

MAINSTREAMING *BODONG* THROUGH *MATAGOAN*¹

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Introduction

One of the ironies faced by the Philippine legal system is that when light on a more humane justice through a mechanism called restorative justice is gaining headway, the cultural source from whence such system springs is undergoing severe straits. This article discusses the mainstreaming of a restorative justice system being practiced by the Kalingas of Northern Cordillera and the problems such mainstreaming is encountering. Mainstreaming refers to the formal recognition of indigenous structures and principles by the local government and their promotion or incorporation in programs and policies.

Postmodern Western jurisprudence finally had come to its senses that the punitive justice system is dehumanizing and is detrimental to both individual and society. It now espouses **restorative justice**. Save the Children UK defines restorative justice “as an approach in administering justice that focuses on repairing the harm done to the victim and to the community” (2005:36). Restorative justice ensures that the victim, the offender, and the community participate fully; that restitution is offered to the victim, and the offender has the opportunity to acknowledge the harm that she or he has caused and that a sense of community is restored (Save the Children UK 2005:36). The offender also needs to do community work and be given the opportunity to be re-integrated in society as a valued and contributing member (Save the Children UK 2005).

In essence and in practice restorative justice is exemplified by the Kalingas of the Cordillera region of Northern Luzon, indigenous peoples who have held their society together creating institutions, customs, traditions, rituals, myths, etc., that stood the test of time. The *bodong* (peace pact) is one such creation that remains extant among the Kalingas, the introduction of

¹ This is a revised edition of RJ and Peace, the Kalinga Experience published in a Source Book on Restorative Justice entitled *Healing and Restoring Hope and Dignity to the Community*, by the Coalition Against Death Penalty (CADP), 2006, Manila.

the national legal system notwithstanding.² This traditional dispute settlement acquiring the status of living law can be considered one of the best legal systems ever produced by a people whose lives are whole and integral, being deeply rooted in their culture.

Yet for all this, the bodong has undergone considerable changes. Today the populace and well-meaning culture bearers want it abrogated. Criminality hiding behind peace pacts reached alarming proportions beyond the capacity of this institution to contain. For one, the basic structures that underlie the effective application of bodong are severely eroded. The concatenation of events brought about by colonization and modernization that escaped peoples' critical awareness is mainly responsible for the erosion which now takes its toll. The youths no less than the adults face a bleak future with nothing to hold on to except what modernity wangles.

After a decade of plateau or cultural weakening, the local government unit (LGU), the Church Vicariate, and the civil society each in their own turf have initiated programs that work towards the attainment of peace.

The Matagoan

The *Matagoan* (Zone of Peace) for Tabuk municipality was promulgated by the Municipal Council in 1995 with the intention of making the capital town free of violence from whatever source: military forces vs. the New Peoples' Army; tribal war/revenge or clan war, and criminality. It was during the incumbency of Mayor Lammawin in 2000 that Matagoan took off. Though the idea was conceived in 1986, the politicians of Kalinga wanted the bodong laws (*pagta*) codified after Western law model. After several fits and starts, this was eventually rejected by the bodong holders (individuals in charge of upholding the pacts entered into by the community), *Pangats* (adjudicators), and the *binodngans* (the populace under the bodong). Essentially, the bodong, its *pagta*, is a living law and to codify it is to fossilize it.

² Editor's note: A *bodong* 'holds together' two peace pact holders representing previously warring villages and specifies rules and regulations in a written pact. The role of peace pact holder or *Pangat* is also passed on to an heir. "Among the warring groups in the Cordillera like the *Kalinga*, and some groups in Bontoc and Ifugao, the *bodong* is the basic institution by which life, territory and integrity are protected" (Molintas 2004:278-279)

The first task undertaken by the Mayor was to organize the bodong holders and Pangats of the 8 sub-tribes in Tabuk into the Matagoan Bodong Council (MBC). This was made as the advisory board to the Executive Branch of the municipal government. A year after, the different ethnolinguistic groups residing in Tabuk were organized into the Matagoan Consultative Body (MCB). These two bodies (MBC-MCB) to date are jointly in charge of settling disputes.

