

The Islamicity of the Lanao Sultanate Practices on Land Grant with Special Reference to the Political Thought of al-Māwardī on Land Grant

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ABSTRACT

The Muslim Maranaos in Mindanao, Philippines established the Lanao Sultanate in 1616 and it continues until today as a traditional governance. It shows that there is a sizeable research gap on the Lanao Sultanate practices on land grant, moreover, the Islamicity of Lanao Sultanate practices on land grant has been little represented in the Philippines literature, in fact, there is not a single published paper focusing on this subject. Thus, this research will explore the Lanao Sultanate practices on land grant with special reference to the political thought of al-Māwardī to establish the Islamicity of Lanao Sultanate practices on land grant. Abū al-Ḥasan ‘Alī Ibn Muḥāmmād Ibn Ḥabīb al-Māwardī was born on 972 C.E. in Basra, Iraq. He worked as a *qādī* (judge), and juridical adviser at the court of the caliph al-Qa’im. He has immense knowledge on *fiqh* (Islamic jurisprudence), Qur’ān interpretation, religion, government, public and constitutional law, language, ethics, and belles-letters. Al-Māwardī wrote a book *al-Aḥkām al-Sultāniyyah w’al-Wilāyāt al-Dīniyya* (The Ordinances of Government) in the 10th century. He set out his theory of government and the rights and duties of the ruler and the rules of delegated authority. In this book, he also discussed land grant and concessions.

Keywords: Lanao Sultanate; land grant; Islamicity; Maranaos, Mindanao.

INTRODUCTION

In the 16 century, Lanao was ruled by several *datu*s or chieftains (Lingga, 2004, p.5). Meanwhile, the Lanao Sultanate was founded in the year 1616 (Hadji Abdul Racman, 2020). The territories of Lanao were established by several *datu*s, thus, Lanao was under a *datu*ship system of governance before it evolved into a sultanate. The founders of Lanao were brothers, while the founders of the Lanao Sultanate came from common ancestors. The pioneering 43 sultans of the Four States of Lanao Sultanate traced their genealogy from the founders of Magindanao Sultanate and its sultans, hence, the Lanao royalties traced their genealogy as far as Sharīf Kabunsuan who was the first sultan of Magindanao, then to his Maranao son, Sharīf Makaalang who became the 2nd sultan of Magindanao, and so on. The descent lines of today’s

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Lanao royalties trace their genealogy lines to the 43 pioneering sultans of Lanao in the 17th century. In addition, there were intermarriages between and among the royalties in Sulu, Magindanao and Lanao Sultanates (Ibid.).

As a state, the archaic Lanao Sultanate had a community of persons permanently occupying a definite territory which is the *Pat-a-Pangampong sa Ranao* or the Confederation of the Four Lake-based Emirates. It is independent of external control and had organized government to which the citizens recognized the authority of the sultans and other royal rulers. It espoused moral values, served social justice, and catered to the educational and leadership needs of the Maranaos, and it provided the social welfare to the citizens. It had the four basic elements to make a state, namely, the people which is the demography comprising of the Muslim Maranaos or the *Ummah*; the territory which is the geography consisting of the Lanao lands, mountains, hills, forests, resources, valleys, rivers, the Lake Lanao, the Moro Gulf, and Illana Bay; the government which is the Lanao Sultanate, an established consultative Islamic monarchy, and the sovereignty or independence from external control. The Lanao Sultanate had a robust military defense during the colonial period. None among the colonizers, the Spanish, Americans, Japanese, and the Christianized Filipinos had exercised power and control over the territories of Lanao and its people. In a nutshell, the Lanao Sultanate is an Islamic state.

The Lanao Sultanate is a collective leadership. It promotes unity and strong brotherhood and equality of the Maranaos. It is also a consultative monarchy which is equivalent to monarchical democracy. Geographically, the Lanao Sultanate was divided into division and each division was then divided into sub-division. Each sultanate was ruled by their respective *panoroganan* (high ranking sultan), and the division and sub-division were ruled by the lower ranking sultans, “but they are interdependent on one another based on their *taritib* or norms and *igma* or traditional laws” (Macabando, 2008). Today, the Lanao Sultanate has the House of *‘ulamā’* (scholars and clerics) who are the legal and religious advisers and judges. It has the House of the ladies (*bai*, *bai-a-labi* and *potri-maamor*), *gurus* (teachers), *imāms* (religious ministers), and *pananalsilas* or genealogists (Hadji Abdul Racman, 2018). During the Spanish period, the Lanao Sultanate had *askars* or peace keeping force who maintain peace and order in Lanao; it also had a military and naval forces which then regularly joining the naval forces of the Magindanao and Sulu Sultanates to fight against the Spanish forces invading the Muslim territories (Ibid.).

