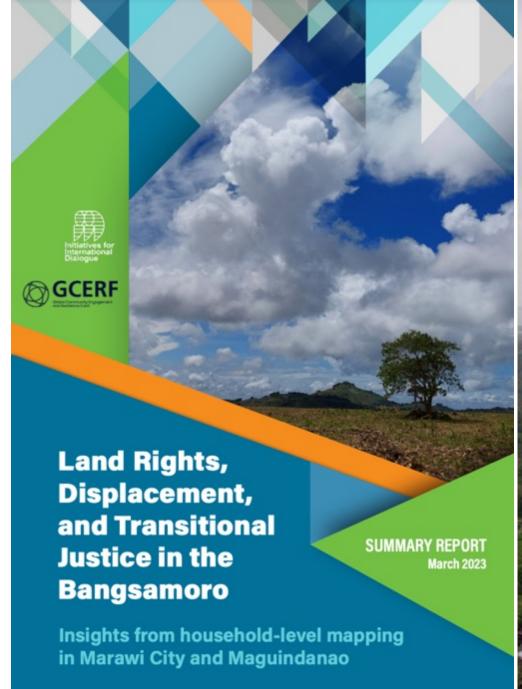
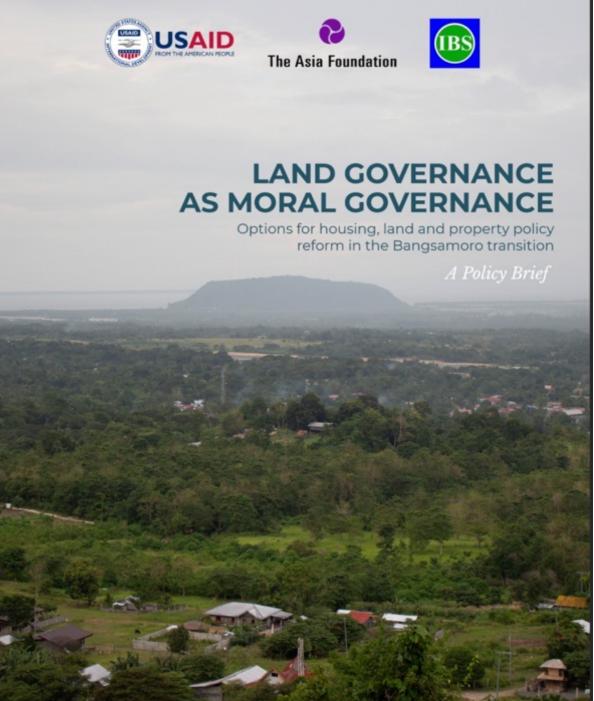
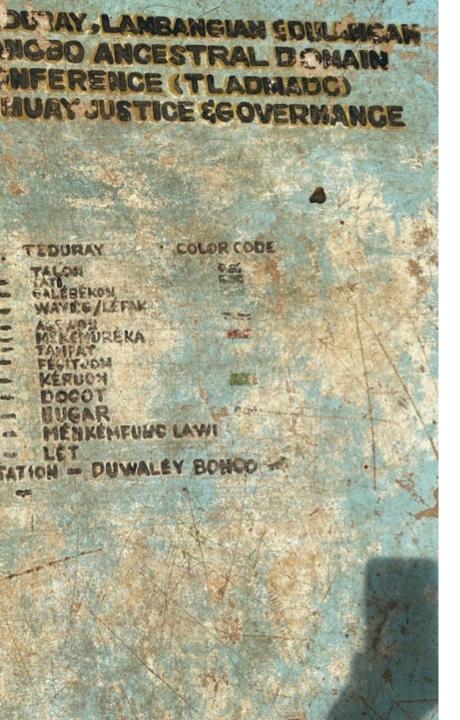


Maria Carmen Fernandez
PhD candidate, University of Cambridge Department of Land Economy
World Bank Land Conference (Research Track)
The World Bank, Washington, DC | 15 May 2024
mcf44@cam.ac.uk | @icafernandez



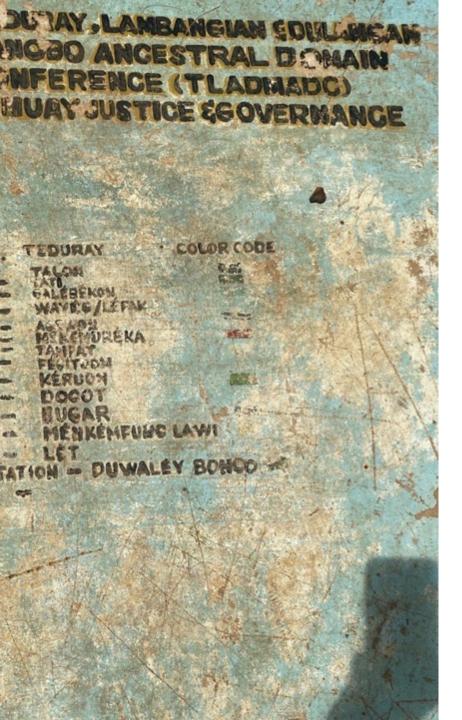




# On land claims and peace deals

Most contemporary peace agreements have commitments related to land conflict, forced displacement, post-crisis reconstruction, environmental resource management, land reform

- Most attention on territorial scope and "peace dividends" for former combatants and communities
- less on plural (Torrens + pre-colonial customary + informal) property regimes and overlapping tenurial claims



# On land claims and peace deals

What happens when multiple indigenous groups have contesting legal, historical, and use claims over the same areas at the same time?

What **spatial and collaborative methods** can we use to constructively surface and navigate these dynamics?



#### Philippine national law and administrative policy

#### RA No. 11054 + IGR implications

Existing Agrarian Reform + HLP legislation Pending N/RTJRCB Bill Pending N/RIDP law Pending NMIP Code

RA No. 11696 s. 2022, Marawi Siege Victims

**Compensation Act** 

RA No. 8371 s. 1997, IPRA

Pending IDP Law

International frameworks on HR/IHL

HLP rights of IDPs, IPs

'durable solutions' Criminalisation of arbitrary displacement



BTA Legislation and issuances

Peace process commitments (GPH-MNLF, GPH-MILF)

Traditional practice
Adat, customary law

Izma, taritib Shari'ah



### IMPLEMENTATION OF THE COMPREHENSIVE AGREEMENT ON THE BANGSAMORO



Signed 27 March 2014

2019 - 2022 2022 COMPONENT POLITICAL PASSAGE OF THE **ESTABLISHMENT OF THE ELECTION OF ESTABLISHMENT** BANGSAMORO **BANGSAMORO TRANSITION** BANGSAMORO PLEBISCITE OF THE **ORGANIC LAW** AUTHORITY (BTA) **OFFICIALS BANGSAMORO NORMALIZATION** Alongside the road map toward the establishment of the Bangsamoro, a Normalization Process will be implemented by both the GPH and MILF. CREATION PHASE 1 PHASE 2 PHASE 3 PHASE 4 OF BODIES & **MECHANISMS** 30% of MILF forces Remaining MILF forces Ceremonial turnover of 35% of MILF forces Independent decommissioned decommissioned decommissioned Decommissioning weapons & FAs SECURITY Body JNC recommends criteria for AFP Start of implementation of AFP Continuing implementation of AFP Continuing implementation of redeployment; Establishment of a redeployment; deactivation of redeployment; continuing actions AFP redeployment; continuing Normalization National Agency Task Force for the S/CAAs; actions against PAGs; FAs against PAGs; FAs control & actions against PAGs; FAs control Committee disbandment of PAGs; JPSC/JPST control & management; preparatory management; Operationalization & management; Policing in the work on disbandment of PAGs work for policing in the Bangsamoro of police force for the Bangsamoro Bangsamoro is constituted Joint Peace and Security Committee CEASEFIRE MECHANISMS (CCCH, IMT, AHJAG)\* Joint Peace and Security Teams Task Force for SOCIO-ECONOMIC Decommissioned DEVELOPMENT IMPLEMENTATION OF SOCIO-ECONOMIC PROGRAMS Combatants and **PROGRAMS** their Communities TRANSFORMATION OF CAMPS CONFIDENCE Joint Task Forces on BUILDING Camps Transformation **MEASURES AMNESTY** 

JUSTICE AND RECONCILIATION

TRANSITIONAL



Third Party Monitoring Team MONITOR, REVIEW AND ASSESS IMPLEMENTATION OF ALL SIGNED AGREEMENTS



\*The Parties shall determine the transition of these mechanisms into other appropriate mechanisms in the Normalization Process