The LGU specifically the Executive Branch gives the logistical support like providing for ritual animals (carabaos, pigs, etc.) necessary in the conclusion of the disputes. This is done without the interference of LGU in the decisions of the MBC-MCB. These arrangements augur well for the smooth interface and / or mainstreaming of their age-old indigenous legal system.

All the aforementioned requirements of restorative justice put together by the Western legal system necessitate the building of communities that in the modern dispensation suffers severely from fragmentation. The Kalingas have their culture that gives primacy to community consensus decision-making, community egalitarianism and cooperation. Their substantive and procedural laws are derived from their customs and traditions. While the modern legal system had secularized the rule of law, the Kalingas' worldview of the interconnectedness of the sacred and the material realms enables them to seek justice in a fast, fair and humane way. Ultimately, justice for them is the restoration of peace, order and harmony in the community.

Needless to say, just as culture changes even without their forethought, bodong too had undergone adaptations as reflected in the policies the MBC-MCB had formulated in place of a codified pagta. To wit:

1. MBC-MCB is the implementing arm of the Municipal Government in pursuing the programs and activities concerning peace and order and in promulgating provisions to be implemented in the Matagoan Area. This is delineated in the political map of Tabuk where the respective sub-tribes are located.
2. The MBC-MCB's powers and functions include:
 - a. Formulation of the 'proto-pagta' and the promulgation of provisions to be implemented in the municipality of Tabuk;
 - b. Giving of reminders to bodong holders of their duties and responsibilities;
 - c. Conciliating/mediating the conflict brought before it whether this emanates from inter-tribal, intra-tribal problems between

- binodngans or among non-binodngans for as long as the litigating parties agree to be under the MBC-MCB jurisdiction;
- d. Initiating resolutions of boundary disputes between sub-tribes; and
 - e. Performing such other functions as may be necessary or as may be assigned to it from time to time.
3. The MBC-MCB will acquire jurisdiction over a case when:
- a. The barangay captain endorses it;
 - b. The barangay captain requests for assistance;
 - c. The bodong holder endorses or requests assistance.

Exception: Cases recommended by the Local Chief Executive give the MBC-MCB jurisdiction over them at once.

As of writing time, the MBC-MCB is coordinated by the Community Affairs Office (CAO) that also acts as the secretariat. Records show that this modification and interfacing is effective in the administration of restorative justice. The policies set forth are faithful to the traditions of bodong even as they accommodate to the changing times. There were 40 criminal cases, 12 civil cases, 8 land disputes, 1 boundary conflict resolution case solved by the MBC-MCB since their founding, and 11 ongoing settlement. Below are examples of cases from CAO settled through the MBC-MCB:

SOME SETTLED CASSES

1. SUSPECTS IN A MURDER CASE: Lubuagan/Magnao Vs. Magnao Immigrants

Nature of the case: The case at bar is murder. The victim belongs to the sub tribe of Lubuagan and Magnao. The four suspects are binodngans and non-binodngans. The case was endorsed to the MBC-MCB by the bodong holders of the affected sub tribes and by the Barangay Captain of the place where the incident occurred.

Brief facts of the case: Fatima Andalet's body was found in the plantation of Marquez Salao in Bantay, Tabuk, Kalinga. The corpse was fast decaying. The head was found some meters away from the body. There were no suspects but in the course of investigation, a witness claimed he met Rambie Sal-ao, Jerome Yap, Donal Dangli and Rusty Aglipay in a footpath near the place of the crime. All four strongly denied meeting the witness. There being

no other witnesses and corroborating evidences, the case was shelved. The victim's father and mother are from the sub-tribes of Lubuagan and Magnao respectively; two of the suspects are from Magnao and the other two are non-binodngans.

