A CONCEPTUAL MODEL OF DISPUTE SETTLEMENT AMONG MERANAO[1]: AN ALTERNATIVE APPROACH IN THE STUDY OF CONFLICT RESOLUTION

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Studies on dispute settlement in the Philippines have been done mostly in terms of viewing conflict resolution as but a function of only one system of law. In these studies, an ethnic group is usually assumed to have developed and possessed only one system of law. This is popularly described as customary or traditional to differentiate it from the Philippine Law under the Republic. For further identification in terms of the diverse ethnic groups in the country, the name of an ethnic group is used as modifier in describing the law of that group. For example, Meranao Law has been used to identify the customary law of the natives of Lake Lanao region from those of other ethnic groups. The dissertation of Baradas is one specific example of this.[2] Due to the narrower perspective of these studies in viewing the nature of conflict resolution, these works cannot explain the nature of settling disputes in a setting where several systems of law co-exist with each other as a result of culture contact situation for a number of years. This article is designed to be an initial filler in this neglected problem.

The Conceptual Model

With the different "legal" traditions that have become rooted in the Lanao provinces, the ways in which the Meranao settle dispute in the contemporary time can be classified into four: *Kokoman a kambhatabata'a*[3]*; taritib-igma;*[4] *kitab;*[5] and the Philippine Court. Hence, in the diagram below, the relationships existing between D (Dispute), on one hand, and *kokoman a kambhatabata'a* (KK); *taritib-igma* (T-I); *kitab* (K); and that of the Philippine Court, on the other hand, indicate four different modes of dispute settlement. In other words, given a specific dispute case (D), there are four alternative modes of conflict settlement by which the dispute may be resolved: *Kokoman a kambhatabata'a; taritib-igma; kitab;* and the Philippine Court. Viewed as a process, the choice of mode of dispute settlement for the resolution of specific disputes may be considered to be the first stage in the nature of conflict resolution developed by the Meranao.

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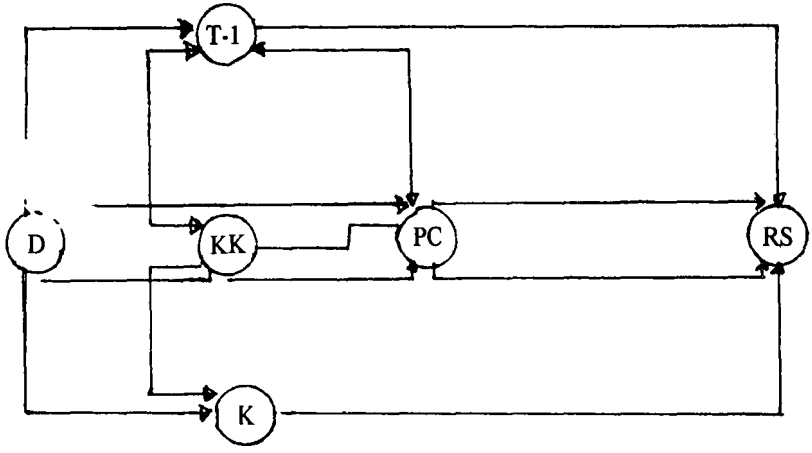

Conceptual Model of Dispute Settlement Among Meranao

With the above-mentioned four alternative modes of conflict resolution, shifting from one mode of dispute to another has become a pattern common in the Meranao legal tradition specifically in the manner of resolving conflicts that this group of people have developed in the course of history.

The second stage concerns the application of the selected mode of dispute settlement or any combination of modes of resolving conflicts. The selected mode of dispute settlement will then end into some "sort of a positive result"[6] which may refer to either a compromise reached by the two parties in a dispute with or without the help of a go-between or, it may be a decision given by the proper authority who serves as the judicial body.

In simple manner this conceptual model presents in a comprehensive way the major elements or categories involved in the kind of conflict resolution the Meranao have developed through the centuries past. The relationships of these categories are also presented. This model can be taken as a reference point in defining specific research problems in legal anthropology and dispute settlement in particular. The nature and scope of these research inquiries will depend upon the interests and limitations of the researchers concerned. For instance: an exhaustive comparative study of *taritib-igma* and *kitab* as two systems of law, and how the different modes of conflict resolution affect each other can be taken as foci of inquiry.