Transitional Justice

& Reconcilation

Commission

MONITORING

Peace Panels Action on

**TJRC Recommendations** 

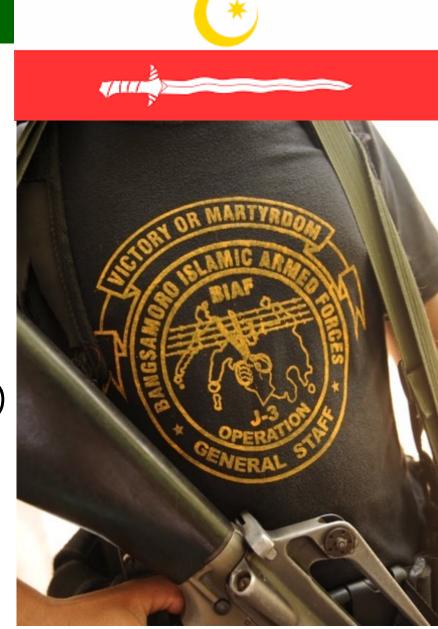
IMPLEMENTION OF TJR PROGRAMS





## **Program for Normalization**

- 1. Security Aspect
  - a. Policing
  - b. Transitional security arrangements
  - Decommissioning of MILF forces and weapons
  - d. Redeployment of AFP units and troops
  - e. Disbandment of private armed groups (PAGs)
- 2. Socio-Economic Development
- 3. Transitional Justice and Reconciliation
- 4. Confidence-Building Measures



## Location of 6 Previously Acknowledged MILF Camps

(Maguindanao)

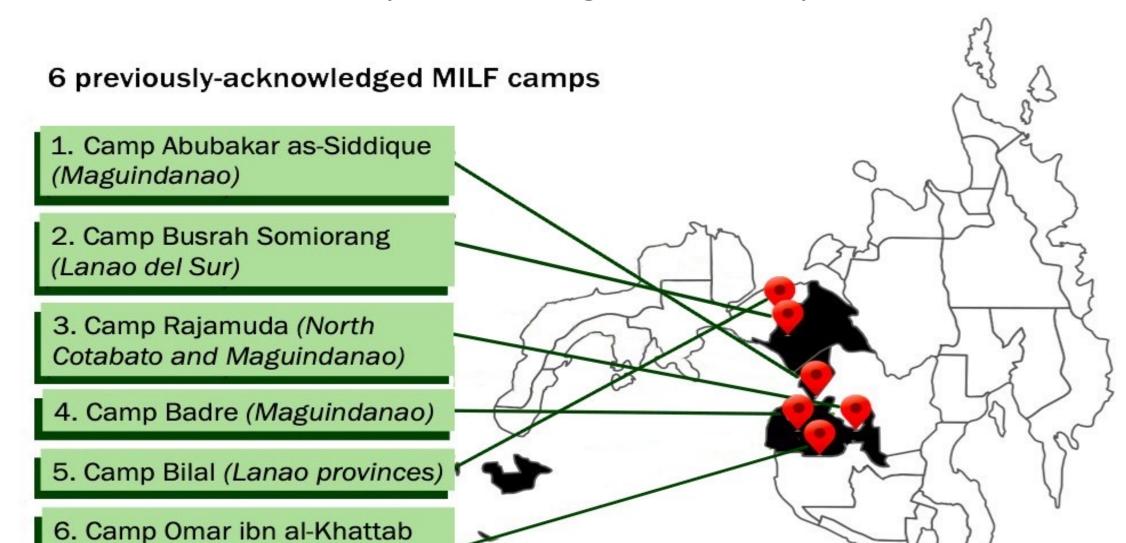
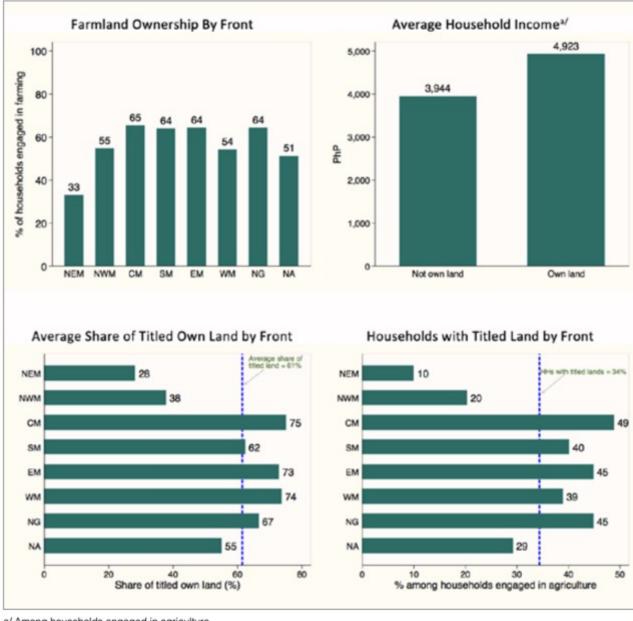


Figure 16. Farmland Ownership And Titled Lands Among Households Engaged In Agriculture



a/ Among households engaged in agriculture Source: BIAF Needs Assessment 2015



Fernandez, Baunto and Villasper, 2019 OpenBangsamoro.com

Camp Bad'r

MAGUINDANAO

SULTAN KUDARAT

LANAO

DEL

NORTE

SOURCES Philippine Statistics Authority and NAMFI TFCT, IBS, World Bank ACKNOWLEDGED MILF CAMPS

(NORTH COTABATO)

LANAO

DEL

SUR

Camp Abubakar LEGEND

MILF Camps

Provincial boundary

Municipal boundary

Provincial capital/city copy

Camp Abubakar

Camp Bad'r

Camp Bilal

Camp Bushra

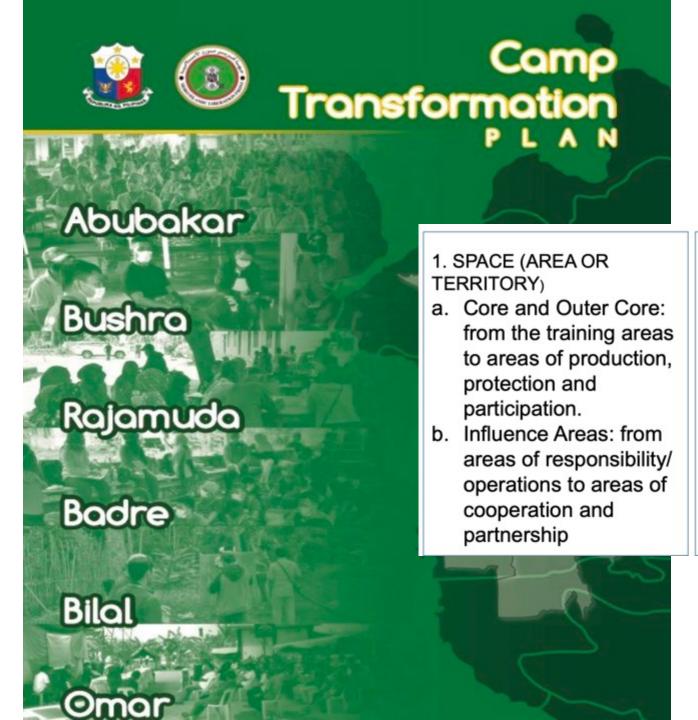
Camp Omar

Camp Rajamuda

Camp Darapanan Camp centers

DAVAO

National or provincial road



#### 2. PEOPLE

As individual and groups

- a. In terms of capacities:
- Mindset (from being warfocused to being peaceoriented)
- What they can do (from war skills to life skills)
- b. In terms of their state
- Better access to livelihood opportunities and services
- ii. More participation in governance
- iii. More secure
- c. In terms of relationship More inclusive

- 3. RESOURCES
- a. War materiel is "put beyond"
- Natural resources are utilized and protected

### TIER 1 PROGRAMS

Agri-Livelihood Support for Camps Program

Community Infrastructure Support Program

Resettlement and Housing Program







Cooperative Developme nt Program Community Resilience Enhancement Program Social Cohesion Promotion Program