MBC-MCB & CAO DECISION

The parties requested that the office of the MPOC chaired by the Mayor through the MBC-MCB & CAO handle the case. All those concerned and interested parties were summoned to the hearing at the Senior Citizens Hall. The decision is hereto illustrated through a digest of the minutes of the hearing. To wit:

Mr. Pan-oy, a member of the panel said there is nothing wrong if aid is given to the family of the victim. He further said that if there is no cooperation of the people in the place of the incident, the case is good as unsolved.

Mr. Marquez Sal-ao reiterated that the evidences against the suspects are hearsay. He suggested that the suspects be evaluated just the same.

Mr. Alex Gunaban concurred that all suspects be named and investigated according to the testimony of the witness.

Mr. John Dongui-is after citing some cases relevant to the case at bar gave his opinion. He said that the complainants' feelings against the suspects are strong. He suggested that the suspects give *papod* or *apas* or *patay* (wergild) to remove suspicion and prevent revenge.

Mr. Marquez Sal-ao disagreed. He suggested instead that the complainant and the suspects eat in the house of each suspect. This is based on the belief or principle of *botot* where the suspects if they are the culprits, will have their abdomen bloated resulting in instantaneous death. The same will happen to the complainants if the suspects are innocent.

Mr. Manuel Bacacao was in favor with Dongui-is opinion. The laws of *bodong* should be applied.

Mr Sal-ao reiterated his suggestion on the *botot* principle.

Mr. Artemio Guinaban said that since there is no strong evidence against the suspects, the laws of *Bodong* in removing the suspicion should be apply.

Mr. Sal-ao accepted the patay as a way of removing the suspicion.

A ten minute recess was requested to give the parties time to caucus among themselves. On resumption, Sal-ao said they will rely on the decision of the panel regarding the patay. He laughed at the suggestion of Mr. Andalet that 50,000 pesos be paid to the complainant. For Sal-ao this amount is too high, fit for the commission of a crime.

The five members of the panel rendered their decision. One said *sapata* (sworn statement by the suspect before Kabunian³ after a ritual by the elders with grave consequences if suspect is not truthful) be applied. PhP30,000 for patay was suggested. Others suggested PhP25,000. The majority prevailed. Mr. Sal-ao conceded.

The litigating parties willingly agreed to restore the harmonious relationship and the suspicion be removed. The patay given will be a wall as it were, that will allay suspicion and anger. In like manner, the suspects are enjoined to help in the apprehension of the culprits of the said crime. Finally, the patay would be returned two fold should the culprits be apprehended.

2. SUSPECT IN A MURDER CASE: Tanglag Vs. Banao

Nature of the case: The case at bar is murder. The suspect is from the sub-tribe of Banao and the victim is from the sub-tribe of Tanglag. Both the victim and the suspect are settlers in Tabuk and are now permanent residents there. Hence the MBC and MCB have no jurisdiction over the case. Every binodngan (a person belonging to a certain sub-tribe carries her/his bodong wherever she/he goes) is protected by the bodong of the sub-tribe. The case was first handled by the bodong holders of the victim and the suspect respectively. No results came of it. The case was then endorsed to the MBC-MCB.

Facts of the case: The victim, Baldo Panada was stabbed to death near a store at about seven o'clock in the evening in Dilag, Tabuk, Kalinga. Two witnesses testified they saw Bal Mulang in the store when the incident took

³ Editor's note: *Kabunian* is the supreme deity of the Kalinga and other Igorot groups in the Cordillera.

place. The suspect claimed that he was in Bayabat, Tabuk. This claim was corroborated by two witnesses through a sworn statement.

Issues: The case is one of murder according to the Tanglag sub-tribe. Banao sub-tribe however, claimed suspect.