The Research Problem

This article is an account of my masteral manuscript although the entire thesis is not presented here. It is about the nature of dispute settlement among Meranao of Marawi as reflected in the ways which conflicts have been settled in four of its agama[7] communities *(Sabala a Manao, Lilod a Madaya, Saduc,* and *Bacolod).* These four agamas are parts of the traditional Phamagsopa sa Marawi[8] (Marawi in short), a relatively bigger political entity in the whole traditional socio-political and territorial organization of the Meranao of which the so-called *Pat a Phangampongan o Ranao* is the highest hierarchical level. They are chosen for reason of convenience on the part of the author who has a good deal of personal access to the datus[9] and council of elders of these agamas.

The inquiry attempts to answer the following general questions:

1. Does a specific type of dispute affect the nature of conflict resolution among Meranao?
2. How are the modes of dispute settlement among Meranao used in resolving conflicts?
3. What determines the choosing of a specific mode of settlement for the resolution of certain conflicts?
4. Which particular mode of settling disputes is commonly employed and why?
5. When does a shift from one mode of dispute settlement to another occur and how?
6. What are the combinations of modes of settlement used, when and how do these combinations emerge?

Delimitation and Methodology

The focus of the study is on how disputes are settled in accordance with how people of this community (Marawi) have been resolving conflicts in ways other than those prescribed under Philippine laws. Disputes which are settled in the City Court of Marawi, the Court of First Instance, and in all other government courts are ignored.

It has to be noted also that the factors which affect the choice and application of a certain mode of dispute settlement as well as the factors involved in the process of shifting from one mode of conflict resolution to another, include certain psychological elements in which analysis needs sophisticated psychological and statistical tools; i.e., a shift from one mode of dispute settlement to another may be due to the fear of the disputants that their economic activities may be disrupted. This type of consideration is not seriously taken. Indeed, this research is basically qualitative in nature. The factors considered in this research are those which can easily

be grasped through interviews of informants and participant observation. These are: the nature of the offense committed; role and influence of go-between and/or the *kokoman;*[10] kinship relations and the *maratabat* of the disputants; and threat of retaliation.

The dynamics on how disputes are settled in any government court is excluded in this research. However, the shifting process from the three traditional modes of resolving conflicts: *kokoman a kambhatabata'a; taritib-igma;* and *kitab* is included.

In every case of conflict resolution, the following data are necessary: the type of dispute;[11] kinship and/or other relationships existing between the disputants on one hand and those of the disputants and the go-betweens on the other hand; the nature of *kapamagawida*[12] existing between the disputants on one hand and that of the disputants and the go-betweens on the other hand; the origin or causes of the dispute; the nature of the offense committed; how does the go-between become involved in the process of settlement and how he resolves the conflict; and the result of settlement in terms of *kapamagawida.*

Moreover, the research does not seriously consider cases of murder, abduction of women, elopement, and rape because they are very delicate under the present conditions in Mindanao. Besides, talking about such things publicly is a serious offense which carries severe punishment. All other cases however which are accessible to the author are taken into consideration.

Knowing the geographical area of the study, certain students of social science may cast doubts on whether or not the state of modernity of Marawi as a chartered Philippine city affects the typical nature of conflict resolution among all Meranao in general. In this connection, the author strongly believes that differences, if any, on the nature of dispute settlement in Marawi and in other communities in the Meranao society are quite insignificant.

Moreover, it is commonly noted that the datus in Marawi would settle disputes not only in their native communities but also in other places in the Meranao society. As an example, the grandfather of the author had been resolving conflicts in *Tugaya* Municipality, *Kapai,* just as he always did in other places outside of Marawi.

It also appears that no community differences of laws are articulated in the actual process of dispute settlement when the disputants and the go-betweens came from different communities. The go-betweens and/or the *kokoman* (Meranao traditional court) members, though of different communities, once concerned in a given case of conflict resolution will operate within a typical pattern common to all Meranao. It is therefore safe to assume that the nature of dispute settlement in Marawi is but a

reflection of the features of conflict resolution among Meranao in general.

Dispute settlement in this research is viewed as a process. As such, it has two basic stages: the first stage is about the choice in the mode of settlement, and the second, to the application of any selected mode of conflict resolution. Accordingly, the interplay of the different factors that led to the selection and application of a mode of settlement as regards the resolution of a case of dispute, the dynamics in the process of shifting from one mode of settlement to another, and the process of resolving conflicts according to the selected modes of settlement are the basic considerations in the study.

