

ISABELA ALCOGAS CORPORATION'S BIOFUELS PROJECT IN MISAMIS OCCIDENTAL: A PROJECT BUILT ON FRAUD AND DECEPTION

I. Background: The Province of Misamis Occidental

Misamis Occidental used to be a part of Misamis province. In November 2, 1929, Legislative Act # 3537 divided the province and created Misamis Occidental and Misamis Oriental. From what used to be nine municipalities, the province grew to the three cities of Ozamiz, Oroquieta and Tangub and the 14 municipalities of Aloran, Baliangao, Bonifacio, Calamba, Clarin, Concepcion, Don Victoriano, Jimenez, Lopez Jaena, Panaon, Plaridel, Sapang Dalaga, Sinacaban and Tudela with a total of 490 barangays¹.

Legend has it that the word Misamis was derived from the Subano word "Kuyamis," a variety of sweet coconut, a staple food of the early settlers.

Misamis Occidental covers 191,930 hectares and links Northwestern Mindanao to the North Central part of the island. To its Northeast lies the Mindanao Sea, to the East Iligan Bay, Panguil Bay on the Southeast and Zamboanga del Norte and del Sur to its West²

Topography and Land Use

Twelve municipalities and three cities are situated on vast tracts of rice land along the coastal areas while the other two can be found on the hilly and rolling lands westward to Mt. Malindang and Mt. Ampiro.

The total agricultural area of the province extends to 118,933 hectares which are mostly planted to rice (6,209 hectares or 5 percent of the total agricultural lands) in the flat land coastal areas and coconut (101,787 hectares or 86 percent of the total agricultural lands) in the upland areas. Aside from coconut and rice, corn, bananas, root crops and other fruit trees are also grown in the province.

Wetlands including mangrove swamp forest, fishpond and lake are estimated at around 4,579 hectares or 2.36% of the province. Forestlands are estimated at 32,277 hectares or 16.55 percent of the total land area and located at the Northeastern part of the province, particularly at Mt. Malindang, Mt. Ampiro and other mountain ranges.

Mt. Malindang covers 53,262 hectares when it was proclaimed as Forest Reserves for Wildlife Sanctuary by virtue of R.A. 6266 on June 19,1971. The area, which is reduced to 31,896 hectares, has several river tributaries and a watershed. Several endangered wildlife species can also be found in the forest area of the province such

¹ http://en.wikipedia.org/wiki/Tudela,_Misamis_Occidental, accessed on 11 February 2012.

² http://www.dukabayreef.com/misamis_occidental.html, accessed on 11 February 2012.

as the Philippine Deer, Rafona Horn Bill, Giant Scope Owl, Philippine Eagle and several rare species of flora and fauna.

Climate

The climate of the province belongs to the Fourth type characterized by a more or less fairly distribute amount of rainfall throughout the year. The province is outside the typhoon belt and but sometimes affected by unusual storms. The average rainfall in two decades was recorded at 182.5 millimeters. The rainiest months are November and December and the driest are February to April.

The People

The province has a total population of 486,723. Subanon (pronounced as Subanen) is the dialect of the province, used mostly by the Subanon tribe, however most residents can speak Cebuano, Tagalog and English as well³.

Table 1: Total Population Distribution by City/Municipality and Sex : Misamis Occidental, 2000

City/Municipality	Total Population	Percent	Male	Female
Misamis Occidental	486,723	100.00	245,555	241,168
Oroquieta City	59,843	12.30	30,117	29,726
Ozamis City	110,420	22.69	54,986	55,434
Tangub City	49,695	10.21	25,104	24,591
Aloran	23,127	4.75	11,778	11,349
Baliangao	14,552	2.99	7,405	7,147
Bonifacio	27,810	5.71	14,151	13,659
Calamba	17,594	3.61	8,980	8,614
Clarin	29,712	6.10	14,828	14,884
Concepcion	6,900	1.42	3,495	3,405
Don. V. Chiongbian	9,319	1.91	4,811	4,508
Jimenez	23,212	4.77	11,685	11,527
Lopez Jaena	20,948	4.30	10,651	1,297
Panaon	7,441	1.53	3,820	3,621
Plaridel	29,279	6.02	14,682	14,597
Sapang Dalaga	17,794	3.66	9,148	8,646
Sinacaban	16,030	3.29	8,299	7,731
Tudela	23,047	4.74	11,615	11,432

Source: NSO, 2000 Census of Population and Housing

The province is home to the indigenous group "Subanen," derived from *suba* or river which means river people, but now living in the mountainous areas of the Zamboanga Peninsula and Misamis Occidental.