According to Mamitua Saber, as a state, the Lanao Sultanate under the leadership of Lanao *datus* and sultans maintained their independence from the European domination-the Spanish, the United States of America, and the Japanese (Saber, 1980). In 1898, the United States forces came to the Philippines and waged wars against Spain for political control of the Philippines. According to Helen R. Tubangui, the wars between the United States of America and Spain ended under the Treaty of Paris which was signed in December 10, 1898. Spain ceded the Philippines to the United States which it paid \$20,000,000 to Spain to compensate for the cost of improvements that Spain spent to its colony, the Philippines (Tubangui, 1982). This means that parts of the Philippine Islands became the colony of the United States.

Notably, Spain never exercised its powers over the Maranaos due to their valiant resistance against their forces. Thus, the Maranao territories were never possessed by the Spanish colonial powers. This means that the Maranao territories were never part of the territories that were sold by Spanish government to the United States of America. In the 19th century, the Maranaos were again faced with challenges and were struggling to resist another super power nation, the United States of America, and then later, the Imperial Japanese forces who came during the World War II. Josefina Navarro et al., say that the Philippines gained independence from the United States in July 4, 1946 (Navarro, et al., 1986). This means that Philippines became fully recognized as a nation in the 20th century. In contrast, the Lanao Sultanate was established in the early 16th century.

Al-Māwardī: Life, Works and Experiences

The reason for choosing al-Māwardī's Islamic political thought in gauging the Islamicity of the Lanao Sultanate practices on land grant is that al-Māwardī has a vast knowledge on *fiqh* (Islamic jurisprudence). In his book *al-Aḥkām al-Sultāniyyah wa al-Wilāyāt al-Dīniyya* it explains the theory of government and the rights and the duties of the ruler, the state officials, and the rules of delegating authorities (Bannerman, 1988). Donald P. Little states that *al-Aḥkām al-Sultāniyyah* is the first book of *fiqh* to devote exclusively to government (Little, 2011). The content of this book discusses the appointment of rulers and the delegated posts, land grant and concessions among others. For that reason, we will incorporate in this research about al-Māwardī's life, his major literary works, his contributions to Islamic scholarship, and his service to the Muslim community during his time.

The Biography of al-Māwardī

Al-Māwardī was born in 972 C.E. in the city of Basra, presently in Iraq. Basra was one of the great centers of learning and education in the Islamic world during the middle ages. Al-Māwardī whose full name was Abū al-Ḥasan 'Alī Ibn Muḥāmmād Ibn Habīb al-Māwardī prepared himself to be a jurist in the Shāfi'ī School. Due to his vast knowledge on Islam, he was appointed as the Chief Justice (Khan, 1963). Al-Māwardī passed away in 1058 in Basra. He was a Sunni scholar who made a theory on public administration from the perspective of Sunni Islam. He worked as teacher as well as appointed as judge in Baghdad (Enger, 1853).

He wrote several books including *al-Aḥkām al-Sultāniyyah*. In this book, he states that, "the supreme leadership is intended as vicarate of the prophecy in upholding the faith and managing the affairs of the world. Its establishment is unanimously considered to be obligatory on the community" (Al-Māwardī, 1996). Wafāa' H. Wahba quotes al-Māwardī's views on caliphate which he wrote in the preface of his book *al-Aḥkām*. He states that the caliphate "is symbolic of the entire political-religious system, the law of which is the Sharī'ah which is binding to all, rulers and ruled alike. It provides the basis of any system of government for all sects of Muslims i.e. moderate, extremist, modernist or conservative. The sacred law of Islam guides men in all departments of life, spiritual and secular" (Ibid.). Sharī'ah serves basis in establishing a leadership which is inspired by the moral and divine teachings of Islam. It is the basis of managing the affairs of the Muslim communities.

The Life of al-Māwardī

Al-Māwardī was not only a great scholar but he was also a great ambassador. He was respected both by the caliphs and the Buyids who were Shi'ite Persian family of army commanders in Baghdad. The caliphs and the Buyids resorted to him to hold negotiations with their political rivals (Ibid. p.3). Al-Māwardī was also a shrewd statesman and an excellent diplomat (Rosenthal, 1962, p.30). According to Hamilton A.R. Gibb, an extensive examination of his works show that he was not a philosopher nor a mere observer-jurist. In reality, his experiences in administrative post as *wazīr* (minister or vizier) to the Buyids, and as chief justice to the caliph had greatly affected his literary achievements. Consequently, his experiences in the administration show that both political and legal speculation took little part in his writings. To some extent, he developed, systematized and expanded the views of his predecessors (Ibid. p.30). In addition, it is revealed that he was not a mere recorder of facts which were handed to him by the earlier Sunni jurists.