Decision: A *sapata* (see case above) be applied to clear the suspicion against the suspect. This was turned down because it was proven that even the innocent can be affected by *sapata*. Furthermore, those in the panel claimed it is a pagan practice; they are all Christians now.

It was maintained that the case is mere suspect or allegation and the evidences are weak and baseless. The *pagta* (provisions) of the *bodong* provides that in cases like this, the giving of *apas* or *papod* by the suspect to the complainant would suffice.

The removal of suspicion would prevent retaliation from the complainant preventing the eruption of tribal war. The Banao sub-tribe gave a *papod* of one carabao. Since no carabao was available 15,000 pesos was given instead. The giving of the *papod* is not an acceptance of guilt. It is to prevent chaos and restore peace and harmony between the litigants. The *papod* is returned should the culprit be found and apprehended. If the suspicion is not proven within five months from the giving of *papod*, the suspect is cleared.

3. VEHICULAR ACCIDENT: Basao Vs. Naneng

Nature of the case: The crime is homicide through reckless imprudence.

Facts of the case: At about eight in the morning, July 6, 2006, an elder of Basao sub-tribe named Gunnay was crossing the national road in barangay San Juan, Tabuk, Kalinga when a passenger jeep driven by a member of a sub-tribe from Naneng was fast approaching. The old man could not decide whether to let the jeep pass by or go ahead and cross the street. The driver got confused leading him to bump and kill the old man. The jeep itself went straight to the shoulder of the road and turned turtle. The driver's arm was fractured.

Action taken: The sub-tribes of upper Kalinga like Basao are apt to make retaliation at once even if the cause of death is accident or unintentional. To prevent this, the people of Naneng proceeded right away to the place of accident to give support to the bereaved family thus cooling off the situation.

Immediately through the request of the Naneng sub-tribe, the MBC-MCB made negotiations with the Basao sub-tribe. The funeral services as well as the clothing of the dead were shouldered by the owner of the passenger jeep. He also gave two *kallantang*, (big carabaos the horns of which measured from the tip of the middle finger to the armpit) as *utong* or *bagungon* (wergild). These were slaughtered during the wake. In addition a cavan of rice and a jar of *basi* (native sugar cane wine) made up the partial settlement of the case. The final settlement was done after the burial where Basao will state their final demands and bargaining.

4. BOUNDARY DISPUTE: Guilayon, Biga, & Dallac Sub-tribes

Nature of the conflict: The conflict is about the boundary and jurisdiction among the three sub-tribes: Guilayon, Dallac, and Biga.

History of the case: The Matanao property is located within the ancestral domain of Guilayon in barangay Calanan, Tabuk. The then Governor Bado Dangwa applied for the titling of this property with the consent of the Matanaos. When this matter reached the knowledge of the late Lorenzo Gunaban, he filed a petition against the governor. Before the death of Matanao's grandmother, she stated in the presence of the tribal leaders and the elders of Guilayon that the property be given to her grandchildren.

In a dialogue, Mr. Dangwa promised to give 15 hectares of land to Lorenzo Gunaban. In 1987 Gunaban led his clan and tribes mates to the area, occupying and clearing it. The following year while clearing the area, one of the tribesmen in the person of Mr. Dominador Magmoyao was shot to death.

It was at about this time too that the Biga tribe took the opportunity to occupy the land. The Gunabans made a complaint against the Bigas to the provincial government through the Cultural Community Negotiators (CCN). The decision was that the Biga tribe should give a portion of the land to the Gunabans. This infuriated the Biga tribe.

In 1997, the Indigenous People's Rights Act (IPRA) was approved. The Guilayons invoked the provisions of this law concerning the delineation of the ancestral domain claim. Thus the Presidential Adviser on Process (OPAPP) conducted a congress where the territorial dispute between the Guilayon and the Biga tribes was heard. This was held in Calanan, Tabuk, Kalinga.

