

A Philosophical Analysis of the Bangsamoro Autonomy Act 64 Using Wittgensteinian and Habermasian Perspectives

James Edison Sullano Andaya

Notre Dame University, College of Arts and Sciences, Humanities and Languages Department

DOI: <https://doi.org/10.47772/IJRISS.2026.100400215>

Received: 06 April 2026; Accepted: 12 April 2026; Published: 02 May 2026

ABSTRACT

This study provides a rigorous philosophical examination of the legislative language embedded within the Bangsamoro Autonomy Act No. 64 (BAA 64) and its impact on the recognition and rights of Non-Moro Indigenous Peoples (NMIPs). By employing a conceptual discourse analysis rooted in Ludwig Wittgenstein's Language-Game Theory and Jürgen Habermas's Theory of Communicative Action, the research systematically evaluates the law's semantic and procedural dimensions. Findings reveal that the BAA 64 suffers from critical semantic ambiguity, forcing a singular, state-centric legal framework over distinct indigenous cultural concepts and diluting their meaning. Furthermore, the study identifies severe procedural ambiguity, noting that the law's drafting favored dominant political structures over genuine, uncoerced communicative rationality. To address these shortcomings, the study proposes normative guidelines—semantic pluralism, dialogical formulation, contextual clarification, and ethical communication—emphasizing that marginalized groups must be treated as co-authoring subjects of legal discourse.

INTRODUCTION

Globally and locally, Indigenous Peoples frequently remain marginalized in the matters of law and policy, often excluded from legislative debates that shape their rights (Amnesty International, n.d.). In the Philippines, despite national legislation like the Indigenous Peoples Rights Act (IPRA) of 1997, challenges such as land dispossession and lack of formal recognition persist (Alcantara & Constantino, 2020; Almeda et al., 2023; Oxfam Philippines, 2017). Within the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), this struggle takes on a unique reality under the Bangsamoro Autonomy Act No. 64 (BAA 64), which attempts to formalize the rights of Non-Moro Indigenous Peoples (NMIPs), such as the Teduray (Bangsamoro Parliament, 2024). However, provisions like Section 4(j) declare the region's territory as "shared ancestral land," a legal framing critics argue obscures the distinct historical identities and specific land claims of the NMIPs in favor of the dominant Moro heritage (Baguilat & Pimentel, 2024).

To dissect how the legal language of the BAA 64 may inadvertently marginalize NMIPs, this study is grounded in two central philosophical theories: Ludwig Wittgenstein's Language-Game Theory and Jürgen Habermas's Theory of Communicative Action.

Language-Game Theory: Wittgenstein (1953) posits that words do not possess fixed meanings; rather, meaning is derived from practical application within specific social contexts or "forms of life". This framework explores how terms like "ancestral land" may be interpreted differently by lawmakers, Moro communities, and NMIPs, potentially leading to semantic dissonance (Biletzki & Matar, 2020).

Theory of Communicative Action: Habermas (1984) distinguishes between communicative action—dialogue aimed at mutual understanding—and strategic action, which relies on influence, coercion, or success-oriented manipulation. This theory provides a normative basis for assessing whether the discourse surrounding the BAA 64 reflects inclusive, reasoned debate or reinforces asymmetrical power dynamics.

METHODOLOGY

This study utilizes a philosophical research design based on conceptual and discourse analysis. Operating within the hermeneutic tradition articulated by Paul Ricoeur (1971), the written legal text is treated as possessing autonomous semantic independence from its original authors. The scope is strictly limited to the legislative discourse of the BAA 64—specifically Sections 3, 4(j), and 5—and does not involve empirical fieldwork or sociological interviews, maintaining the philosophical integrity of the inquiry.

The analytical procedure was conducted in three progressive steps:

Semantic Identification: Extracting key culturally loaded terms and identity classifications from the BAA 64 text.

Wittgensteinian Critique: Analyzing the identified terms as competing language-games to determine their performative and contextual meanings across different "forms of life".

Habermasian Procedural Assessment: Evaluating the formulation and discursive framing of the law against the criteria of communicative rationality to identify the presence of strategic domination versus dialogical consensus.

RESULTS

Semantic Homogenization and Language-Games The analysis reveals that terms such as "shared homeland," "ancestral domain," and "customary governance" function as highly contested language-games within the BAA 64. In Section 4(j), the declaration of a "shared homeland" is presented as a neutral classification but harbors incompatible meanings. For Moro communities, it symbolizes a collective self-determination forged through historical resistance. Conversely, for NMIPs like the Teduray, it represents a sacred territory tied to kinship and cosmology, traditionally termed *fusaka inged*. By attempting to universalize these concepts under a singular, state-centric property law framework, the legislation strips the indigenous practices of their original cultural weight (MacIntyre, 1988).