The Works of al-Māwardī

Al-Māwardī worked as a teacher in Basra and Baghdad. He then migrated to Nishapur and worked there as a *qādī* (Arabic, judge). He returned to Baghdad where he worked as a juridical adviser at the court of caliph al-Qa'im (Bannerman, 1988). His immense knowledge on *fiqh* (Islamic jurisprudence) provided him with great opportunities to work as a judge in many districts of Iraq. For this reason he received an honorary title '*Aqḍā al-Quḍāt*, "judge par excellence" to recognize his immense work on jurisprudence. His other areas of interests and writings are on Qur'ān interpretation, religion, government, public and constitutional law, language, ethics, and belles-letters. In religious matters, he was known as a typical *mujtahid* or independent writer (Al-Māwardī, 1996, p.xiii).

The Experiences of al-Māwardī

Al-Māwardī wrote a book *al-Aḥkām al-Sultāniyyah w'al-Wilāyāt al-Dīniyya* (The Ordinances of Government) in the 10th century. He set out his theory of government and the rights and duties of the ruler and the rules of delegated authority (Bannerman, 1988, p.267). There are other four written works of al-Māwardī that are relevant to the study of political thought, namely, *Adab al-Dunyā wa'l-Dīn* (Ethics of this World and Religion) published in 1898 in Egypt by Mustafa al-Halabī; *Qāwānin al-Wizārah* (Book of Vizierate) published in 1929 in Egypt by Maktabāt al-Khanjī; *Tashīl al-Nazar wa Ta'jīl al-Ḍafar* (Facilitating the Judgement and Hastening Victory) published in 1981, and *Nasīhat al-Mulūk* (Advice for Kings) was published in 1986 (Hamid, 2011, pp.221-223).

Al-Aḥkām al-Sultāniyyah w'al-Wilāyāt al-Dīniyya

Al-Aḥkām was written by al-Māwardī with emphasis on integrating the divergence of thoughts in the Shāfi'ī school with those of Mālikī and Hanafī schools. He adds in his thesis the traditions and reports from the companions of Prophet Muhammad (pbuh) and his successors; the four rightly guided caliphs (Little, 2011, p.235). *Al-Aḥkām* was published by Maximilianus Enger in 1853 (Enger, 1853). The Orientalists have regarded *al-Aḥkām* as a key in unlocking the theory on Islamic political thought and governance. The book is a work of primary importance which caught the attention of the Orientalists (Little, 2011, p.235). One Orientalist view on the importance of the book includes that of Claude Cahen who refers to it as "*une exception magistrale*" (a masterful exception) in the Muslim juridical literature because it "*un vrai traite de Droit public qui restera d'ailleurs sans equivalent dans la literature musulmane tout entiere*" (genuinely addresses public law, and it remains a great work with no equivalent in the entire Muslim literature) (Claude, 1970, p.66). The book is a manual of governmental ordinances and "it is a first book of *fiqh* to be devoted exclusively to governance, so that its importance lies in its priority and originality" (Little, 2011, p.235).

Al-Māwardī's Political Theory

Rosenthal is of the view that al-Māwardī's opinions were formed based on the exigencies of his time and the special circumstances which al-Māwardī went through when he worked as chief justice, '*Qaḍī al-Quḍāt*. He did not speak as a philosopher but spoke as a practical judge. In addition, he gave little importance to abstract speculations. As a jurist, al-Māwardī built on his predecessors' opinions to which he gave broader interpretation and then adding to them his own wisdom in applying them to the special political practice of Islam existing in his time (Rosenthal, 1962, p.30).

Problem Statement

1. What are the practices of Lanao Sultanate on land grant?
2. What are the bases of Islamicity of the Lanao Sultanate practices on land grant?

Objectives of the Study

1. To explore the practices of Lanao Sultanate on land grant, and
2. To establish the bases of Islamicity of Lanao Sultanate practices on land grant with special reference to the Islamic thought of al-Māwardī.

Significance of the Study

This study is significant to Southeast Asian studies and Philippines studies. This research paper is part of Islamic civilization, Islamic political thought, governance, and Islamic culture in Asia, thus, this paper contributes to the widening-range of Islamic field of studies in Southeast Asia and other allied specializations.

Related Literature

This research uses only the most relevant review of literature. The Maranaos of Lanao enjoyed freedom and independence even before the Spanish colonial era. Spain stint in the Philippines for 333 years but it never colonized the Maranao people, their homeland and territories. Islamically, the Muslims are obliged to protect their territories from their enemies. Thus, the Maranaos had protected and preserved their lives, families, properties, homeland, culture, religion, civilization, and history for almost one thousand years.

Islamically, the main objective of Islamic religion, and its law is to protect the faith (*din* or Islamic religion), life (*nafs*, soul), property (*ma'āl*), progeny (*banu*), and intellect (*ʿaql*). Hence, the fulfilment of this objective is closely linked to land ownership. It is where the said Islamic objective can be fulfilled, nurtured, and exercised.