Environmental Management Program Spiritual & Cultural Preservation and Promotion

Leadership and Values Transformation



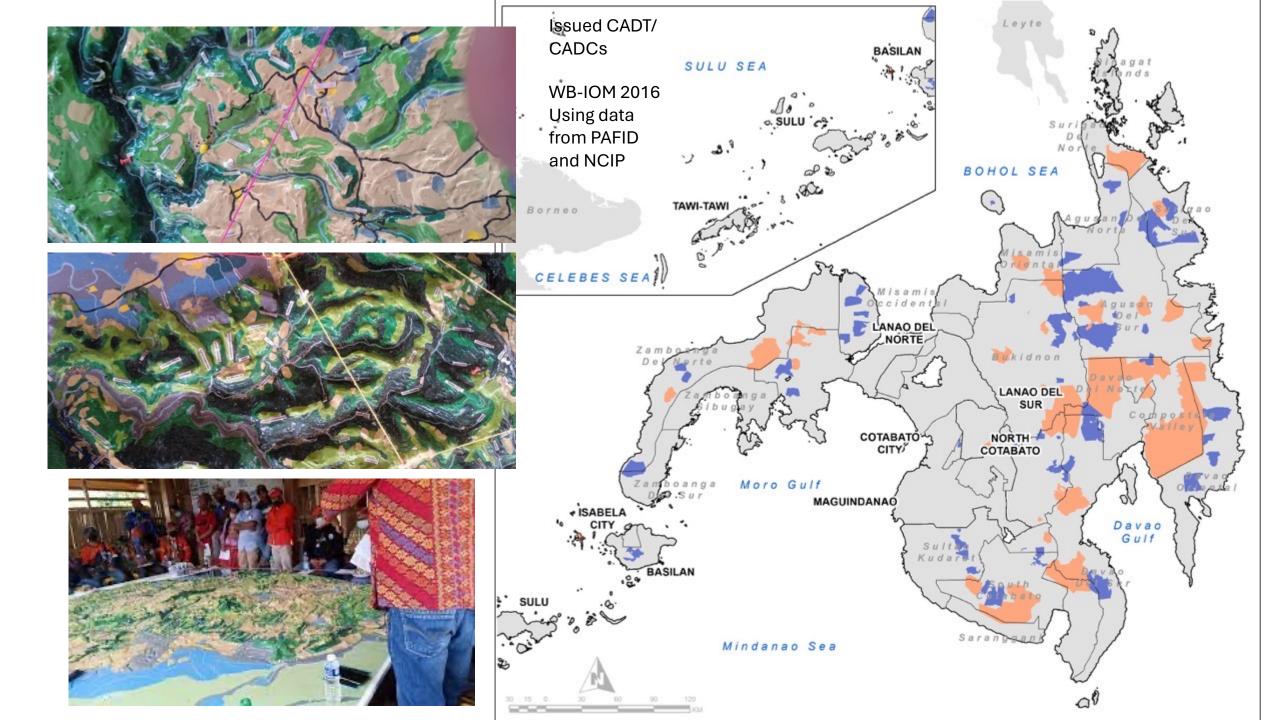


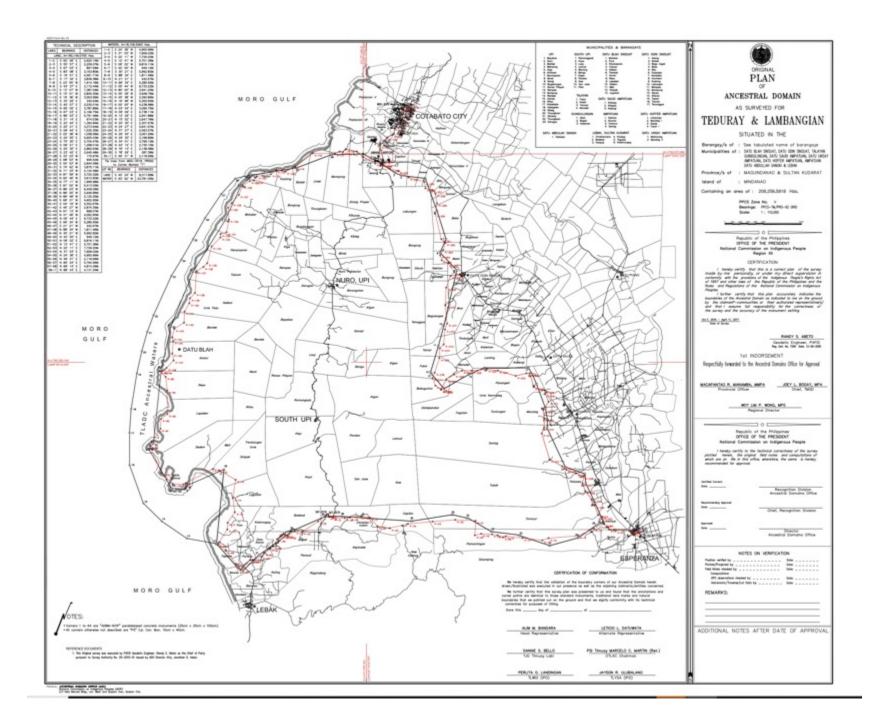












Boundary survey submitted to NCIP.

Validation will require technical accounting of existing vested tenurial rights and instruments within the boundary.

However, the boundary is important for historical acknowledgment and its implications for IPMR assignation at the LGU level.

## **Definition ng NMIP sa CAB/BOL**

- Teduray
- Lambangian
- Dulangan Manobo
- Blaan
- Higaonon\*\*

### Special cases

- \*Erumanen ne Manuvu with CADT, nasa electoral code
- \*Wao: others 17
- \*Sama-Badjau, Sama Dilaut ("minority" ICC, not represented)
- \*\*Yakan with CADT

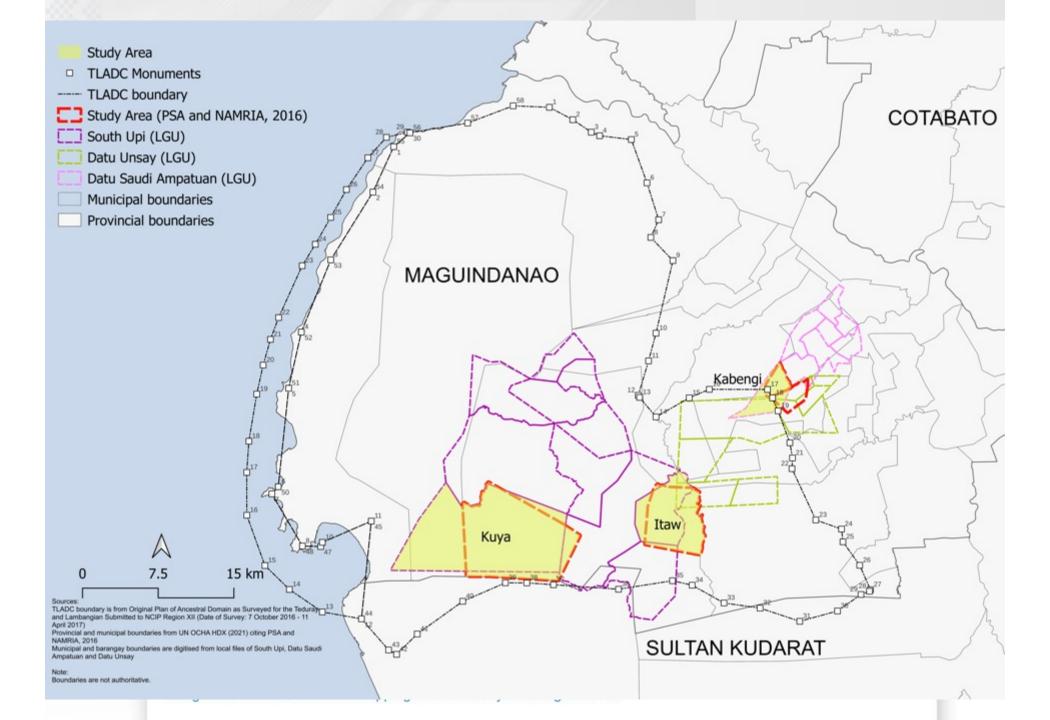
## Key issues in proposed legislation

- Parliament Bill No. 273, "An Act to Recognize, Develop, and Protect the Indigenous Peoples in the BARMM, Strengthening the Ministry for Indigenous Peoples Affairs, ..."
- "Non-Moro IP" vs. IP vs. ICC; naming by MIPA
- Identity, Ancestral Domain, Indigenous Political Structures (vs MIPA Tribal Councils)
- New tenurial instruments: Certificate of Fusaka Inged Title (CFIT); Certificate of Ancestral Lands Title (CALT)
- Creation of a Fusaka Inged Development Authority (FIDA)
- Tribal Justice System

# Approach: hybridity, legibility

- Research design initiated by request by Government peace process ministry (OPAPRU) in December 2020
- Joint GPH-MILF mapping process deemed not possible yet in early 2021
- Community-level parcellary research initiated with consent of parties and affected communities, including FPIC from third quarter of 2021 to March 2022, implemented through MILF and Teduray-affiliated NGOs + INGO/donor funding (IID, GCERF, Netherlands)
- Parallel regional-level policy analysis on BARMM land governance issues through the Bangsamoro Transition Authority and the Institute of Bangsamoro Studies from April to December 2021 (TAF, USAID)

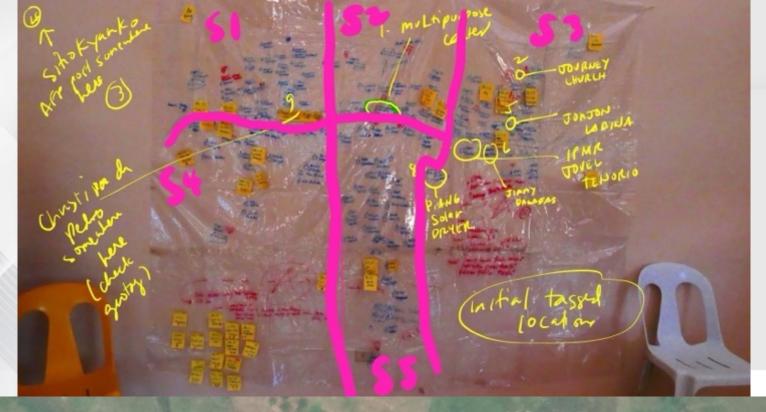




Issues	Approach
Data poverty / scarcity in conflict areas	Surfacing and making legible local knowledge, experiences, expertise
Top-down processes, lack of access for and control by IDPs	Participatory and peer-led design, implementation and analysis
<ul> <li>Difficulty in integrating formal/legal and community data while reconciling overlaps</li> <li>Missing or uneven physical framework data</li> <li>Fuzzy parcel-level information (homelot and farmlot)</li> <li>Spatial and temporal effects of cyclical displacement ("kefererey beketin")</li> <li>Contested narratives and framewprls</li> </ul>	<ol> <li>Cross-validation of:</li> <li>Historical narratives (including cross-validated accounts and transcribed interviews in original languages)</li> <li>Maps</li> <li>Household-level geostatistics</li> <li>Plural legal frameworks</li> </ol>