Although the research is a study of four agama communities, it does not compare the ways of settling disputes in these agamas. These communities are representatives of the so-called *Phamagsopa* sa Marawi (confederation of Marawi). In other words, *Phamagsopa* sa Marawi is taken as one community and the nature of dispute settlement therein is deemed a reflection of the ways by which conflicts are resolved in four of its agama communities. The author who is a native of Marawi has observed no significant differences in the nature of dispute settlement among all agamas in Marawi.

Doing this research in only one agama is thus justifiable. However, since a single agama may not be able to produce an adequate number of cases of dispute settlement, the four agamas previously mentioned are considered. These agamas are chosen for convenience aside from the necessity to get more samples of cases of dispute settlement.

During the initial stage of the process of dispute settlement among Meranao, choice in the Mode of Settlement, an interesting question raises the characteristics of persons who make the choice. In this regard, it is worth noting that anybody who is directly or indirectly concerned about a specific case of dispute may have a choice at least in his mind. Indeed, one may even insist and strongly work for his preference but attempts of this kind may only be a futile exercise. What is important is how the factors affect the choice regardless of one's preference in terms of the choice.

The time frame of the study is from 1973 until the time the data gathering activities have been finished (1979). Note that the research time frame is based upon the need to accumulate an adequate number of cases of dispute. As such, it is obvious that one year time frame will do for the research. Mindful of the limitation that a year time may not provide the needed number of dispute cases, the time frame is adjusted, six years. Within that span of time there is assurance that the dispute cases under consideration are under the same social conditions. This is not to suggest that there has been a considerable change in the nature of dispute settlement in Marawi with the advent of the New Society. The author

strongly believes that the nature of conflict resolution in Marawi has been the same from 1960's (at least) to the present.

The case study method is employed in this study. As such, complete facts of every case of dispute settlement are taken on the origin and development of every case of dispute, and the interplay of the different factors that affect the two previously mentioned stages of conflict resolution among Meranao.

Data gathering activities in this research are primarily based on field work. Two techniques as regards the gathering of data are central in the making of this paper: the use of informants and participant observation. The latter (participant observation) is used in cases of dispute settlement where the researcher is present. This method of data gathering does not pose a big problem to the author since he is an accepted member of the community under study. Informants in this study are the go-betweens and/or members of the *kokoman* (Meranao traditional court) who have actively participated in the settlement process, the disputants, and other incidental informants who have observed the cases under consideration. Data are gathered from these individuals through unstructured interviews, conducted in the Meranao vernacular. Thirty two cases of disputes are taken for this study.

It is also worth noting that the Meranao do not have in their vocabulary a single term that will completely convey the concept of what anthropologists call custom law, or simply law. The terms *taritib, igma, adat, kokoman,* and *bitikan* are aspects of law depending upon the context of discourse.[13] For this reason, the author believes that an analysis of the substantive aspect of Meranao legal system arising from the actual process of dispute settlement needs keen eyes. This is where the advantage of a native anthropologist lies.

It must also be emphasized that among Meranao, talking about one's weakness publicly is already an offense which invites retaliation on the part of the offended party. In order therefore to avoid provoking the sensitive *maratabat* of the disputants and all other parties concerned, names of persons and places are disguised.

In the analysis of data, it must be pointed out in retrospect that dispute settlement in this research is viewed as a process with two basic stages. The first is, choice in the mode of settlement, and the second, process of settlement according to the selected mode of conflict resolution. As regards the first stage, all the translated cases of disputes are classified according to how Meranao classify conflicts. This is done with the consideration about the possibility that different types of disputes require different modes of settlement. After classifying the cases into types, all the cases in every classification is tabulated on the basis of the mode of

conflict resolution used. This tabulation is followed by analysis of the different factors that determine the mode of settlement in every case of the dispute. In doing this, it is expected that ordinarily the nature of the offense committed is the first and primary factor that determines the mode of settlement. As such, it is assumed that when one party in a dispute is *kiamaolika'an*,[14] *taritib-igma* is the mode of conflict resolution normally employed regardless of the kinship relation existing between the disputants. Moreover, it is expected that whatever is the influence of a go-between and/or the *kokoman* (Meranao traditional court) members over the *kiamao-lika'an* party in a dispute, they cannot normally resolve the conflict utilizing any other mode of settlement but *taritib-igma*. However, should an unexpected mode of settlement come out, the case is reviewed in that certain elements might have influenced the process of choice. In this regard, it has to be pointed out that *kokoman a kambhatabata'a* may be possibly employed to those cases which involved an offense characterized as *miakamaolika*. This situation is only observable, however, when the dispute under consideration involves two *miakamaolika* offenses committed by both parties in conflict. Moreover, *kokoman a kambhatabata'a* is possibly employed here if there is a general feeling among parties concerned that the offenses or injuries committed are equal in weight.