The work of Mamitua Saber & Mauyag M. Tamano (1986) entitled, *Decision-Making and Social Change in Rural Moroland* discusses that *khakulah/kakola* is an Arab concept for “property of Allāh” such as the vast lands, mountains, forests, seas, oceans, valleys, lakes and rivers for which the mankind have equal rights to take part and use for their proliferation, however, they say that the Maranaos limited the concept of *khakulah* to local ownership (Ibid.). Saber & Tamano (1986) say that the land to which a community lays claim is called *gapa* and is subdivided into two categories. The first is *kakola*, comprising uninhabited land, like forestland, owned in common. The second is *mianggapa*, “settled land sub-divided among different kinship groups and classified under private ownership,” since it was “acquired by prior use and continued occupation” (Ibid.). Apparently, this work did not dwell on land grant practices of the Maranaos, and the Islamic bases of land grant.

Next, is the books of Sultan Monsing Macabando entitled, *Brief History of the Maranao Mindanao, Maranao Salsila (Genealogy) Their Origin* (2008), and *Brief History of the Balindong Dynasty of the Dominion State (Sultanate) of Pangampongana-Masiu* (2005). These books narrate about five brothers who divided the land areas of Lanao among themselves, and each of them established their respective territory. Butuanun Kalinan chose Bayabao, the largest area of Lanao, Batara Kilatun chose Masiu, Amerogong Topaan chose Baloi, Dimaampao Kalinan chose Unayan, and Domalandalan chose the coastal areas of Lanao. Bayabao, Masiu, Baloi, Unayan, and

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the coastal areas of Lanao became the Confederation of the Four Lake-based Emirates. Apparently, these books did not dwell on land grant, and the Islamic bases of land grant.

Birte Brecht-Drouart (2011) PhD thesis entitled, *Between Re-traditionalization and Islamic Resurgence. The Influences of the National Question and the Revival of Tradition on Gender Issues Among Maranaos in Southern Philippines* discusses the land division, Birte says, “whereas the administrative division in the Philippines is by province, municipality or city, *barangay*, and *purok*, the division of the Four States of Lanao is by *pangampong* (state/county), *suku* (district), *inged* (township arranged around supported descent line), *agama* (community), and *bangon* composed of 3-5 families. Each descent line in the *salsila* has traditionally certain rights to land, which is usually the joint property of a kinship group” (Ibid.) According to Brecht-Drouart,

According to the traditional land distribution system, descendants of different descent lines have rights to the land of each line they belong to. Thus, a person might have the right to build an estate on the land of the father’s as well as on the mother’s side. Common ownership of land poses a problem in case one of the descendants gives away land without the knowledge of the relatives. There are cases where, after a Maranao sold land to a Christian, the buyer got involved in a dispute with the relatives of the seller, who, not knowing that the land had been sold, regarded it as their property (Ibid.).

An ancestral land does not belong to a single family but it belongs to multiple families. Thus, it is unethical to sell it due to the fact that it is a shared property. There must be an agreement between and among the owners of a certain ancestral land before commercializing it. Birte posits that,

Where there were not yet land titles, land was sometimes given to non-relatives in appreciation for their services. For example, the former sultan [of] Marawi had land rights to certain *bangon* (lots): he distributed the land among his relatives but also lent some property to vassals or gave some away to non-relatives. After the introduction of the title system by the American colonizers, the land that was distributed by the sultan and should have been redistributed by his descendants became the permanent property of the residents. Some of them are thus not genealogically connected to the sultanate but reside there due to formerly accorded privileges. Conflicts over property erupted. As a remedy for the confusion of systems and its negative outcomes, a local NGO called Reconciliatory Initiatives for Development Opportunities (RIDO), Inc. provides resources to family members of the sultan [of] Marawi who claim the land in order to stop the *ridos* (family feuds) concerning property in the area (Ibid.).

The Americans introduced the land title system in the Philippines which gave legal rights to people opting for land title under their names. This also gave rights to the Christians to grab the lands of the Muslims in Mindanao. The owners of the cassava plantations and flour factory in Malabang, Lanao are American descent who are Christians who still operate today. Lanao del Norte was originally part of the land areas of the Maranaos, as time went on, the migrant Christians from Visayas and Luzon in Lanao del Norte took the lands of the Maranaos and made land title of the lands which they stole from the Maranaos, this made them the rightful owner of the said lands. Some sultans and Maranaos dispensed a portion of their land to people who are not their relatives. This noble act demonstrates an act of kindness. Overall, this work did not touch on the land grant, and the Islamic bases of land grant.

Abdullah T. Madale’s (1996) work entitled *The Maranaw Torogan* explains that, “usually the sultan distributed free land. In case a farmer abandoned the land, the sultan could assign it to someone else. Those farmers working on the land generally gave parts of the harvest to the sultan.” This means that the farmers who are tilling the land of the sultan give a portion of their harvest to the sultan, in this way, this makes the sultan maintains his power, prestige, influence, social status, and wealth. Somehow, this book did not explore on the Islamic bases of land grant.