Status of the conflict: The conflict resolution was set with the agreement that the boundary delineation be made. However the *dornat* (renewal or warming up) of the bodong between the Biga and the Guilayon sub-tribes that should be part of the ritual of the concluded pact was not yet set.

Composition of the participants:

1. Primary: government officials and bodong holders of the concerned sub-tribes
2. Secondary: populace
3. Mediators: elders and pioneer settlers
4. Support groups: National Commission on Indigenous Peoples (NCIP), CAO of the LGU in Tabuk

Process documentation of the *tongtongan*:⁴ The meeting of the Guilayon, Dallac, and Biga sub-tribes was presided over by Mr. Alex Gunaban, the executive director of the Community Affairs Office (CAO) of Tabuk Municipality. He explained the intent of the meeting and introduced the sponsoring agencies namely: LGU-TABUK, NCIP and OPAPP.

Mr. Napoleon Ayang-ang of the NCIP said they were there as observers to witness the event and not to interfere in the decisions. He however reminded especially Mr. Gunaban that the meeting be well attended and represented.

Mr. Salibad, the Barangay Captain of Nambucayan remarked that the concerned agencies and the facilitator elicit well all the opinions of the attendees.

Mr. Lumbican, Barangay Captain of Calanan reminded everyone present that the said activity is to discuss the claim of Guilayon to delineate their ancestral domain.

Mr. Celino Linggayo of Biga said that it is good NCIP is present thereby giving credence to the existence of the Kalingas as Indigenous Peoples (IP).

Mr. Marcelo Gunaban of Guilayon addressed the people of Calanan and confirmed their inclusion in the delineation of Guilayon ancestral domain.

⁴ Editor's note: a *Tongtongan* is a forum or formal discussion.

Mr. Agustin Linggayo gave the history of the settlement of Biga. He said that the Department of Agrarian Reform awarded to the people of Biga a Certificate of Land Ownership (CLOA). He further said that he applied for an area for reforestation project which was then granted. This was named after him. He concluded with a plea that if possible the political boundary of Calanan be cancelled.

Hon. Ignacio Baglinit wanted clarification that the carabao they will give be considered *lo-om* (token for jurisdiction). Calanan will not be included in the *bogis* (delineation of the boundary).

Mr. Gunaban's reply to all these is that the body has to decide if they will resort to *kulligong* (a portion of the tribal territory delineated and segregated as belonging to a person of another tribe and therefore belongs to the tribe of the owner).

Mr. Sabas Balignit of Biga pleaded to the Guilayon people to consider the improvements of Mr. Linggayo and his group in the developments of the said area.

One of the bodong holders of Dallac suggested that if they give a carabao, the Guilayon must also give what is due to them.

Lunch break was announced. On resumption, the Biga sub-tribe accepted the old bogis and to give a carabao to the Guilayon for them to enter the bogis of Guilayon. If they don't agree as signified by the non-acceptance of the carabao, the old bogis will be transferred to the mountain facing the Army's 501st Brigade Camp.

In addition, Mr. Linggayo said that if the claim of the Guilayon ancestral domain be granted, the improvements done by Biga be given to them.

All these shall be finalized through a renewal ritual, a part of the bodong tradition called *dornat* between the two sub-tribes where the final agreement be embodied or incorporated in the *pagta*.

Problem areas/issues and concerns raised:

1. Proper stationing of boundary
2. Claim to the improvements in the identified boundary
3. Guilayon's ancestral domain delineation specifically in the boundary fronting Calanan

Some Tangible Effects

There is a visible change towards the sustainability of the peace process. Among others, the expansion of the Matagoan Bodong Council originally composed only of the 8 Tabuk sub-tribes to Matagoan Consultative Body where other ethnolinguistic groups are included, showed that the residents of the town willingly want to be under bodong. Tabuk being the capital town is fast becoming a melting pot where people from different parts of the Philippines come to settle.

There is a strong feeling and conviction that no state laws and ordinances can take the place of customary laws and traditions. The essence which is restorative justice redounds to peace and harmony in the family, community or *ili*.