Since it is in many instances necessary to cite certain influences of Islam on the process of dispute settlement, it is important to seek the help of individuals who have specialized in Islamic Law and Jurisprudence. On the other hand, in analyzing the indigenous rules (non-Islamic) operating in a particular case of dispute, the help of the following persons is necessary: those who are labelled as *maongangen;*[15] *pabhabayok* (reciter); and the council of elders of the four agamas considered.

Additionally, since the research is descriptive in nature, it ignores the quantitative factors which determine the mode of settlement. Neither does it utilize a mathematical or statistical analysis of the problem. However, the way the different factors affect the choice of mode of settlement is described in a qualitative manner; i.e., the nature of the offense committed is found out to be the most basic and dominant factor that determines the modes of settlement of disputes relating to *kambobono*.

It has to be pointed out also that the different factors enumerated concerning the process of choice may not all be existing in a classification; i.e., cases of disputes relating to *kambobono*. Indeed, in some instances in one classification, absence of these factors is always expected.

With regard to the second stage (application of the selected mode of dispute settlement), the aspect on fine is evidently the most crucial and sensitive object of discussion and bargaining. In this connection, it must be understood that whether or not the amount actually given by the offender

party is the amount as stipulated in the *taritib-igma* could be easily tested by asking at least one *maongangen* who is popularly acknowledged to be an authority of *lalag.* By simply knowing the actual amount of fine given, one may notice a discrepancy between what is customary as defined in the *taritib-igma* and that which is actually given.

It must also be pointed out that the way the *maratabat* of the offended party is insulted could not be described with any mathematical or statistical precision. However, the situation where the *maratabat* is insulted could easily be described, i.e., a case of dispute which could normally be settled with *kokoman a kambhatabata'a* may not be resolved in the normal way if an acclaimed *palokelokesan* of the offended party has not been informed properly in that by doing so, his *maratabat* is insulted.

The Findings

In disputes which involve offenses such as conflicts relating to *Kambobono* and accident, the nature of the offense committed is the primary and most dominant consideration in the mode of settlement. As such, all dispute cases with offenses of the *miakamaolika* types necessitates the use of *taritib-igma* regardless of the kinship relation that exists between the disputants on one hand, and that of the go-between and/or members of the *kokoman* and the disputants on the other hand. Accordingly, in cases of this kind, the role of the go-between and/or members of the *kokoman* and the effect of network of kinship ties neutralize the tendency of the offended party to retaliate.

Conflicts involving offenses of *da makamaolika* type are then settled with *taritib-igma* in the absence of a go-between who is a blood relative of the offended party. The go-between manages for conflict resolution with *kokoman a kambhatabata'a* not because of kinship ties but of the network of reciprocity system which kinship ties entails. Accordingly, non-relative go-between is more influential and effective in coming up with *kokoman a kambhatabata'a* when reciprocal aid between him and the offended party is greater, than with one existing between a relative and the offended party.

Lastly, the process of settlement mode choice revolves around the concept of *maratabat.* Viewed in the light of the socio-psychological make-up of the Meranao, the nature of the offenses committed determines the extent to which the *maratabat* of the offended party is insulted. To revalidate, promote and enhance this *maratabat,* retaliation is necessary. However, retaliation is avoided when a go-between immediately interferes for conflict resolution in that such act is already an enhancement of the offended party's *maratabat.* As a persuasive socio-psychological make-up, *maratabat* functions negatively in the choice of settlement mode. This is

evident in situation where the offender party failed to immediately negotiate for conflict resolution and when a *palokelokesan* is overlooked in the negotiation process. In situations of this kind, conflicts involving offenses of *da makamaolika* type are unnecessarily resolved with *taritib-igma.*

In the application of the selected mode of conflict resolution, kinship network is not a necessary condition for settlement of disputes with *kokoman a kambhatabata'a.* In fact, it does not guarantee the use of this mode of settlement and the reduction of the demanded fine for settlement. However, disputes are easier to settle when kinship ties can be invoked during the settlement process.