Procedural Deficits and Strategic Action Evaluating the BAA 64 through Habermas's (1984) framework indicates a distinct lack of communicative rationality in its institutional mechanisms. While the law symbolically acknowledges NMIP identity, the legislative process functioned largely as a mechanism for the transmission of information rather than a space for genuine co-authorship. NMIPs were structurally constrained to react to a pre-defined, Moro-centric legal framework drafted by the Bangsamoro Transition Authority; as Fraser (1990) observes, unequal power dynamics frequently subvert ideal communicative action. Consequently, the discourse was strategically oriented toward political success and assimilation, reflecting Habermasian strategic action rather than an uncoerced agreement between equals.

DISCUSSION

Ambiguities of Inclusion and Exclusion The findings highlight two distinct levels of ambiguity within the BAA 64: semantic and procedural. Semantically, using identical legal vocabulary to govern entirely divergent ontological realities risks miscommunication and conceptual displacement (Biletzki & Matar, 2020). Procedurally, replacing dialogical rationality with strategic compromise creates a severe deficit of legitimacy, meaning the law speaks about NMIPs rather than with them. This dual ambiguity ensures that while the law ostensibly seeks inclusion, it inadvertently operates as an instrument of discursive marginalization and linguistic alienation.

Normative Guidelines for Policymaking To counter these systemic issues, synthesizing Wittgenstein's pragmatics with Habermas's discourse ethics yields four actionable guidelines for future legislation:

Semantic Pluralism: Legal definitions must avoid homogenization by incorporating ethnolinguistic glossaries co-authored by NMIP representatives, explicitly encoding lived cultural practices.

Dialogical Formulation: Laws must be developed through genuine co-deliberation, such as establishing a "Co-Drafting Commission" (Bohman, 1996) where NMIP leaders hold explicit agenda-setting power.

Contextual Clarification: Implementing "Pre-Implementation Linguistic Audits" to identify and amend terminology that generates semantic dissonance prior to final legislative approval.

Ethical Communication: Ensuring all legislative speech adheres to intersubjective validity claims, preventing the colonization of indigenous lifeworlds by bureaucratic administration.

CONCLUSION AND RECOMMENDATIONS

While the BAA 64 aspires to be progressive, it is undermined by its failure to genuinely engage the linguistic and cultural frameworks of the communities it intends to protect. The failure to acknowledge multiple language-games results in the imposition of a dominant worldview, proving that recognition without authentic communication is hollow. Without shared language-games and communicative action, policies risk becoming instruments of assimilation, echoing Bourdieu's (1991) caution that linguistic exchanges are inherently relations of symbolic power.

Future research must transition to rigorous, multi-indicator empirical evaluations, assessing changes in NMIP land tenure security and representation post-BAA 64. Furthermore, it is recommended that Habermasian communicative frameworks explicitly inform the design of participatory mechanisms in the BARM, ensuring NMIPs are empowered to shape the terms of dialogue rather than merely reacting to them. Ultimately, legal language must be recognized as a philosophical act; attending to the grammar of our laws is essential for constructing a genuinely just and dialogical future.

REFERENCES

1. Åkebo, M. (2019). Coexistence ceasefire in Mindanao. *Peace & Change*. <https://doi.org/10.1111/pech.12372>
2. Aktay, M. (2023). Digital communication and the erosion of dialogue. *Politikos Journal*. <https://politikos.org/ojs/index.php/content/article/view/19>
3. Alampay, E. A., & Gaspar, K. M. (2023). Plural identities and ancestral domains: Revisiting non-Moro IP struggles in the Bangsamoro. *Mindanao Policy Journal*, 12(1), 33–52.
4. Alcantara, M., & Constantino, E. (2020). Indigenous land rights in the Philippines: A continuing struggle. *Journal of Southeast Asian Studies*, 51(2), 155–172.
5. Almeda, M. I., Umil, A. B., & Narag, R. E. (2023). Indigenous peoples and the Bangsamoro: Struggles for recognition in a shared homeland. Institute for Autonomy and Governance.
6. Almeda, V. L., Sy, J. M. C., Aban, A. P., & Tabiola, H. B. (2023). IPRA: Indigenous people's struggle continues. University of the Philippines Center for Integrative and Development Studies (UP CIDS). https://cids.up.edu.ph/discussion_paper/ipra-indigenous-peoples-struggle-continues/
7. Amnesty International. (n.d.). Indigenous peoples: Overview. <https://www.amnesty.org/en/what-we-do/indigenous-peoples/>
8. Author. (2015). A communicative approach to educational feedback. *Assessment in Education: Principles, Policy & Practice*, 22(2), 234–251. (Note: If "Author" was a placeholder, replace it with the actual author's name).
9. Balgos, B. C. (2024). Critical analysis of the Bangsamoro Indigenous Peoples Act of 2024. Institute of Policy Studies.
10. Balguilat, C., & Pimentel, R. (2024). Policy report on the Bangsamoro Indigenous Peoples Act. Institute of Autonomy and Governance.
11. Bangsamoro Parliament. (2024). Bangsamoro Autonomy Act No. 64: An act recognizing, respecting, protecting, promoting, and fulfilling the rights of Non-Moro Indigenous Peoples in the Bangsamoro Autonomous Region in Muslim Mindanao. <https://parliament.bangsamoro.gov.ph/legislation/bangsamoro-autonomy-act-no-64/>
12. Bertrand, J. (2004). *Nationalism and ethnic conflict in Indonesia*. Cambridge University Press.