The negative effects that occasioned the preference of a number of Kalingas to scrap bodong are brought about by extraneous factors foremost of which is the intrusion of political figures with self interest. Often enough bodong is made the scapegoat or a reason for committing crimes. Global forces like modernity, commoditization, consumerism, extreme materialism and individualism are as much responsible for the alarming increase of criminality.

Whatever vitiations the bodong has been subjected to, its inherent orientation to restorative justice, community based and consensus decision making are the hallmarks that make it humanizing and therefore sustainable. Lastly, the recognition of the LGU for indigenizing its legal system through the interfacing with the bodong is vital in making a sustainable paradigm for bringing peace and harmony.

Parallel to the efforts of the LGU Tabuk is the Peace Movement initiated by the Vicariate of Tabuk under the leadership of Bishop Prudencio Andaya, CICM, DD.

Likewise alarmed by the deterioration of the peace and order situation where the tribal feuds take their toll on individuals, families, and communities yet amazed at the magnanimity of some families of victims not to take revenge, the good Bishop took this as his cue to institutionalize the inherent yearning for peace and reconciliation among the people.

A more original insight inspired by a deep grounding with his affiliation by birth with Lubuagan, Kalinga and later by his 13 years of missionary work in Zambia, Africa, is the retrieving and enhancement of

culture through the establishment of a research center cum museum. This is strategically placed under the auspices of the Graduate School of St. Louis College, Bulanao. Working full blast since its inauguration a year ago the Cultural Heritage Research Center (CHRC) is actively gathering materials on the different dimensions of Kalinga culture and society. Even as it documents the goings on specifically on the bodong, an unexpected turn of events happened. An ethnohistory research was being undertaken by me (the anthropologist in residence/research fellow) including a genealogy part for which about a couple of years of data gathering was slated.

Little did the CHRC know that the elders of Tabuk on the encouragement of Mayor Lammawin had organized themselves and their clans for the recording of their pedigrees. Yearly, for the past three years they held reunions to get to know each other, their ancestors and descendants. Their organization, the Andagui-Gayoway Lineage Organization (AGLO), was formally launched to encourage all members to fast track the recoding of their genealogies and the gathering of their myths especially on the peopling of Kalinga and their institutions. The origin of bodong was thus established to counter what historians had allegedly concocted.

All three entities are working doggedly to attain the peace and prosperity that the Kalingas desperately long for.

Glossary of terms

Apas – wergild, compensation paid to the relatives of somebody slain, calculated on the basis of the person's rank in society

Bagungon – wergild, compensation paid to the relatives of somebody slain, calculated on the basis of the person's rank in society

Basi - native sugar cane wine

Binodngan- the populace under the Bodong

Bodong – peace pact

Bogis - delineation of the boundary

Botot – principle of the complainant and the suspects eat in the house of each suspect where the suspects if they are the culprits, will have their abdomen bloated resulting in instantaneous death. The same will happen to the complainants if the suspects are innocent.

Dornat - 'renewal' or 'warming up' of the bodong

Ili - community

Kallantangan - big carabaos the horns of which measured from the tip of the middle finger to the armpit

Kulligong - a portion of the tribal territory delineated and segregated as belonging to a person of another tribe and therefore belongs to the tribe of the owner

Lo-om - token for jurisdiction

Matagoan - zone of peace

Pagta/Pagta ti bodong - provisions of the bodong

Pangat - adjudicator, peace pact holder

Papod - wergild, compensation paid to the relatives of somebody slain, calculated on the basis of the person's rank in society

Patay - wergild, compensation paid to the relatives of somebody slain, calculated on the basis of the person's rank in society

Sapata - sworn statement

Tongtongan - a forum or formal discussion

Utong - wergild, compensation paid to the relatives of somebody slain, calculated on the basis of the person's rank in society

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