Land rights, displacement, and transitional justice in the Bangsamoro: Insights from household-level mapping in Marawi City and Maguindanao





#### CONFIDENTIAL Curvey partir y completed RESEARCH ON LAND, DISPLACEMENT AND TRANSITIONAL JUSTICE MARAWI AND LANAO DEL SUR, BARMM Kil Questionnaire (General Displacement) Assatz e a deskum po entre en abilitar som kombonitar. Condinanti gia ikunganiswa ny. Assault is supposed to microstyle have become unit. Magazing amaga/katanipakapa. with support from infrar yes for international Dialogue. Appropriately, on productional no including the improvious Posterior (97): Variet Advocacy Accompanies (1984), only resembles that the University of Committee the study Chalogue, for made the Barrao Foundation (SFI). Manual Arban any Assumption and (MAA), along approximate analysis. aims to understand the experiences of the residents of Marroy's University of Cambridge, And page as after house recognition to Olympit Lance del Carinesi atomio i a di and displacement, and solicii suggestions and recommendations on how to improve the metric after any house and recover modern to a Marael City. In Lance de Carriorgico de Supe, in la cagino de City. s leation. The processed data will be returned to you and the mental approximate authoritor o referenciata con facer approcommon with recording to evaluation, and the result of the study of the suppristed to pecial considers in the nectoral. reading and rang selection. And representing distancy debate as eye at as formulated at Think you be agreeing to be part of the study. Before we begin so you'd settle only come aspects of the measure and its Appropriate Adjustment of the purpose and provincial standard and provincial and proeach as to Depo to tele magainer, the polarity through anything management and them, proceeds the plant objectives and secure your consent regarding your role in the and any leyong reaging cape to securate to page and t this possibilities will be a not premind without Angleweither as a may expresse special people at weap research. Your name and other personal information of incompanion in the special many decimans a said, or wide a recoding or any Ang myong pangalan se iba pang parabhal na importasyon ay rito di fisianza dia fisi ano menya defaminante, acello di viden. product residing from this research. recorded is a so be a subgrouped about a finished po-Management becomes out the research, we see that you to show Cold common committee or committee or committee or your experiences in a visual manner, frequent drawings, in order for shock your remainment of one or the material of the space of your site and betraggry, Deserting and mapping is useful. ng tamanan ay gaga se da paramanang salahi sa pagkas ang tipang salahi salahing nagang nikang salahing PORMATO DE MICHO DE RIPOSO ANO AL APPRICAM. MANAGOS ANO because not exercising our be recorded through this what we would not should be about the contract of the second second and the second prophening of prophenings with find what of lover is ay executed models to be taken that their executive section of the ng malaseta as ugar yang asan nanggapat ang binat na ito

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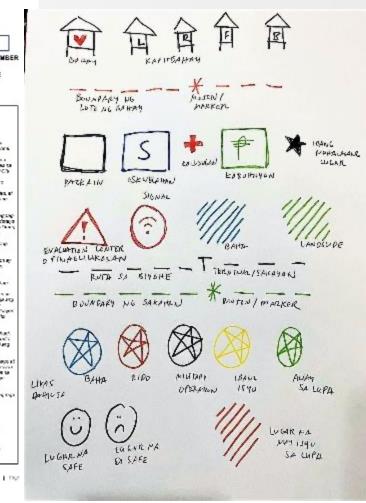
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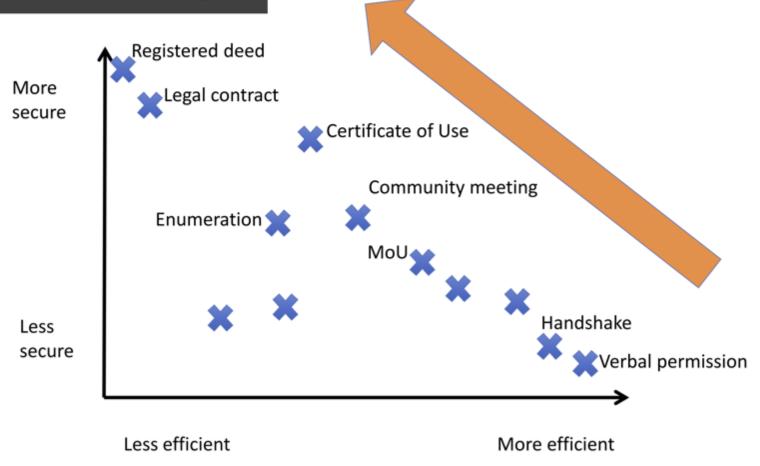
LINE, DEPLOCABLE AND TRANSPORTS AND PROPERTY AND ADDRESS AND ADDRESS AND



- 1. Household characteristics
- 2. Neighborhood before and after the siege
- 3. Housing status
- 4. Livelihood Akses sa lupang pang-negosyo at pang-agrikultura
- Karanasan ng paglikas (Experiences of displacement)
- Hidwaan at pagaayos ng di-pagkaunawaan (Disputes and dispute settlement)
- 7. Socio-economic development and post-conflict reconstruction
- 8. Recommendations