13. Biletzki, A., & Matar, A. (2020). Ludwig Wittgenstein. In E. N. Zalta (Ed.), *The Stanford Encyclopedia of Philosophy* (Fall 2020 ed.). <https://plato.stanford.edu/entries/wittgenstein/>
14. Bohman, J. (1996). *Public deliberation: Pluralism, complexity, and democracy*. MIT Press.
15. Bourdieu, P. (1991). *Language and symbolic power* (G. Raymond & M. Adamson, Trans.). Harvard University Press.
16. Chukwuokolo, J., Jeko, C., & Nwankwo, A. (2024). Habermas and deliberative democracy in post-colonial governance. *Journal of African Social Sciences and Development*. <https://acjol.org/index.php/jassd/article/view/5118>
17. CNN Philippines. (2018, July 26). Duterte signs Bangsamoro Organic Law.
18. Cohen, J. (1997). *Deliberation and democratic legitimacy*. In J. Bohman & W. Rehg (Eds.), *Deliberative democracy: Essays on reason and politics*. MIT Press.
19. Conflict monitoring report finds uptick in BARMM violence ahead of 2025 elections. (n.d.). PressOnePH. <https://pressone.ph/conflict-monitoring-report-finds-uptick-in-barmm-violence-ahead-of-2025-elections/>
20. Degrowth. (n.d.). State-prescribed (re)productivity: The Philippine legislation on the rights of indigenous peoples and local crisis. <https://degrowth.info/en/library/state-prescribed-re-productivity-the-philippine-legislation-on-the-rights-of-indigenous-peoples-and-local-crisis>
21. Dryzek, J. (2000). *Deliberative democracy and beyond: Liberals, critics, contestations*. Oxford University Press.
22. Ellaway, R. H. (2021). Language games and scholarly writing. *Advances in Health Sciences Education: Theory and Practice*, 26(4), 1187–1190. <https://doi.org/10.1007/s10459-021-10069-4>
23. Europe Solidaire Sans Frontières. (n.d.). Philippines: Experts warn: Infirmities in proposed IP Code could undermine inclusive peace and development in BARMM. <https://www.europe-solidaire.org/spip.php?article72342>
24. Fernandez, E. (2024). BARMM chief signs landmark law for indigenous people. *Philippine News Agency*. <https://www.pna.gov.ph/articles/1239798>
25. Flynn, J. (2020). Communicative action and public deliberation in digital spaces. *Philosophy & Social Criticism*, 46(1), 89–106. <https://doi.org/10.1177/0191453719872291>
26. Foucault, M. (1975). *Discipline and punish: The birth of the prison*. Pantheon Books.
27. Fraser, N. (1990). Rethinking the public sphere: A contribution to the critique of actually existing democracy. *Social Text*, (25/26), 56–80. <https://doi.org/10.2307/466240>
28. Funnell, S., Jull, J., Mbuagbaw, L., Welch, V., Dewidar, O., Wang, X., Lesperance, M., Ghogomu, E., Rizvi, A., Akl, E. A., Avey, M. T., Antequera, A., Bhuta, Z. A., Chamberlain, C., Craig, P., Cuervo, L. G., Dicko, A., Ellingwood, H., Feng, C., . . . Young, T. (2023). Improving social justice in observational studies: Protocol for the development of a global and indigenous STROBE-equity reporting guideline. <https://doi.org/10.1186/s12939-023-01854-1>
29. Gaffal, M. (2024). Wittgenstein’s concept of language games from a linguistic and analytical perspective. In J. Padilla Gálvez & M. Gaffal (Eds.), *The many faces of language games* (pp. 61–90). De Gruyter. <https://doi.org/10.1515/9783111577562-004>
30. Glock, H. J. (2015). *A Wittgenstein dictionary*. Wiley-Blackwell.
31. Habermas, J. (1984). *The theory of communicative action: Vol. 1. Reason and the rationalization of society* (T. McCarthy, Trans.). Beacon Press.
32. Hacker, P. M. S. (2001). *Wittgenstein: Meaning and mind* (Vol. 3). Wiley-Blackwell.
33. Hacker, P. M. S. (2019). *Wittgenstein: Meaning and mind*. Wiley-Blackwell.
34. Hallett, G. L. (1970). Notes and comments: Did Wittgenstein really define 'meaning'? *The Heythrop Journal*. <https://doi.org/10.1111/j.1468-2265.1970.tb00775.x>
35. Honneth, A. (1991). *The critique of power: Reflective stages in a critical social theory*. MIT Press.
36. Institute of Autonomy and Governance. (2024). Analysis of the Bangsamoro Indigenous Peoples Act: Implications for Non-Moro IPs. *Mindanao Policy Review*, 15(2), 45–67.
37. Institute of Autonomy and Governance. (2024). Legal review: BTA Bill No. 273, the Bangsamoro Indigenous Peoples Development Act of 2024. <https://www.iag.org.ph/think/1988-legal-review-bta-bill-no-273-the-bangsamoro-indigenous-peoples-development-act-of-2024>
38. Isaac, O. D., Ojukwu, C. C., & Alade, B. A. (2021). Ludwig Wittgenstein on language games: A critical appraisal. *International Journal of Research and Innovation in Social Science*, 5(4), 66–72.

