivity, low-priced agricultural products, the rising cost of basic necessities, and the overall economic crisis crippling the country today.

The Tumanduks claim land rights through *redor sang katigulangan*, which means "ancestral rights". Their rights to the land are based on the fact that their ancestors were born in the same lands which have also borne generations and generations of Tumanduks.

For hundreds of years, they tilled the same lands which protected and isolated them as a people. Their way of life, the backwardness of their production and their cultural heritage, mirror this isolation and their uniqueness as a people.

However, the Tumanduks' unique way of life and cultural integrity were threatened when former President Diosdado Macapagal issued Presidential Proclamation No. 67 in 1962 "reserving for military purposes a certain parcel of the public domain situated in the municipalities of Tapaz and Jamindan, Province of Capiz."

The proclamation was said to have been based on the premise that the area was not inhabited.

In truth, around 33,310 hectares of Tumanduk land, including fertile fields, home grounds and burial grounds, are currently being occupied by the Armed Forces of the Philippines' (AFP) 3rd Infantry Division. Twenty four (24) Tumanduk communities with a population of around 14,000 in the municipalities of Tapaz and Jamindan are within the reservation.

War games and weapons testing, sporadic and frequent military operations and persistent paramilitary group and intelligence network building have disrupted the lives of the indigenous people in Panay. Aside from being in constant danger of being strafed by bullets during military training and exercises, they became easy targets of human rights violations: Tumanduks have experienced confiscation of grains and carabaos, house burning, torture and salvaging by the military.

In 1994, the AFP demanded that the communities evacuate the area so that military activities can continue unhampered. This campaign to eject the indigenous people from their land intensified after the US-RP Joint Military Exercises. Camp Peralta, the largest permanent military base overlapping indigenous territories in the Philippines, was established here in 1995 and became the base for the Armed Forces' rapid deployment to Visayas and Mindanao.

When the AFP Modernization Act was implemented to raise the military's capabilities to fight external "threats", the military full throttled its weapons testing and military training. Four people, including children, were wounded when test bombs missed their targets and 188 families were displaced during the military exercises that involved artillery shelling and the use of 105mm and 81mm Howitzers.

In 2002, the military pursued an "Affidavit of Undertaking" and made the Tumanduks sign a declaration proclaiming that they are "squatters" in the area. When the latter opposed this scheme, the military harassed the community leaders.

Officials of the local government of Capiz released a municipal resolution in 2003 calling for a stop to the military operations and the pull-out of military troops from Tumanduk communities. But up to the present, no pull-out has yet been undertaken and military operations in the Tumanduk areas continue.

In contrast, people have observed an intensification of military operations, paramilitary recruitment, and Reengineered Special Operations Team (RSOT) operations, conducted under the 47th Infantry Battalion of the Philippine Army, especially during the implementation of *Oplan Bantay Laya*.

According to the Tumanduks, the RSOT operations' main objectives include recruiting CAFGUs and civilians in every barangay as intelligence personnel. The military also declared curfew, conducted surveillance of mass leaders, conducted arbitrary searches, and confiscated their hunting weapons. Mass leaders are being targeted for psychological warfare operations in order to dissuade them from leading mass organizations and mass actions. The military's programs in the community have fostered distrust and disunity among the villagers.

The 3rd ID-PA's presence in Tumanduk communities has limited the people's productive activities and contributed to the intensifying poverty. People can no longer continue their food hunting and gathering activities for fear of being targeted by military elements. Many men and youth chose to leave the village and work somewhere else, leaving the fields untilled

Continuous military operations in indigenous communities in Panay violate Section 22, Article II of the 1987 Philippine Constitution, which states that "The State

recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development."

The responsibility of the State to protect the indigenous people is reiterated in Section 2 of Republic Act No. 8371 or the Indigenous Peoples Rights Act (IPRA) of 1997, specifically:

(b) The State shall protect the rights of ICCs/IPs to their ancestral domains to ensure their economic, social and cultural well being and shall recognize the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain;

(c) The State shall recognize, respect and protect the rights of ICCs/IPs to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national laws and policies.

Presidential Proclamation No. 67, by reserving the Tumanduks' lands for military purposes and forcibly evicting them from their homes, destroys the indigenous people's culture and traditions which they have long preserved and violates their rights to their land and to a secured livelihood as stated in Chapter III of IPRA:

Section 5. *Indigenous Concept of Ownership.* Indigenous concept of ownership sustains the view that ancestral domains and all resources found therein shall serve as the material bases of their cultural integrity. The indigenous concept of ownership generally holds that ancestral domains are the ICC's/IP's private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed.

Section 7. *Rights to Ancestral Domains.* The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. Such rights shall include:

(a) *Rights of Ownership.* The right to claim ownership over lands, bodies of water traditionally and actually occupied by ICCs/IPs, sacred places, traditional hunting and fishing grounds, and all improvements made by them at any time within the domains;

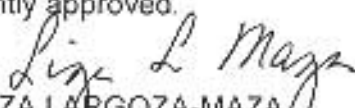
(b) *Right to Develop Lands and Natural Resources.* Subject to Section 56 hereof, right to develop, control and use lands and territories traditionally occupied, owned, or used; ... and the right to effective measures by the government to prevent any interfere with, alienation and encroachment upon these rights;

(c) *Right to Stay in the Territories.* The right to stay in the territory and not be removed therefrom. No ICCs/IPs will be relocated without their free and prior informed consent, nor through any means other than eminent domain...

In the light of the above mentioned human rights abuses committed by the 3rd Infantry Division of the Philippine Army against the Tumanduk people of Panay, as well as, violations of the 1987 Constitution and the IPRA, this bill seeks to repeal President Proclamation No. 67.

It is, therefore, earnestly requested that this bill be urgently approved.


LUZVIMINDA C. ILAGAN
Gabriela Women's Party


LIZA LARGOZA-MAZA
Gabriela Women's Party


SATUR C. OCAMPO
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TEDDORO A. CASINO
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RAFAEL V. MARIANO
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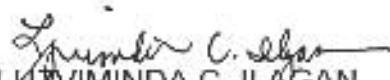
AN ACT REPEALING PRESIDENTIAL PROCLAMATION NO. 67

*Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress Assembled:*

Section 1. Any provision of law to the contrary notwithstanding, Presidential
Proclamation No. 67 entitled "RESERVING FOR MILITARY PURPOSES A CERTAIN
PARCEL OF THE PUBLIC DOMAIN SITUATED IN THE MUNICIPALITIES OF TAPAZ
AND JAMINDAN, PROVINCE OF CAPIZ" is hereby repealed.

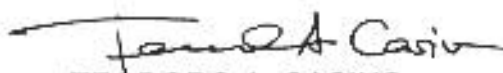
Section 2. This act shall take effect fifteen (15) days after its complete publication in a
newspaper of general circulation.

Approved,


LUZVIMINDA C. ILAGAN
Gabriela Women's Party


LIZA LARGOZA-MAZA
Gabriela Women's Party


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TEODORO A. CASINO
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