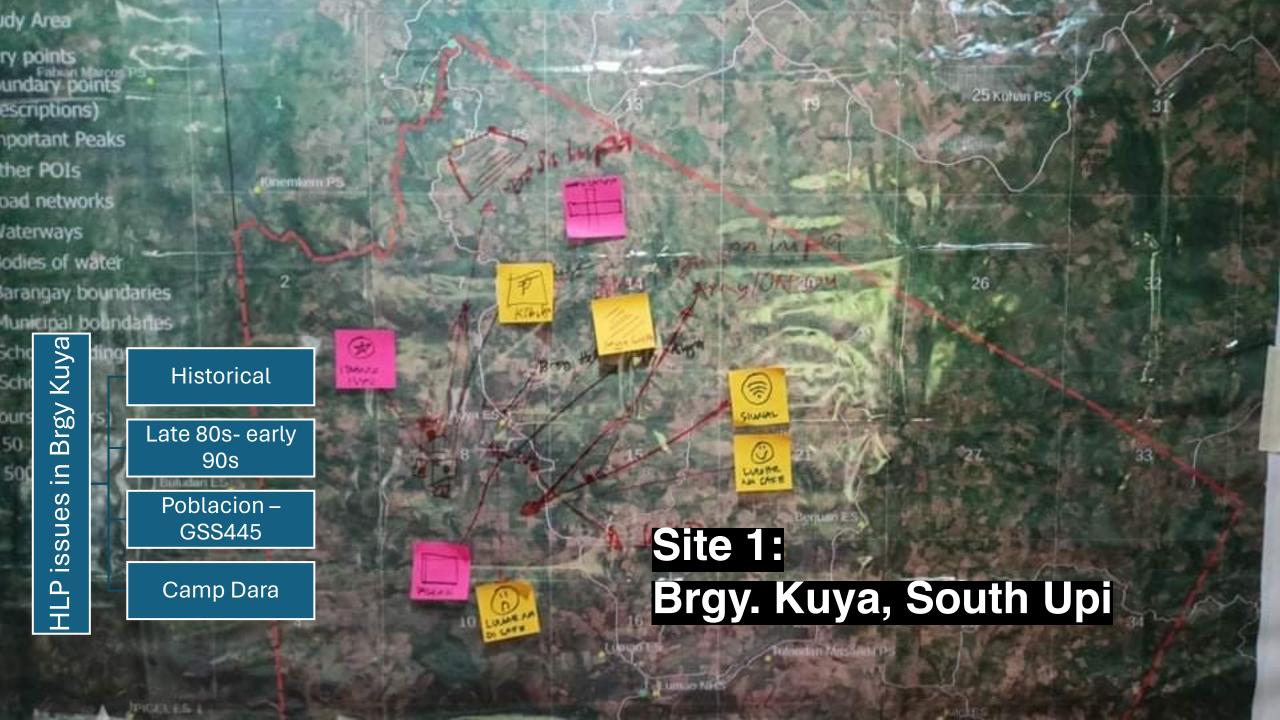
## **Mapping the Local Context**

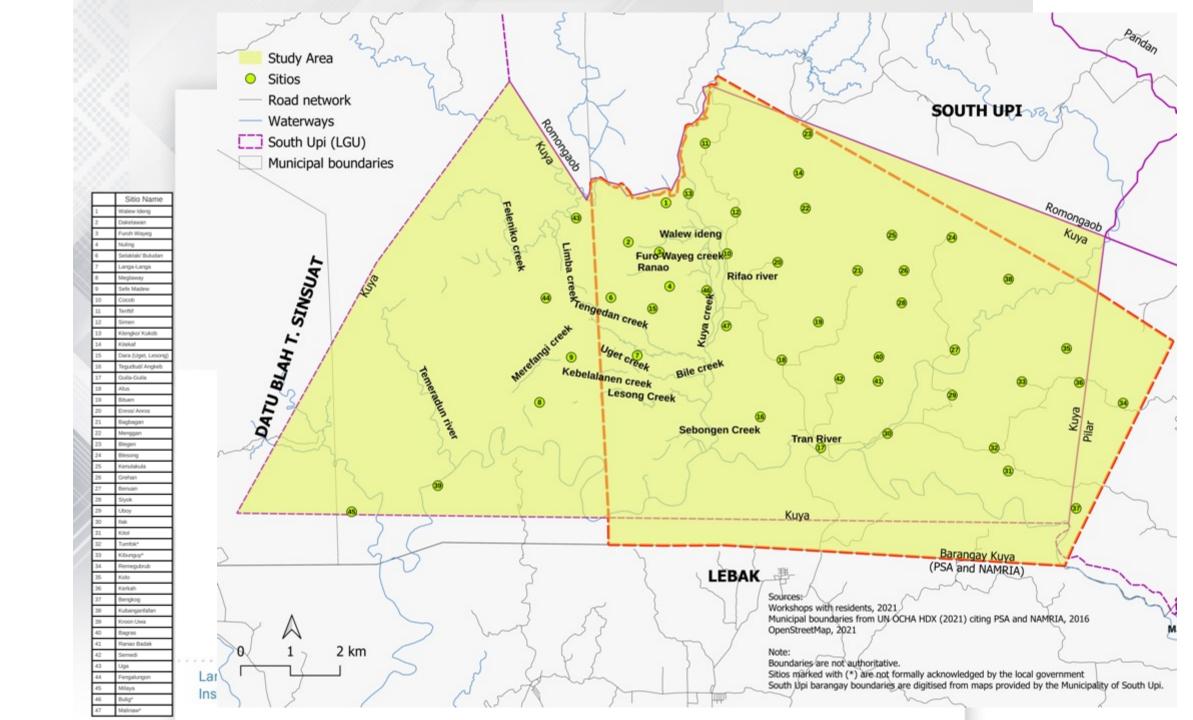
What is 'Secure Enough'?

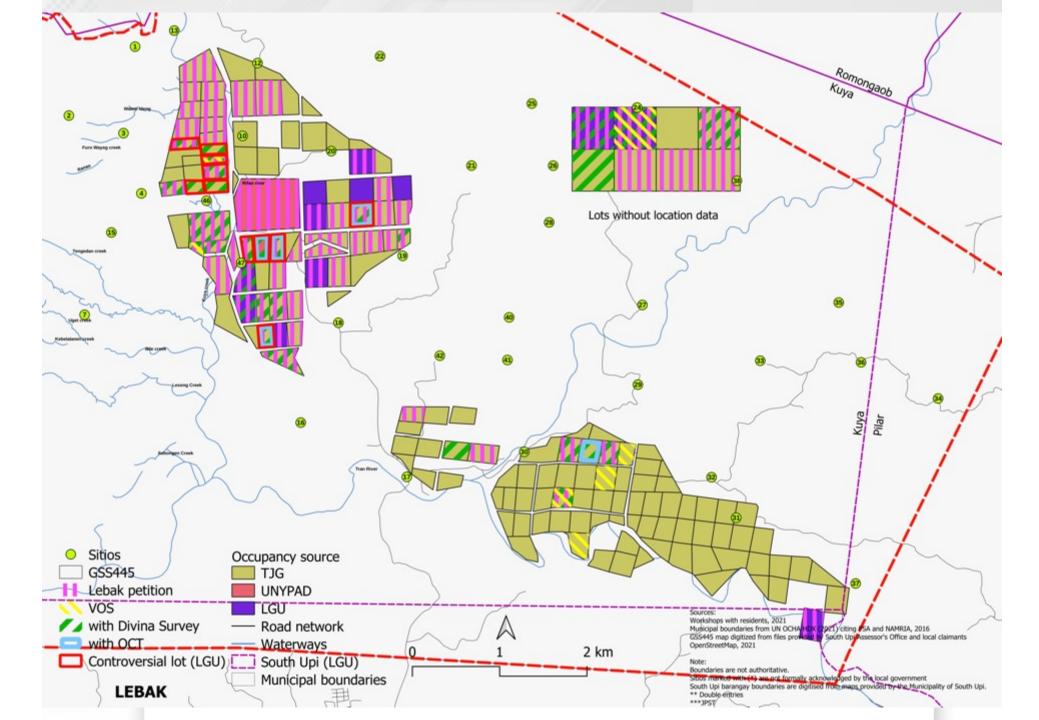


Source: UNHCR

	Kuya	Manguda	Bagong	
Georeferenced HH interviews	62 georeferenced interviews 35 – TJG 27 – UNYPAD	35 (TJG)	34 (TJG)	
Parcels	202 parcels	87 houselots 153 houselots parcels 98 farmlots		
Land area 11,775.8 ha		2,751.1465 ha	No official data	
Typology	Mixed settler and IP; Maguindanaons still displaced MILF-BIAF community	Lambangian community; settler political leaders and middlemen. LGU contestation	Host community for Teduray IDPs from Mt. Firis	
Violent incidents	1958, 1959, 1962, 1972 (Cmdr. Toothpick – Sitio Kitol) 1973 – MNLF 1983-1991 – displacement of Mag. 2016, 2017, 2019 – armed groups	2000, 2012, 2020	Post-2005, 2008, 2017, History of jizya	
Other issues	Drought Rat infestation	Food insecurity  Development aggression  BIFF / DI ?	Development aggression  Continued harassment –  BIFF / DI	