The work of Lualhati M. Abreu & Romulo J. Dela Rosa (2003, p.9) entitled *Self-Determination and Social Justice: Agrarian Reform in the Autonomous Region in Muslim Mindanao*, narrates that,

A study from 1989 found that the traditional modes of land acquisition and ownership continued to prevail in the Muslim areas even though they were joined by Islamic laws and state laws (respectively, affecting 37%, 23%, and 11% of farmers). If a family lived outside the community for several generations, their claim to royal title and territory would be eliminated. This changed partly with the introduction of land titles. To keep a claim to land, traditionally one had to be from a certain descent line, which was represented by titleholders, and to maintain contact with the community in order to have one's claim recognized by its members (Ibid.).

The descent lines which were written in *salsila* (genealogy) also mentions the territories and boundaries of the Maranao families whom their ancestors owned, settled and established. Due to internal migration, some Maranao families moved to other areas outside the Lanao Sultanate for economic enterprise to survive. The problems may arise if they lost contact with their relatives who are in their localities who are taking care of their land. Hence, some of the dominant ruling families in their localities may grab their land. Abreu & Dela Rosa also say that,

One of the former sultans bequeathed land equal to 50 football fields to his direct descendants. Family members staying on such land may pay taxes and have political loyalty to the family owning the land. A 1994 study found out that in Lanao, 26 Moro ruling families control large landholdings in the area. Among them, the Lucman families occupied a central position with about 5,000 *ha* consisting of coconut and cacao plantations bought from an American settler who was involved in a *rido* (family feud) with the sultan of the region [the dignitary was Sultan Sarip of Subuan in Sultan Gumander. The land was later on partly placed under the voluntary offer-to-sell scheme of the Comprehensive Agrarian Reform Program (CARP), while the rest was distributed among immediate members of the family. Some of the landlords in the Lanao area aligned with Moro insurgent groups against "land-grabbers," thus making difficult the implementation of agrarian reform, as was demanded through CARP in the Autonomous Region in Muslim Mindanao (ARMM). The Moro Islamic Liberation Front (MILF) considers CARP "an instrument of assimilation by an external power" that threatens to weaken the struggle for self-determination (Ibid.).

The Moro Islamic Liberation Front (MILF) quests for establishing an Islamic state in the Muslim dominant areas in Mindanao was challenged by the Philippines' government by introducing the Comprehensive Agrarian Reform Program (CARP), wherein, through the CARP, the Christian settlers in the Muslim areas made land titles under their names. As a consequence, this weakened the claims of the Moro Islamic Liberation Front to establish an Islamic state because the Christians living in the predominantly Muslim areas opposed to the quest of the MILF to establish an Islamic state. According to Abreu & Dela Rosa,

It appears a common view among the Moro Islamic Liberation Front (MILF) leadership that the rules on stewardship and usufruct as laid down in Adat and Sharī'ah and shown in practice among the Moros are sufficient to address democratization of asset distribution in the countryside . . . This view, however, would tend to disregard the fact that in many instances the traditional authority of the *datus* and sultans, the heads of powerful families within ruling families and tribes, has been abused, which led to privatization of ancestral lands (Ibid.).

Another factor that contributed to the weakening of power of the traditional authority such as the *datus* and sultans is the privatization of ancestral lands. Due to privatization of ancestral lands, the *datus* and sultans who formerly owned a vast

landholdings cannot exercise power and control over their lands. In a nutshell, Abreu & Dela Rosa failed to navigate on the Islamic bases of land grant practices in Lanao.

METHODOLOGY OF RESEARCH

This research used secondary sources such as books, journals, reviews and others are primarily useful because they combine knowledge from many primary sources. In this study, secondary data were accessed through books, theses, dissertation, and journals among other most relevant sources. Historical method and Ethnography method of research were used in this research.

Historical method requires a critical analyses on historical events required in the study. The researcher identifies his research inquiry that were addressed in the past events. He reviews primary and secondary data that are useful in his research topic, he systematically collects and objectively evaluates data related to historical events that concern his study. He criticizes historical sources, and evaluates thoroughly the information he gathered (Shafer, 1974). The researcher applied all these requirements to come up with this research. Part of this research findings were researched and gathered for four years.

Ethnography method demands an intensive fieldworks, social interaction and longer period of immersion of the ethnographer with the societies, communities, ethnic groups or social organizations which the ethnographer is studying about. The main purpose of an ethnographer is to gather a rich and holistic insights on the peoples' lifeways, their world views and actions: norms, rituals, customs, traditions, and their interactions as well as the nature of the location they inhabit (Reeves, et al., 2013). Similarly, the researcher applied all these requirements to come up with this research, he himself a Maranao who stint in Lanao areas and live with the Maranao societies for over 30 years.