As a mode of conflict resolution, the way *kitab* is used for settlement shows that Islamic Law and Jurisprudence has not been well institutionalized in the Meranao society. In fact, its use is insignificant in the resolution of conflicts involving personal offenses. This is paradoxical to the clamor of the Meranao for the implementation of sharing in their community.

Although *taritib-igma,* as a system of law, definitely requires the giving of fine for dispute settlement, it does not specifically define the specific amount needed for specific degrees of offenses. As a consequence, the amount of fine for conflict resolution is always subject to a bargaining process.

As it has been in the process of choice of mode of settlement, the nature of the offense committed is the basic and primary factor that dominantly determines the amount of fine given for conflict resolution. Accordingly, the amount of fine given for settlement of disputes with *miakamaolika* type of offense is higher compared to those with only offenses of *da makamaolika* type.

As regards the role of go-between, the fine is reduced when a reciprocity of aid and services exists between him and the offended party. Accordingly, in the absence of this system of reciprocal aid, there are only two alternatives left to the offender party: to accede to the demanded fine or to prepare for a feud.

Again the role of kinship ties *per se* is insignificant in reducing the amount of fine demanded by the offended party for conflict resolution. This is also true to *kokoman* members.

Although the conceptual model previously discussed shows three points of origin of the shifting process in the kind of dispute settlement developed in the Meranao society with two directions of each point of origin, there are only two shifting directions which are observed in the Meranao legal system: *kokoman* a *kambhatabata'a* to *taritib-igma,* and *kokoman a kambhatabata'a* to *kitab.* The first shifting direction only

applies to disputes involving offenses and the second direction only to disputes relating to property. Viewed in the light of Meranao cultures, the shift directions *taritib-igma* to *kokoman a kambhatabata'a* and *kitab* are not observed in the sense that *taritib-igma* effectively appeases, promotes, validates and enhances the *maratabat* of the offended party. On the other hand, the shift direction – *kitab* to *kokoman a kambhatabata'a* and to *taritib-igma* are not observed in that *kitab* is not yet accepted as a vibrant legal system for resolving conflicts involving offenses. The punishment *kitab* entails like amputation is not yet accepted in the Meranao law. However, since Islam continuously undermines the indigenous laws, *kitab* is possible to take root in the Meranao legal traditions.

Combination of modes of settlement is only observed in the case of *kitab* and *kokoman a kambhatabata'a.* This happens as a result of the go-between's interest in promoting the already existing reciprocity system between the disputants. This is observed in the nature of decision as regards conflicts relating to property.

Lastly, the type of dispute affects the choice and application of a mode of settlement in the sense that by the very nature of certain types of disputes, specific modes of conflict resolution are necessary. Accordingly, since disputes relating to property do not involve personal offenses, *taritib-igma* is eventually out of consideration for conflict settlement.

NOTES

[1]Note that the term Meranao has been popularly written with the vowel *a* after letter *m* instead of the peppet vowel *e* which has been the way in the native tongue.

[2]David Baradas "Maranaw Law: A Study of Conflict and Its Resolution in a Multicentric Power System." Ph.D. Dissertation Abstract, University of Chicago, 1971.

[3]"Law of the Insmen" is the most appropriate translation of the concept of *Kokoman a kambhatabata'a.* This refers to a peaceful mode of settling disputes which requires no damages. The principle behind this mode of conflict resolution is the maintenance and promotion of harmonious social relations between the parties in conflict. This is more specifically true when the two parties in the conflict are either consanguinal or affinal relatives in which case reciprocity of aid andservices should otherwise exist.

[4]*Taritib-igma* is a mode of settlement which calls for the giving of damages and other forms of punishment such as the public reprimand of the offender, an act which is considered very humiliating to a Meranao, under ordinary circumstances.

[5]*Kitab* is a mode of settlement which is ideally based on Islamic Law as prescribed by the Holy Qur'an. This mode of settlement may involve wakil (attorney-at-law) and saksi (witness) during arbitration. With their respective wakils and saksis, the two parties in conflict are made to validate their claims. The arbitrator weighs the claims of both sides and finally gives his decision.