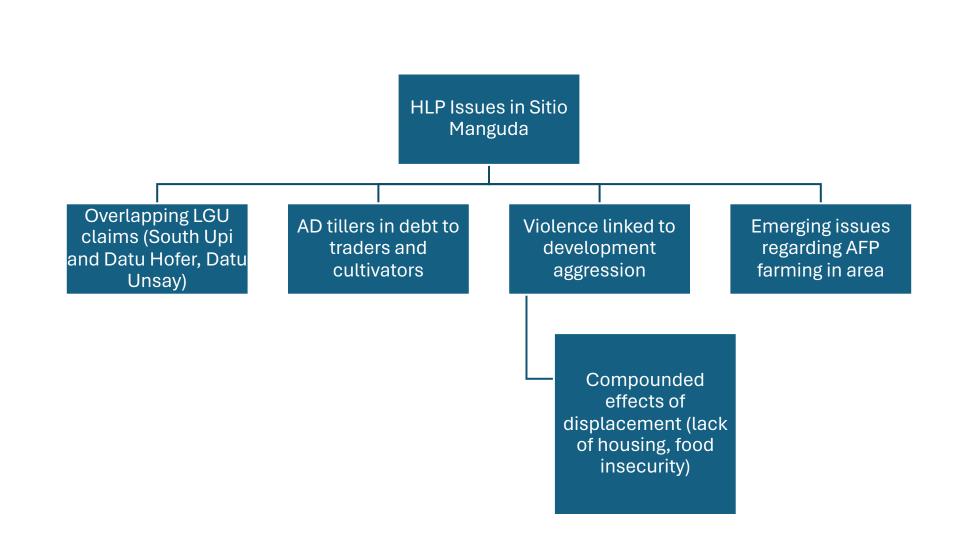






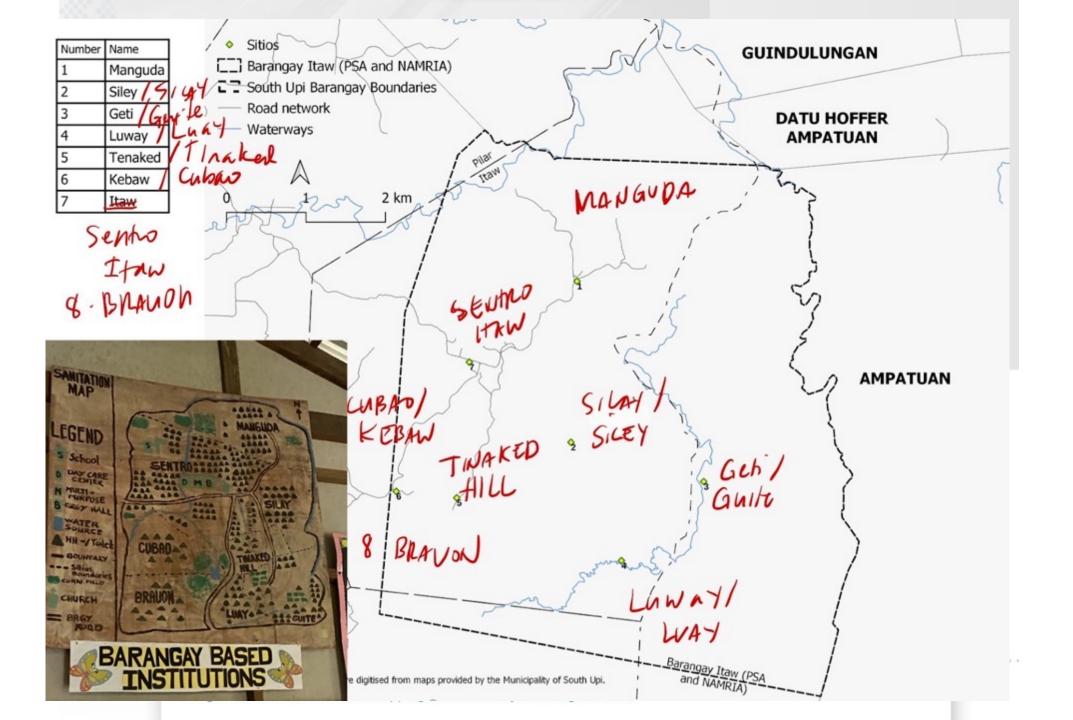
	Name of dataset	Source	Description		
		LGU South Upi Copy. Copied from the original submitted to the			
	List of original occupants under GSS 455 as of	Honorable Governor Sandiale A. Sambolawan, Al Haj, on September 4, 1985, at the Kabunsuan Cultural Center Hall		168 claimants	
		LGU - Prepared by Engr. Alan C. Devina	31 lots (plus 5 sub-lots)	151	99 with documentat , 53 with no documents occupants c
3		South Upi Municipal Assessors Office	15 lots (including 4 sub-lots)	28 registered claimants	no data on actual occupants
	·	Lebak Group petition submitted to Mayor Insular	63 lots (2 sub- lots, 3 unnamed)	74 petitioners	5 petitioners claiming multiple lots lots with multiple claimants
	0	team .	6 lots	7 petitioners	
6	Community list of actual occupants	Gathered by TJG in March - April 2022	84 lots		
7		Gathered by TJG in March - April 2022	80 lots		
8	Community list of claimants ment, and transitional	Inputs from UNPAD session	27 individual surveys + group validation	- 5.00 (6.00)	



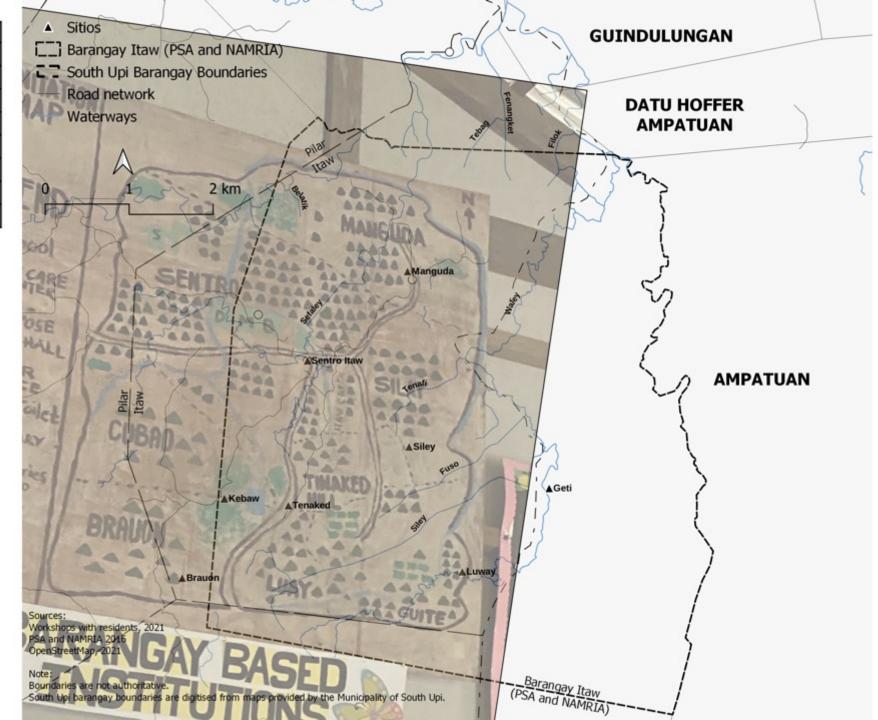


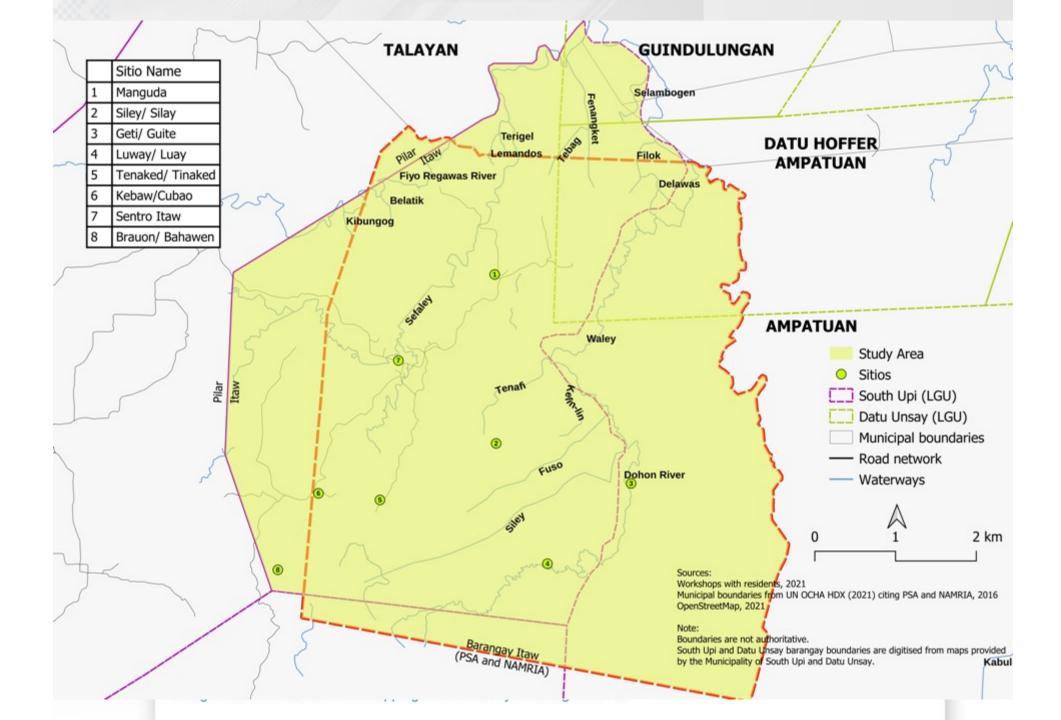


Land rights, displacement, and transitional justice in the Bangsamoro: Insights from household-level mapping in Marawi City and Maguindanao



Number	Name	
1	Manguda	
2	Siley	
3	Geti	
4	Luway	
5	Tenaked	
6	Kebaw	
7	Sentro Itaw	
8	Brauon	