Findings, Results and Discussion

According to Mamitua Saber & Mauyag M. Tamano (1986), "*khakulah* is an Arab concept for "property of Allāh," for which all mankind have equal rights such as the vast lands, forests, seas, oceans, lakes and rivers. But the Maranao limited the [*khakulah*] concept to local ownership". The land ownership and land division among the Maranaos in Lanao was first noted during the arrival of five brothers, namely, Butuanun Kalinan, Batara Kilatun, Amerogong Topaan, Dimaampao Kalinan, and Domalandalan, these brothers were the founders of the *Pat a Pangampong sa Ranao* or Four States of Lanao (Macabando, 2008). The *Pat a Pangampong sa Ranao* later evolved into a sultanate which was consisting of confederate states. The boundary between these states is marked with a *dibarosan* or monolithic marker (Madale, 2002, p.6). There were 43 sultanates in Lanao at that time. Of these sultanates, 15 were regarded as *panoroganans*, and the 28 states were regarded as lower sultanates which were the *pagawid* sultanates (Gowing, 1979, p.50). The higher sultanates were the *pagawidan* states which were the *panoroganan* sultanates (Brecht-Drouart, 2011).

Each of the *pagawidan* and *pagawid* states were ruled by a sultan. Each family occupied a specific territory within the Four States of Lanao. Each family ruled their territory respectively. This is an indication that *khakulah* or land division and land ownership with defined territories with defined land boundaries were practiced in Lanao Sultanate. *Khakula* was observed and practiced by the Maranaos even before the Lanao became a confederate sultanates. According to Birte Brecht-Drouart, in Maranao societies, "each descent line in the *salsila* [scholarly chained of genealogy] has traditionally certain rights to land, which is usually the joint property of a kinship

group” (Ibid.). This means that the Maranao *salsilas* indicate the ruling families of Lanao and the territories they owned and ruled.

Myrthena L. Fianza (2004) explains that, land to which a community lays claim is called *gapa* (land) and is subdivided into two categories. The first is *kakola/khakulah*, comprising uninhabited land, like forestland, owned in common. The second is *mianggapa*, “settled land sub-divided among different kinship groups and classified under private ownership,” since it was “acquired by prior use and continued occupation” (Ibid. p.114).

The concept of *kakola* and *mianggapa* were integral parts of the Maranao traditional practices on land ownership and land distribution in the past and even today. The concept of land ownership refers to *kakola* and *mianggapa* which were their bases of their claims to their ancestral lands of which their ancestors established, claimed, settled, tilled, and used for political, social, economic, and cultural purposes.

How land grant or concessions is done from Islamic perspective?

Al-Māwardī says that “concessions may be granted by the caliph out of what he has within his jurisdiction and under his command, but not from anything that has an acknowledged owner or specified beneficiary. They are divided into two kinds: appropriation concessions, and concessions for usufruct” (Al-Māwardī, 1996, p.208). This means that the caliph or sultan has the authority to give or distribute landholding to people if and when such landholding is within his jurisdiction and control. In Lanao context, the sultan gives a piece of land to people for agricultural and settlement purposes.

In concessions for appropriation of land usually granted (i) dead, (ii) cultivated, and (iii) mines. We are not going to discuss mines in concessions for appropriation because we are only dealing with dead and cultivated land for concessions for appropriation in relation to Lanao Sultanate context. According to al-Māwardī, “Dead land is of two categories: the first category is “that which has been barren from time immemorial, with evidence of cultivation nor established right of property... The second, is that “which, once cultivated, has been eventually deteriorated so that it now lies fallow...” (Ibid. pp.208-209).

This means that a dead land under the first category was arable land and was once cultivated with established owner, however it has been barren which means it is not ideal for agriculture unless it is restored, while the second category under dead land was a cultivated land and it was used for agriculture but left, this land is ideal for agriculture.

Al-Māwardī explains that a cultivated land “is that which has been created since Islam, though generations of neglect by Muslims who have reduced it to unproductive waste land” (Ibid.). Cultivated land, under the above description, belongs to the state. This land was neglected, thus it is reduced to unproductive land. Al-Māwardī explains that there are three interpretations to revive the cultivated land which he quotes: (i) Al-Shāfi‘ī who says ‘ownership of it may not be conferred by restoration, regardless of whether the original owner is or is not identified’; (ii) and Mālik who explains ‘that ownership of it is through the act of restoration, whether the original proprietor is known or unknown’; and (iii) Abū Hanīfa who argues ‘the right to ownership is not conferred by reclamation if the original owner is known, and is conferred by it if he is not’ (Ibid.). This means that the state cannot take over any land with acknowledge owner.

Abū Hanīfa explains, “that a concession is a prerequisite for reclamation, it may not be granted if the land has acknowledged owners, for they would have the prior right to reclaim and sell their property” (Ibid.). This means that any cultivated land cannot be taken over by the state. The state cannot give a cultivated land for concession if that cultivated land has owner. Cultivation of land without the approval of the owner is not tolerated in Islam since it is a form of stealing, thus, it is illegal, and unethical. In

Lanao context, lands with acknowledged owners cannot be distributed by the sultan or anybody else.