³ <http://www.misocc.gov.ph/index.php/about-mis-occ>, accessed on 11 February 2012.

As the name suggests, these people originally lived by the river, however disturbances and pressures from other settlers pushed them to the mountains. There they cultivate crops, such as rice and corn and raise their own livestock.

II. Related Laws and Policies

1. Republic Act 8371 or the Indigenous Peoples Rights Act (IPRA) was enacted to recognize and respect the indigenous peoples. IPRA is the embodiment of their rights and aspirations to ancestral domains, self-governance and empowerment, social justice and human rights, and cultural integrity. The IPRA also mandated the NCIP to “Promote and protect the rights and well-being of the Indigenous Cultural Communities/Indigenous Peoples and the recognition of their ancestral domains/lands based on customs, traditions and institutions” (Sec. 3, b, Rule VII).

Under the IPRA, a free and prior informed consent (FPIC) should first be obtained before any development project could be undertaken within ancestral lands. According to the IPRA, in securing an FPIC, it is the role of the NCIP to “Ensure that the basic elements of free and prior informed consent (number of days, language, consensus) are present and complied with in all instances when such must be secured” (Sec. 6, d, Part VI, Rule II).

2. Republic Act 9367 or the Biofuels Act of 2006 was signed into law on January 12, 2007 by Gloria Macapagal-Arroyo. The law seeks to reduce dependence on imported fuels with due regard to the protection of public health, the environment and natural ecosystems consistent with the country's sustainable economic growth that would expand opportunities for livelihood.
3. Joint Administrative Order 2008-1 or JAO-1 2008 is a mega administrative order⁴ involving the Department of Agriculture (DA), the Department of Agrarian Reform (DAR), Department of Environment and Natural Resources), Department of Energy (DOE), Department of Finance (DOF), Department of Labor and Employment (DOLE), Department of Science and Technology (DOST), Department of Trade and Industry (DTI), Department of Transportation and Communication (DOTC), National Biofuels Board (NBB), National Commission on Indigenous People (NCIP), the Philippine Coconut Authority (PCA) and the Sugar Regulatory Board (SRA). It contains the omnibus guidelines for the investors and stakeholders of the biofuels industry designed to help facilitate and promote investments and avoid overlapping of regulatory requirements among implementing agencies and departments of the government.

⁴ R. Bernabe, “Private Sector Agricultural Land Investments: Impacts on Small Men and Women Farmers and on Food Security” Oxfam Great Britain, unpublished, July 2010.

JAO-1 2008 mentioned briefly that investments on ancestral domains shall be guided by the rules provided for by the IPRA.

The existence of laws and regulatory policies governing such investments on ancestral domains does not automatically translate to protection of the rights of the marginalized communities who are party to the deals.

III. The Biofuels Project of Isabela Alcogas Corporation in Misamis Occidental

Isabela Alcogas Corporation (IAC), a company registered at the Philippine Securities and Exchange Commission (SEC) is targeting 16,000 hectares of land in Misamis Occidental for biofuel feedstock production. The company is said to be laying the groundwork for this project in 22 barangays in 4 municipalities, namely: Clarin (3,000 hectares), Ozamiz City (3,000 hectares), Sinacaban (3,000 hectares) and Tudela (4,000 hectares)⁵. Sixteen of these barangays identified for biofuels production are also the subject of ancestral domain claims made by the Subanen indigenous people.

Table 2. Barangays targeted by Isabela Alcogas Corp and Barangays with Ancestral Domain Claims

Municipalities	Barangays targeted by IAC	Barangays with AD claims
Clarin	Bernad	Bernad
	Bito-on	Bito-on
	Dalingap	Dalingap
	Penacio	Penacio
Ozamiz City	Capucaos C.	Capucaos C.
	Capucaos P.	Capucaos P.
	Guimad	Guimad
	Guingona	Guingona
	Kinuman Norte	Kinuman Norte
	Kinuman Sur	Kinuman Sur
	Stimson Abordo (Montol)	Stimson Abordo (Montrol)
	Pulot	Pulot
	Trigos	Trigos
Sinacaban		Dinas
		Estrella
		Katipunan
		San Isidro Alto
		San Isidro Bajo
	San Lorenzo Ruiz (Sungan)	San Lorenzo Ruiz (Sungan)

⁵ <http://pagkagobernador.blogspot.com/2010/01/ozamiz-misoc-potential-investments-sa.html>, accessed on 11 February 2012.