[6]P.H. Gulliver, "Case Studies of Law in Non-Western Societies, *Law in Culture and Society*, ed. by Laura Nader (Chicago: Aldine Publishing Company, 1969), pp. 14-15.

[7]Among Meranao, the term agama may either mean a religion or a relatively independent community with a defined territory, a set of officials (i.e., sultan, cabogatan, and radiamoda) and a government which is patterned after that of the so-called sultanate system of political organization. A separate mosque shows the relative independence of an agama from others.

[8]Phamagsopa sa Marawi may be translated as Confederation of Marawi. Originally, it is composed of five agamas. Today, it has seven agama members (Madaya, Buadi Sakayo, Guimba, Bacolod, Toros, Ibango, and Tuca). As a whole, it is one of the so-called 28 ingeds which have the power to amend and/or change the provisions of *taritib-igma* as a charter of organization. The *Pat a Phangampongan o Ranao* is the highest hierarchical level in this traditional political system.

[9]Aside from being a political title and/or position in the traditional socio-political set up, datu also means an individual who is acclaimed to be a leader in any community. As a symbol of respect, it is used to mean all adult men in a social gathering.

[10]Kokoman may either mean the traditional court of the Meranao or the specific rules and regulations in relation to specific breaches committed.

[11]Among Meranao, disputes are classified on the bases of the object of dispute, the offense committed, and the nature of the situation or circumstances by which conflict develops. With the first basis of categorization, disputes are classified into two types: disputes relating to property and disputes over traditional socio-political titles like sultan, cabogatan and others. Disputes classified on the basis of the offense committed include rape, abduction, elopement, murder, mauling, and false accusation. The last basis of dispute classification include thievery, accident, and the like.

[12]Kapamagawida refers to the reciprocity of aid and services between relatives and friends.

[13]Taritib and igma have been deliberately institutionalized in the Meranao society as a result of their attempt to establish a government or some sort of that for the maintenance and stability of their once isolated community. In a way, they serve as the "fundamental law" of their traditional community. Taritib means atoran (order, arrangement). As such, it has been vital in the structuring of the traditional indigenous political organization of the Meranao of which the Pat a Phangampongan O Ranao is the highest hierarchical level. This is followed by the Phangampong (no English equivalent), suko (district), inged (town), and lastly the agama (village). The Pat a Phangampongan O Ranao is composed of four phangampongs: Onayan, Masiu, contract, are under the power of the fifteen panorogans who represent the supposed fifteen superior sultanates in the whole system. The powers and functions of the superior sultanates are supported by twenty eight ingeds who have the priority and power to change or amend the provisions of taritib and igma. The two socio-political institutions, aside from being the charter of organization, function as set of rules and regulations for a peaceful and orderly social climate.

In one sense, kokoman means a system of law which regulates varied aspects of social relations. In another sense it refers to that entity which is popularly called agama court among Maguindanao.

Bitikan has always been referred to a set of rules and regulations.

Adat is popularly referred to individual moral behavior. When a Meranao acts that generates public disapproval, he is branded as "marata i adat" (a person with a bad moral character). Adat is also used to mean some specific aspects of bride-wealth requirements. In this context, it refers to the material entitlements of any recipient to the bride price during marriage. In other cases, adat is referred to customary law regulating varied aspects of social relations. For instance, adat as a lingual expression in conceptualizing some aspects of bride price is enveloped by an adat (customary law) for its fulfillment.

[14]Kiamaolika'an comes from the term maolika which literally means offense but which is used to mean an offense believed to have hurt the person's ego, social status, and which therefore tramples his or his clan's maratabat (pride in relation to one's rank in the social stratification system). This offense is committed either by physical infliction or by any other means; i.e., calling somebody to have descended from slave ancestors, uttering vulgar words to one's woman, etc. The prefix MIAKA refers to either the offense of this kind which have already been committed, or, the person or group who has committed the offense. The prefix KIA and the suffix AN refer to the person who is a victim of this offense and his entire group (clan).

[15]The term maongangen refers to a person who is an authority of the so-called lalag-knowledge on Meranao socio-political and territorial organization, customary law, and other important aspects of Meranao culture. Excellence in oration is the most popular distinctive asset of a maongangen.