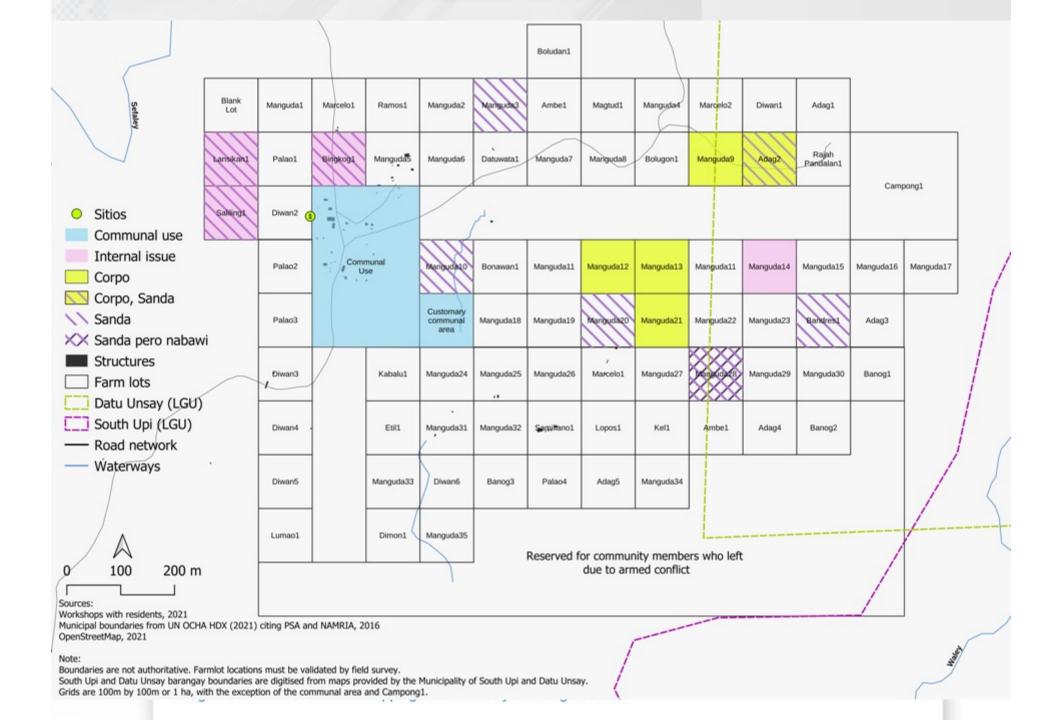


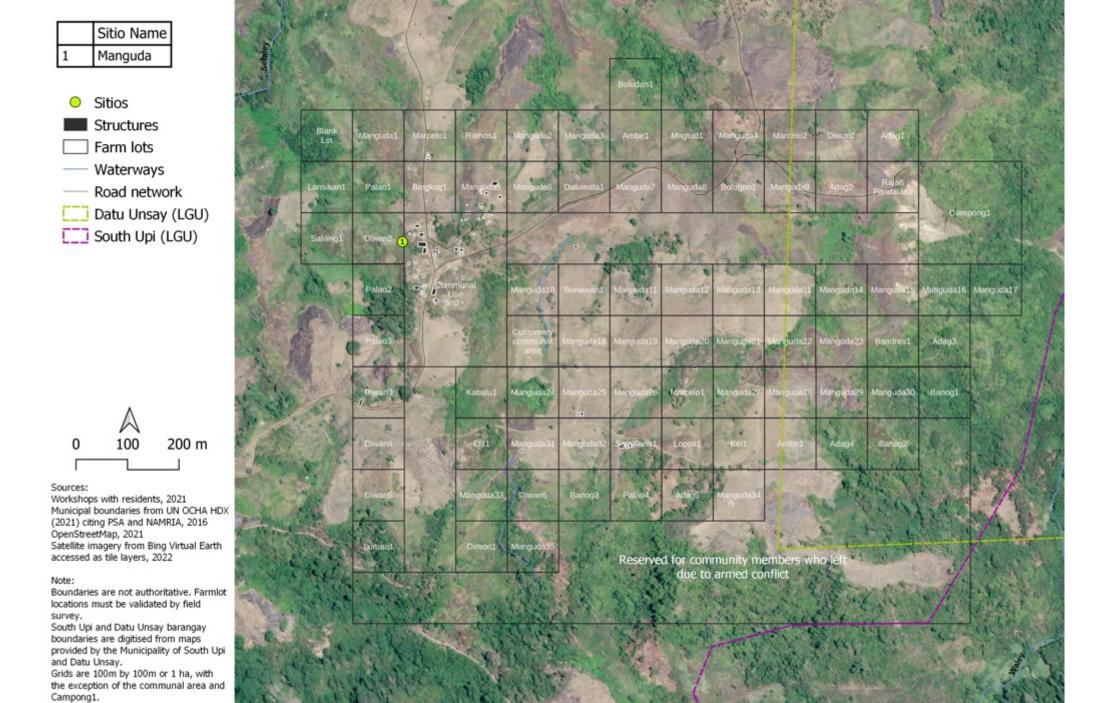


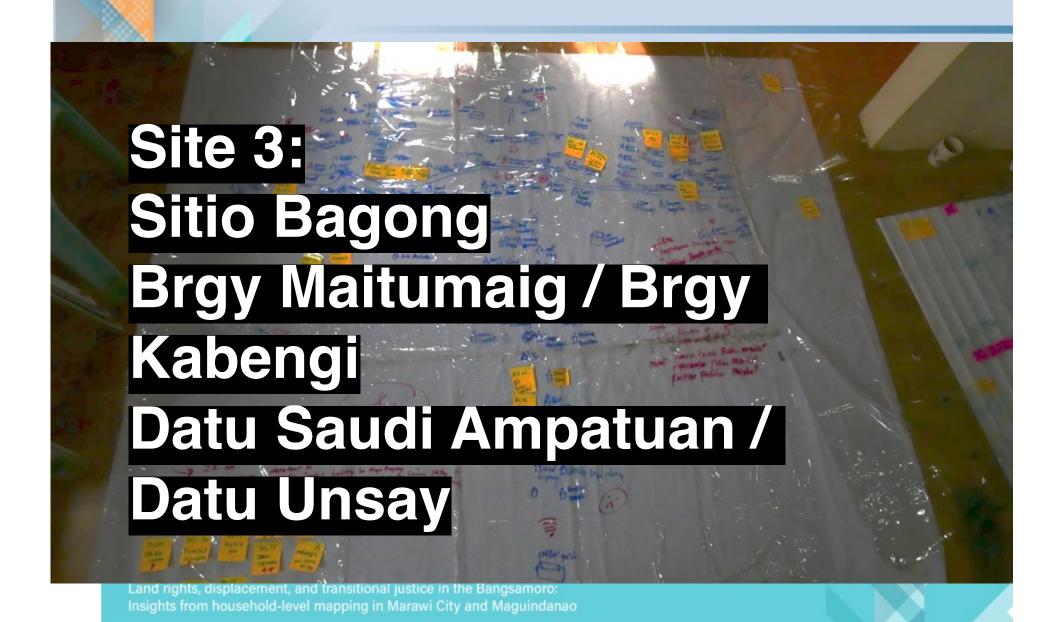
Land rights, displacement, and transitional justice in the Bangsamoro: Insights from household-level mapping in Marawi City and Maguindanao