There are two categories of cultivated lands: First category, the owner of this land is known. The ruler's jurisdiction of this land is limited to the rights of the treasury, 'depending on whether the proprietor is a Muslim or a protected non-Muslims. If it is in enemy territory that is only occasionally in Muslim hands, the ruler may grant it to someone whom he wishes to own it when conquered' (Ibid.). This means that a conquered land which is conquered by the state can be taken by the state and the ruler of that state may lease that conquered land for concession. If it is used for agriculture, then, the tiller of that land shall give a portion of the yields to the state's treasury as a form of land tax. In Lanao context, the land areas of Lanao were not conquered land. The ancestors of the Maranaos established their landholdings in Lanao based on *taritib* and *igma*.

Second category, is that when the rightful owners are unknown, it is divided into three kinds,

1. The first 'includes whatever conquered territory the sovereign chooses to retain for the public treasury, either as belonging to the legal fifth part of the booty, or by compensating the victors for it' (Ibid. p.210) This category refers to conquered land, thus it becomes a property of the state and the state has the right to manage it.

In comparison, the territories and land of Lanao Sultanate belonged to different ruling families, and these ruling families inherited their land from their ancestors, and the rest of the land and territories of Lanao Sultanate belonged to ruling sultans. As a whole, the land of Lanao Sultanate was not a conquered land. The sultans and the commoners who were land owners used their land for agriculture and economic enterprise, and it is where they build their houses, and settlements.

2. The second 'is subject to the land tax, may not be conceded for appropriation because it has two divisions: in the one, the property is endowment in perpetuity and the tax is rent for it; and ownership may not be conferred for endowments whether by grant, sale, or gift. In the other, the land is private property on which tax is a form of tribute, so that it is illegitimate to cede possession of it in the presence of an acknowledged owner, although the concession for its tax will be mentioned under concession for usufruct below' (Ibid. p.211).

This category, refers to a piece of land which has acknowledged owner, thus the state has no right to take it. However if the land is used for agriculture then the state's treasury has the right to take tax from the yields of the land. In comparison, in Lanao Sultanate, the Maranaos practice the giving of *zakāt* (tax, poor due) from the wealth they accumulated (Hadji Abdul Racman, 2020, pp.46-64).

The Maranao societies as explain by Peter G. Gowing (1979), pay *zakāt*/tax or poor due to the *zakāt* collectors particularly to the religious leaders i.e. *imām* and *kali* which they pay at the mosque (Ibid.). This practice corresponds to al-Māwardī's view on paying the tax/poor-rate to mosque or state delegated tax collector (Al-Māwardī, 1996, p.128). The *imām* and *kali* are trustworthy, respected and generally obeyed by the people. They have immense knowledge on the teachings of Islam including the Islamic rules on tax so that they are entrusted to collect the tax and distribute it. Al-Māwardī explains that "the office of legal management, therefore, has to do with collection and distribution, with pertinent to each" (Ibid. p.128).

This means that the judge may also collect and distribute the tax if there is no delegated or appointed person to collect and distribute it. The office of legal management may give instructions on *zakāt* rules to whomever is appointed by the state to collect and distribute it. Al-Māwardī says, "if the alms officer enjoys delegated powers [meaning he is delegated to collect poor-rate], he may follow his own judgement on points of disagreement among jurists, neither following the opinion of the leader nor that of public; the caliph may not specify for him how much to collect" (Ibid. p.130.).

This means that the delegated tax officer may follow his knowledge on tax rules as long as the basis of his knowledge on tax does not violate the Islamic rules on taxing. A caliph or sultan may collect *zakāt*, in fact, Caliph Abū Bakar himself collects *zakāt* during his time as caliph (Hadji Abdul Racman, et al. 2020, pp.46-64).

Abū Bakar says, "I swear to God that if they were to refuse me a female kid (sheep or camel or cow) which they used to pay to God's messenger, I would fight with them over refusal of it (Ibid.). This means that paying of *zakāt* is an important religious obligation, hence Islam mandated to pay *zakāt*. It is paid in favour of the poor and the needy. It is a state institution, hence the state is mandated to collect and distribute *zakāt*.

Who are individuals entitled to receive *zakāt*? Allāh (swt) says in the Qur'ān, '*As- Ṣadaqāh (here it means zakāt) are only for the fuqarā (poor) and al-Masākin (the needy), and those employed to collect (the funds); and to attract the hearts of those who have been inclined (towards Islam); and to free the captives; and those in debt; and for the Allāh's Cause (i.e mujahidūn) – those fighting in a holy battle), and for the wayfarer (a traveller who is cut off from everything); a duty imposed by Allāh. And Allāh is All-Knower, All-wise (Qur'ān, Surah At-Taubah, 9:60.)*. This means that aside from the poor or needy individuals, the slaves, debtors, travellers, *zakāt* collectors, and those who are engaging in struggle in the cause of Allāh are entitled to receive *zakāt*.