39. Kinsella, S. M. (2023). Wittgenstein and constitutional interpretation: Law as a language-game. *University of Arkansas at Little Rock Law Review*, 47(2), 111–130. <https://lawrepository.ualr.edu/lawreview/vol47/iss2/1/>
40. Legarda honors Father Tentorio, hails his work for IPs. (n.d.). Loren Legarda. <https://lorenlegarda.com.ph/legarda-honors-father-tentorio-hails-his-work-for-ips/>
41. MacIntyre, A. (1988). *Whose justice? Which rationality?* University of Notre Dame Press.
42. Mapa, D. S. (2023, February 22). Religious affiliation in the Philippines (2020 Census of Population and Housing) [Press release]. Philippine Statistics Authority.
43. Meehan, J. (2000). Feminist critiques of discourse ethics. In J. Meehan (Ed.), *Feminists read Habermas* (pp. 1–25). Routledge.
44. Office of the Presidential Adviser on the Peace Process. (2015). Panukalang Batas Blg. 4994 [PDF].
45. Olasunkanmi, A. (2020). Communicative action and peacebuilding in African societies. *MAJOP*, 3(1). <https://bsum.edu.ng/journals/majop/vol3n1/article4.php>
46. Oxfam Philippines. (2017). Bridging the gap: Land rights and indigenous communities in the Philippines. Oxfam International. https://philippines.oxfam.org/policy_paper/land-rights-IPs
47. PeaceBuilders Community, Inc. (n.d.). Revisiting the GRP-MILF MOA on AD. <https://www.peacebuilderscommunity.org/statements/REVISITING%20THE%20GRP-MILF%20MOA%20ON%20AD.pdf>
48. Philippine Congress. (1997). Republic Act No. 8371: Indigenous Peoples Rights Act of 1997. <https://www.officialgazette.gov.ph/1997/10/29/republic-act-no-8371/>
49. Quilala, D. (2020). Minority rights vs. minority rights: The case of indigenous peoples' rights in the new Bangsamoro Autonomous Region in Muslim Mindanao. *Social Science Asia*, 6(4), 21–37.
50. Rehg, W. (2022). Between facts and norms in public reasoning: Revisiting Habermas in the 21st century. *Journal of Political Philosophy*, 30(2), 174–196. <https://doi.org/10.1111/jopp.12235>
51. Ricoeur, P. (1971). The model of the text: Meaningful action considered as a text. *Social Research*, 38(3), 529–562.
52. Skollerhorn, E. (1998). Habermas's theory of communicative action and the cultural politics of environmentalism. *Journal of Environmental Planning and Management*, 41(3), 345–363.
53. Wittgenstein, L. (1953). *Philosophical investigations* (G. E. M. Anscombe, Trans.). Blackwell Publishing.
54. World Bank. (2023). Indigenous peoples overview. <https://www.worldbank.org/en/topic/indigenouspeoples>