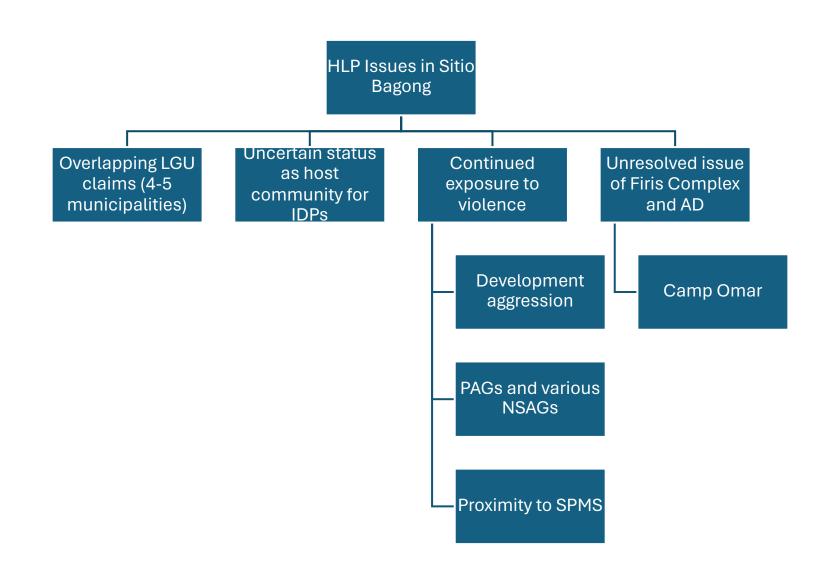


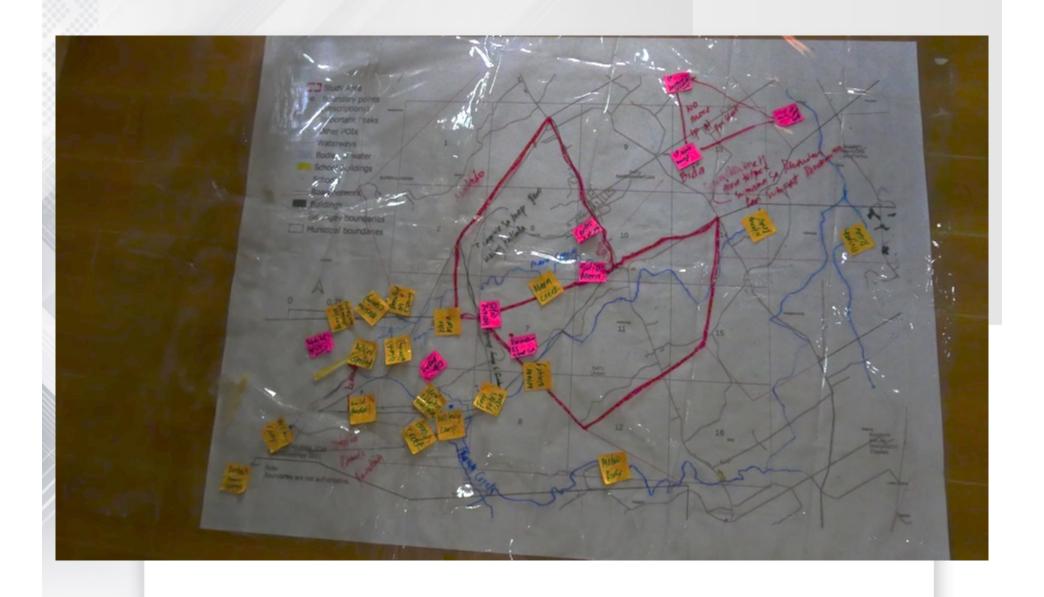


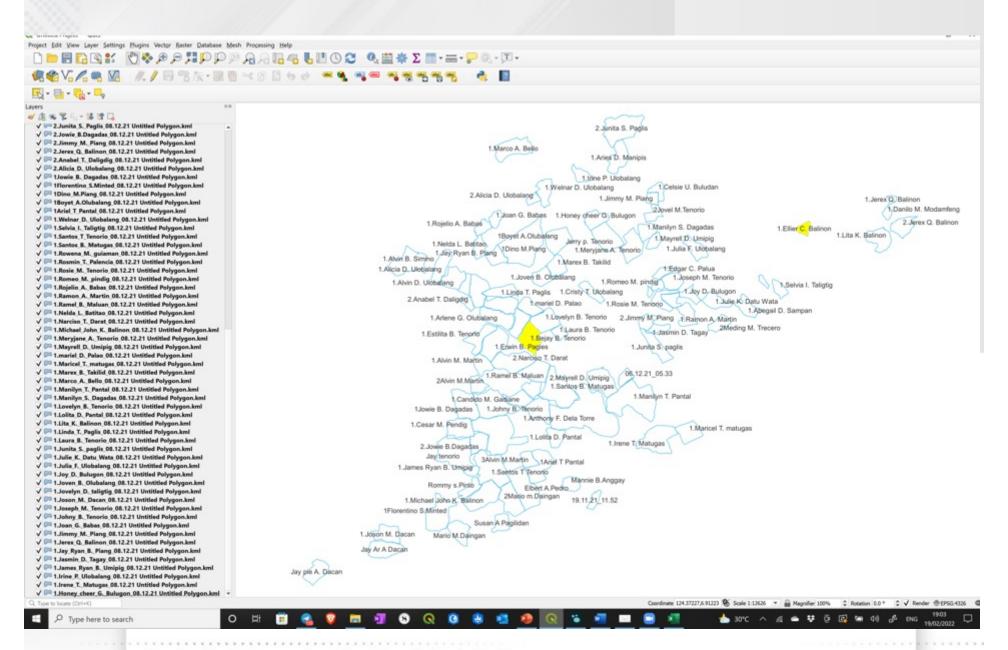


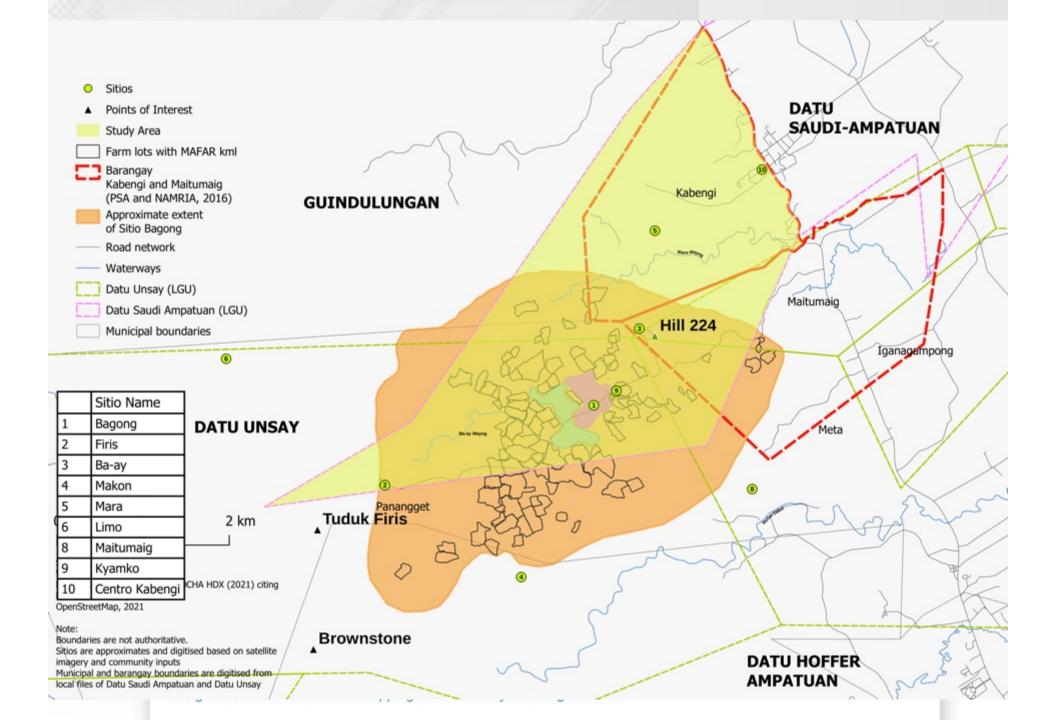


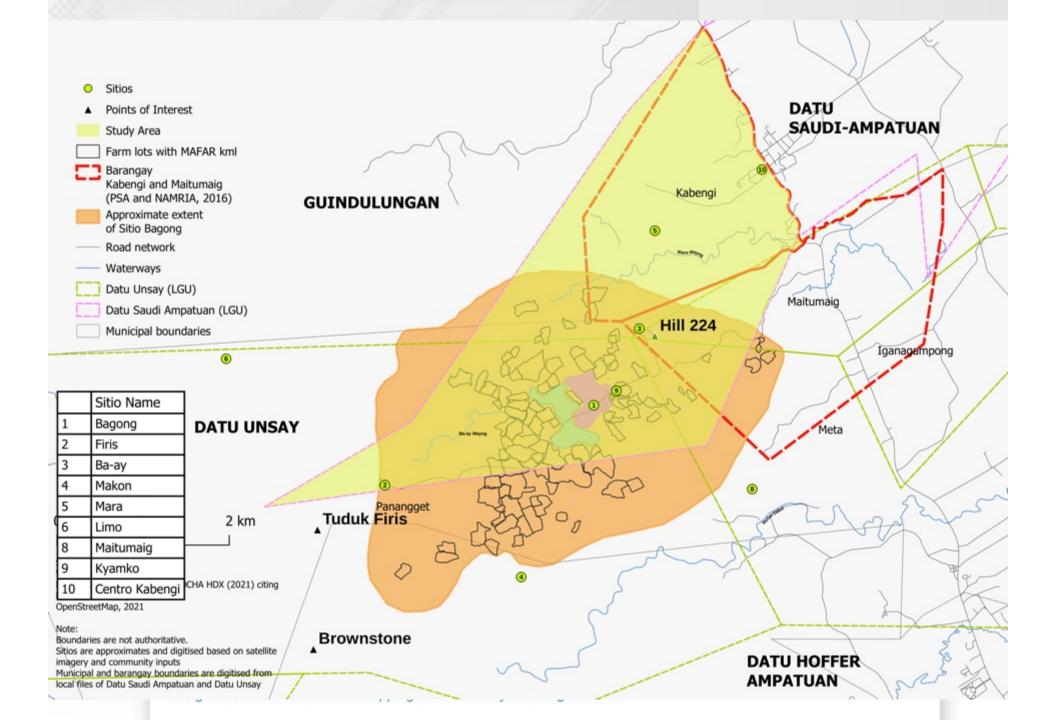












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Approximate extent					خ ا	Alva Santa	(Mayor)		
of Sitio Bagong					$\sim$	John Capano B.	thony W T.		
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## **Implications**

 On parcel-level traditional practices around delineation, transfer, control, and conflict resolution

- 2. On BARMM/IPRA and from ancestral domain to ancestral lands
- 3. On development decision-making, safeguards, and the implementation of the 'peace dividend'



## Philippine national law and administrative policy

## RA No. 11054 + IGR implications

Existing Agrarian Reform + HLP legislation Pending N/RTJRCB Bill Pending N/RIDP law Pending NMIP Code

RA No. 11696 s. 2022, Marawi Siege Victims

**Compensation Act** 

RA No. 8371 s. 1997, IPRA

Pending IDP Law

International frameworks on HR/IHL

HLP rights of IDPs, IPs

'durable solutions' Criminalisation of arbitrary displacement



BTA Legislation and issuances

Peace process commitments (GPH-MNLF, GPH-MILF)

Traditional practice
Adat, customary law

Izma, taritib Shari'ah

Development Challenge	Objective
multiple and contesting practices and norms related to land rights and land justice	Coherent framework and process for harmonizing and formalizing layers of customary land rights in the Bangsamoro at parcellary level
multiple data systems, data discrepancies, and data gaps at multiple levels	Joined-up data management process based on framework  Piloting framework and process in six acknowledged camps
	Additional test cases outside camps, notably in BASULTA for land claims adjacent to water
multiple protracted displacements and vulnerabilities spanning years, if not decades	Documentation of historical displacements in relation to armed conflict (use for dialogue and settlement)
multiple and unclear processes for addressing overlapping claims	Clear alternative dispute resolution/ adjudication process for land claims that considers national laws, administrative processes, and the Bangsamoro Justice System (regular courts, Shari'ah courts, tribal justice system)

## TIER 1 PROGRAMS

Agri-Livelihood Support for Camps Program

Community Infrastructure Support Program

Resettlement and Housing Program







Cooperative Developme nt Program Community Resilience Enhancement Program Social Cohesion Promotion Program

Environmental Management Program Spiritual & Cultural Preservation and Promotion

Leadership and Values Transformation