		Tipan
Tudela	Buenavista	Buenavista
	Camating	Camating
	Colambutan Bajo	Colambutan Bajo
	Colambutan Settlement	Colambutan Settlement
	Gala	Gala
	Mitugas	Mitugas
	Namut	Namut
	Sinuza	Sinuza

The company targets to build the bioethanol processing plant on a 30-hectare land in Barangay Capucao Proper, Ozamiz City. Reports also had it that the company already submitted its application for conversion with the DAR for the plant site. Headed by Mr. George Uy, IAC is set to be purchased by Greenenergy Holdings Inc., a company apparently chaired by the same Mr. George Uy.

IV. The Curious Case of the Subanen Lumads in Tudela, Misamis Occidental

Tudela is a 4th class municipality in Misamis Occidental known for its colorful Binalbal Festival or a local Halloween Party but celebrated on New Year's Day. Situated at the foot of Mt. Malindang, Tudela has a population of 25,113 people scattered in 33 barangays.

The population living along the coasts consists mostly of migrants from Cebu and Bohol thus the major dialects are Cebuano and Boholano. The indigenous communities of the Subanens live in interior upland areas⁶.

Most of the Tudelanhons rely on agriculture and fishing for their livelihood. Fresh produce are traded in the local market or in Ozamiz City. The major crops cultivated include palay, corn, banana, cassava, sweet potato, coconut and other fruits and vegetables. Fish products, shells and aquaculture products such as shrimps, prawns, crabs and tilapia are produced in Tudela as well as poultry products, bread, pastries and local furniture⁷.

As earlier mentioned, one of the municipalities where the feedstock plantations of IAC will locate is Tudela municipality, Misamis Occidental. Four thousand (4,000) hectares in eight barangays (see *Table 2*) of Tudela are targeted for sugarcane plantation. The very same barangays are, however, being claimed by the indigenous group Subanen as their ancestral land.

For the documentation of this case involving the Subanens of Tudela and Isabela Alcogas Corporation, a focused group discussion (FGD) and a group interview with

⁶ [http://en.wikipedia.org/wiki/Tudela, Misamis Occidental](http://en.wikipedia.org/wiki/Tudela,_Misamis_Occidental), accessed on 11 February 2012.

⁷ Ibid.

the Subanens from the above-mentioned barangays, local NGOs and Church groups acting as support groups of the lumads were undertaken between November 2010 and September 2011. Field visits were also conducted and secondary data also collected. However, the secondary data were limited to news articles about the case and position papers made by the Subanens and their support groups. Official documents were difficult to obtain as the deal was not transparent.

The Intrusion of the Outsiders

According to the residents of Brgy. Namut, San Lorenzo Ruiz, Collambutan Settlement, Mitugas and Gala, in September 2008, representatives of IAC accompanied by the National Commission on the Indigenous Peoples (NCIP) Provincial Director showed up in their communities. At the onset, the NCIP attended barangay assemblies and presented a nameless project purported to bring development to the Subanens through the provision of scholarships for the lumads' children and livelihood program for the community members.

Later on, Rodulfo "Popoy" Lingua, the Operations Officer of IAC accompanied by NCIP representatives presented the company's planned project to the barangay councils. The outsiders convinced them of how the project will bring prosperity to their communities through the establishment of concrete roads and other infrastructures, provision of animal dispersal and scholarships for the IP children.

The project involves the planting of sugarcane to be used as feedstock for biofuels production targeted in Ozamiz City. According to the Subanens, they were told IAC would lend them initial capitalization of P 16,000 per hectare and would provide other support in cultivating sugarcane. A second loan of another P 16,000 may be availed if the first harvest was not successful. It was not clear to the Subanens what business scheme would apply.

But the Subanens didn't buy the sugar-coated deal. Porferia Acuram or Ehrya, one of the women leaders of the community was wary from the beginning of IAC's project. Not only were the supposed benefits so hard sell but it also seemed to the Subanens that the NCIP was hell bent on convincing them to accept the project. Likewise, Ehrya and the other members of the community was concerned that vast hectares of trees would be cut to make way for the sugarcane plantations; that they would lose the farms that provide their livelihood and their ancestral domain where they grew up and have lived in peace.