Paying of *buwis* (tax) was practiced during the *datuship* system in the Philippines before the colonial period. When Islam was well established in the Philippines, the *buwis* has evolved into *zakāt* among the Muslims in the Philippines. *Zakāt* is paid for the welfare of the poor and for the way of Allāh.

3. The third, '[the land] whose owners have died and is not inherited, is taken over by the public treasury as a legacy to all Muslims to be expended on their interests'. Abū Hanīfa says 'that the legacy for which there is no inheritor is spent on the poor, especially on charity in honour of the dead', while al-Shāfi'i explains that 'the land should be spent on public works derives from the facts that the legacy in question, by its transfer to the state treasury, ceases to be private and becomes public property' (Al-Māwardī, 1996, pp.211-212).

In this category, the state must use the land so that the people benefits from it. In comparison, the Lanao Sultanate context, the sultan distributes the free land to people for agricultural use. According to Abdullah T. Madale (1996), "usually the sultan distributed free land. In case a farmer abandoned the land, the sultan could assign it to someone else. Those farmers working on the land generally gave a portion of the harvest to the sultan" (Ibid. p.114).

This means that the sultan distributes a land to the land tillers so that they could use it for agriculture, and then once the harvest season comes, the land tillers usually will give a portion of their harvested crops to the sultan, in this way, the sultan maintains his power, and expands his influence. This also reinforces his social status, and augments his wealth and prestige. On one hand, the land tillers produce their basic needs and sustain their lives. Any civilization depends heavily on the basic commodities, like rice, to survive. The Maranaos have numerous sweets, pastries, and cakes made of gluten rice.

Saber & Tamano (1986) posit that the sultan owns a vast landholding which his slaves, tenants, and relatives farmed (Ibid.). In the past, as a general practice, the sultans collected shares and rents from their arable lands which were used by people for agriculture.

This shows that there was inter-dependency between the people, slaves, tenants and the sultans. The people, slaves, and tenants were engaged in agriculture for a living to produce their basic needs while the sultans received shares and rents from the people who were tilling their lands. The collected shares and rents belong to the sultans because the landholding belong to them. It is therefore, prerogative of the sultans to give a share of their accumulated wealth to the state's treasury. In the case of bond slaves, those people who were enslaved due to not being able to pay their

debts, once they earned a living out of farming, then, they could buy their freedom from their master. Gradually, if the slaves accumulated huge wealth through agriculture, then they eventually become independent and become freemen.

In a nut shell, in the past, in Lanao Sultanate, there were an economic institutions which provided equal and equitable opportunities to people, including the commoners and slaves. They have access to the available resources that time. There was equality among people in terms of accessing to resources and there was an equal distribution of wealth and resources among people. In addition, lands could buy freedom, could build a civilization, and could make a ferocious fighters and sultans to defend it, and land could nourish the body, mind and soul, and of course, land could be used as dowry to make a family which will then evolve into a community, etc. This is the reason why the Maranaos had defended their homeland and territories during the colonial period, for without their homeland and territories, which they inherited from their ancestors, then, there was no Islamic state, the sultanate to begin with.

These ancestral lands connect the Maranaos today with their ancestors. The Maranaos believe that anyone who sells or steals an ancestral land shall be cursed by their ancestors, thus, he/she faces the worse wrath and terrible sickness and death; this curse is called *kiyasongkoran* or *kiyamurka-an* or *kiyabegawan*.

CONCLUSION AND RECOMMENDATIONS

In Lanao Sultanate, the sultans distribute the free land to people for agricultural use. In case a farmer abandoned the land, the sultans could assign it to someone else. These practices are similar to the perspective of al-Māwardī on Islamic practices on land grant and concessions. The farmers who are working on land owned by sultans generally give a portion of their harvest to the sultan. The sultans who own a vast landholding give a portion of it to their slaves, tenants, and relatives to farm. In the past, as a general practice, the sultans collected shares and rents from their arable lands which were used by people for agriculture. This practice is similar to the perspective of al-Māwardī on giving land rents and shares to both landowners, and at the same time giving of *zakāt* (tax, poor-due) to the poor and the needy, or to the state and then distribute it. The collected shares and rents belong to the sultans because the landholding belong to them. It is therefore, prerogative of the sultans to give a share of their accumulated wealth to the state's treasury so that the poor and the larger community can benefit from it. Lastly, the Lanao Sultanate practices on land grant is not conflicting with the perspectives of al-Māwardī on Islamic practices on land grant and concessions due to the fact that the Maranaos, sultans, and rulers alike are aware of the Islamic conditions on land grant and concessions. The Islamic principles, values and traditions are applied by the Maranaos in all aspects of their dealings, transactions, and ways of life. The researcher recommends to the future researchers to address the other practices of the Maranaos on land grant during the colonial period and during this century, and the other aspects of the Islamicity of Lanao Sultanate land grant practices to contribute to the limited literature on these aspects of studies.

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