Young members of the community were also concerned about their future. "*Kapag nawalan kami ng lupa, at kapag napaalis kami sa aming lupang ninuno, wala na kaming matataniman, magugutom kami at mamalimos na lang sa baba.*" (If we lose the lands we are tilling and our ancestral lands, we will go hungry and might just resort to begging in the lowlands.)

The Subanen communities and ancestral territories in Misamis Occidental including the municipality of Tudela have long been in existent, even before the advent of a government structure that defines management and control of land and resources, to which indigenous peoples are dependent of. The members of these Subanen communities are still in effective possession and occupation of these ancestral territories and continue to protect and preserve these territories for their future generation.

Fraud, Deceit, Division and Intimidation

Eventually, the NCIP was able to facilitate a meeting between Isabela Alcoegas and the tribal leaders with the intent of securing a Memorandum Of Agreement (MOA) between the company and the Subanen Indigenous People of Tudela. The MOA was eventually signed on November 2008. According to the FGD participants, their tribal leaders were changed by the NCIP and those who signed the MOA were hand-picked by the Commission and not the recognized tribal leaders of the Subanen communities.

As in many other marginalized communities assailed by “development” projects and promised with a better life, IAC’s project sow division in the communities. Polarized between those in favor and those against the project, the division became more pronounced with the NCIP’s changing of the tribal leaders. The once peaceful communities of the Subanens are now confronted with conflict.

The communities who allegedly gave their free and prior informed consent (FPIC) to IAC do not have a copy of the Memorandum of Agreement which their tribal leaders allegedly signed. Consequently, the Subanens do not know the terms stipulated in the supposed agreement. On a number of occasions, the tribal leaders (*datus and bays*) opposing the project tried to secure a copy of the MOA from IAC but the tribe was refused. They also wrote to the NCIP Provincial Director asking for a copy of the same but the latter said the MOA was with the tribal chieftain (the NCIP-appointed one). When the tribal chieftain was asked for the MOA, he pointed to the NCIP.

Not to be deterred by the actions of IAC, the NCIP and the NCIP- appointed tribal chieftain, the tribal leaders opposing the IAC project with the help of Church groups and some NGOs initiated a signature campaign against the project. The NCIP lashed back at them and intimidated those who signed the petition saying they will be sued. Allegedly, it was NCIP Provincial Director Dodge Cabahug who said this. Afraid they would be jailed, some of those who signed the petition silenced their protest and retracted their signatures. According to the FGD participants, the NCIP Provincial Director Mr Cabahug told them, *“Pwede lang kayong magtanong pero hindi kayo pwedeng magreklamo. Malaki na ang gastos sa proyektong ito kaya hindi pwedeng hindi ito matuloy.”* (You can ask questions but you cannot complain. Huge expenses have already been incurred that is why the project must proceed.)

Adding insult to injury, every chance they get, Mr. Cabahug always belittle being a Subanen telling the lumads: *“Kaya kayo pobre dahil Subanen kayo mag-isip. Huwag kayong manatiling Subanen, para umasenso kayo at umunlad ang buhay nyo.”* (You are poor because you think like Subanens. You should not remain as Subanens to become rich and prosperous).

From the facts narrated by the FGD participants, it seemed obvious that the process of securing the FPIC and the signing of the MOA were rigged and tainted with fraud and deception. Likewise, there is a lack of transparency in the handling of the deals, non-disclosure of the terms of the agreement and intimidation of the Subanen communities perpetuated by the NCIP, the very agency mandated to protect their rights and welfare.

Other Stakeholders

Aside from the affected Subanen communities, other stakeholders are also involved in the case. These are:

1. Environmental Awareness Team

Alarmed by the fraud and intimidation by which the FPIC was secured in 2009, civil society groups which included church, environmental groups, schools and IP organizations banded to protest the illegal encroaching of Isabela Alcogas in the Subanen ancestral lands.

Known as the Environmental Awareness Team, the network is composed of the Social Action Center, Pieksalabukan Mieggulipit nga’k Suban’n Gataw’g Ginsalogan (PIEMSUGG), Justice and Peace and Integrity of Creation (JPIC), Columban Mission Mindanao, Indigenous Peoples Apostolate (IPA), Gitib, Inc. Ozamiz City, RSM- Environmentalist, Institutional Social Concerns Office (ISCO) LSU Ozamiz City, PIPULI Foundation Inc., STEER (Stewards of the Earth’s Ecological Resources), ECOMIS (Ecology Concern of Misamis Occidental) and DCMI (DIOPIM Committee on Mining Issue).

2. Local Government Units

According to the FGD participants, the barangay leaders (including the barangay councils), the Municipal Mayor Felix Sarigumba, Governor Herminia Ramiro and even their Congressional Representative Loreto Leo Ocampos

are all in favor of the project.

Actions Taken

With the support of the Environmental Awareness Team, the Subanens opposing the project has been conducting awareness-raising activities on the impact of the biofuels and about the FPIC process mandated by the Indigenous People’s Rights Act (IPRA).

Two dialogues with Isabela Alcogas were also held in 2009 aiming to get a copy of the MOA and find out the terms by which the NCIP-formed tribal leaders bound the communities to the biofuels company, but to no avail.

A signature campaign protesting the illegal encroachment of the biofuels company and the NCIP's abetting this action was also undertaken. The latter retaliated by intimidating the IPs who signed the signature sheets and forced them to retract their signatures.

Issues raised by the Subanen Communities

According to the Subanen participants of the focus group discussions, the NCIP violated their rights when:

1. It organized the change of the tribal leaders without respect for the IP processes. This was done to ensure a favorable outcome for the company as well as expedite the gathering of the FPIC. Having rid of the tribal leaders opposing the project facilitated the signing of the MOA between Isabela Alcogas Corporation and the Subanen Indigenous People.
2. It rigged the process prescribed by the Indigenous Peoples Rights Act (IPRA) when the NCIP conducted the gathering of the FPIC in just one day.
3. It declared that an FPIC was already gathered totally disregarding the protests of the other members of the affected communities. Obviously, such objections showed the lack of consensus among the community members, a fact the NCIP conveniently ignored. Worse, the NCIP fostered further confusion and division in the affected communities by employing "tribal dealers masked as tribal leaders⁸" in order "to convince the other residents to accept the project⁹."

In such communities where government social services are unheard of, a project promising a better life for the IPs and their families presented a way out of poverty for some of the community members, a vulnerability erring officials of the NCIP took advantage of.

4. It did not practice transparency enshrined in the IPRA and refused the Subanens' request for a copy of the MOA signed by the NCIP installed tribal leaders in behalf of the Subanen Indigenous People. Being the primary stakeholder in this case, residents of the affected communities and the holder of the claims to this ancestral domain, these IP groups are without question a party in interest to the case.

⁸ Letter of Resistance sent by 10 civil society organizations to Mt. Malindang Natural Park's Protected Area Management Board (PAMB) July 30, 2009 en banc meeting.

⁹ Ibid.

5. It belittled the culture, way of life and the very people it was supposed to serve by calling them names, mocking their culture and views and threatening those with differing views and those asserting their rights.

Undoubtedly, the NCIP, erred in its duty "to promote and protect the rights and well-being of the ICCs/IP and the recognition of their ancestral domains/lands based on customs, traditions and institutions stated on Sec. 3, b, Rule VII, IPRA Implementing Rules and Regulations (IRR), when it acted in behalf of Isabela Alcogas.

Furthermore, the NCIP violated its role stated in Sec. 6, d, Part VI, Rule II, IPRA, IRR that is "to ensure that the basic elements of free and prior informed consent (number of days, language, consensus) are present and are complied with in all instances when such must be secured.

Calls of the Subanen Communities

Government policies support the entry of development projects into ancestral territories. Where development projects impact on ancestral territories, IPRA requires their Free and prior informed consent (FPIC) be sought in accordance with customary laws and practices. However, the 2006 FPIC Guidelines do not reflect the true intention of the IPRA in its recognition and respect of the rights' of the indigenous peoples.

With Isabela Alcogas encroaching on their ancestral territory and the NCIP abetting this, the Subanen people reiterate the following calls:

1. Scrap the MOA signed by the NCIP installed tribal leaders
2. Invalidate the fraudulently obtained FPIC
3. Conduct an immediate investigation on the NCIP Provincial Office especially the Misamis Occidental Provincial Officer
4. Cease intimidation and threat in the Subanen communities
5. Conduct a genuine FPIC that respects the decision of the Subanen communities
6. Transparency in the transactions between the company and the community stakeholders

Likewise, the Subanen people call for a review of the Biofuels Act of 2006 to address concerns in the process of conversion of ancestral lands or agricultural lands to biofuels' production sites or feedstock production sites.

Finally, they call on the national government to prioritize food security and the protection of the welfare and rights of its citizens as essential principles of its development paradigm¹⁰.

¹⁰ Ibid.