

AN ACT TO ESTABLISH THE BATANES GROUP OF ISLANDS AND ISLETS AS A PROTECTED AREA, AND ITS PERIPHERAL WATERS AS BUFFER ZONES, PROVIDING FOR ITS MANAGEMENT AND FOR OTHER PURPOSES.

Section 1. Title. — This Act shall be known as the "Batanes Protected Area Act of 2000."

Sec. 2. Declaration of Policy. — Pursuant to Republic Act No. 7586, it is hereby declared the policy of the State to regulate the utilization of fishery and marine resources, aggregates, wild flora and fauna, culture and indigenous knowledge, historical artifacts and sites, ensure the continuity of endangered, threatened and rare species and preserve Ivatan heritage towards the end of conserving, protecting and preserving the scenic, cultural, historical and archeological features of the Batanes Group of Islands including the diverse terrestrial and marine ecosystem thereof for the benefit of its people and humankind.

The classified forest lands comprising the Batanes Protected Area shall be within the national park classification under the Constitution. Public lands classified as agricultural and alienable and disposable upon the passage of this Act shall remain as such and may be disposed of under the law.

Sec. 3. Scope. — The boundaries of the Batanes Protected Area are as follows:

From pt. 1 21° 11' 09" latitude 121° 56' 37" longitude

pt. 2	21° 09' 19" latitude	122° 00' 24" longitude
pt. 3	21° 06' 58" latitude	122° 01' 16" longitude
pt. 4	21° 03' 13" latitude	121° 59' 47" longitude
pt. 5	21° 01' 18" latitude	121° 59' 03" longitude
pt. 6	20° 58' 41" latitude	121° 58' 16" longitude
pt. 7	20° 54' 18" latitude	121° 58' 29" longitude
pt. 8	20° 51' 22" latitude	121° 57' 33" longitude
pt. 9	20° 49' 21" latitude	121° 56' 55" longitude
pt. 10	20° 47' 37" latitude	121° 57' 02" longitude
pt. 11	20° 46' 25" latitude	121° 57' 08" longitude
pt. 12	20° 44' 39" latitude	121° 59' 20" longitude
pt. 13	20° 41' 48" latitude	122° 00' 18" longitude
pt. 14	20° 28' 00" latitude	122° 06' 02" longitude
pt. 15	20° 24' 45" latitude	122° 01' 36" longitude
pt. 16	20° 23' 01" latitude	122° 02' 45" longitude
pt. 17	20° 21' 05" latitude	122° 01' 34" longitude
pt. 18	20° 19' 47" latitude	122° 00' 44" longitude
pt. 19	20° 18' 04" latitude	121° 59' 25" longitude
pt. 20	20° 18' 09" latitude	121° 57' 20" longitude

pt. 21	20° 15' 53" latitude	121° 55' 54" longitude
pt. 22	20° 13' 36" latitude	121° 55' 00" longitude
pt. 23	20° 11' 56" latitude	121° 51' 37" longitude
pt. 24	20° 13' 27" latitude	121° 48' 10" longitude
pt. 25	20° 14' 50" latitude	121° 46' 05" longitude
pt. 26	20° 16' 51" latitude	121° 44' 31" longitude
pt. 27	20° 18' 37" latitude	121° 43' 47" longitude
pt. 28	20° 20' 11" latitude	121° 42' 32" longitude
pt. 29	20° 22' 42" latitude	121° 43' 28" longitude
pt. 30	20° 24' 11" latitude	121° 46' 48" longitude
pt. 31	20° 24' 02" latitude	121° 48' 26" longitude
pt. 32	20° 24' 52" latitude	121° 48' 45" longitude
pt. 33	20° 25' 14" latitude	121° 50' 43" longitude
pt. 34	20° 24' 42" latitude	121° 51' 27" longitude
pt. 35	20° 26' 31" latitude	121° 53' 37" longitude
pt. 36	20° 28' 10" latitude	121° 53' 15" longitude
pt. 37	20° 31' 15" latitude	121° 55' 19" longitude
pt. 38	20° 40' 21" latitude	121° 43' 47" longitude
pt. 39	20° 43' 16" latitude	121° 42' 53" longitude
pt. 40	20° 46' 14" latitude	121° 44' 51" longitude
pt. 41	20° 49' 33" latitude	121° 46' 00" longitude
pt. 42	20° 53' 12" latitude	121° 48' 33" longitude
pt. 43	20° 54' 24" latitude	121° 49' 46" longitude
pt. 44	20° 55' 43" latitude	121° 50' 17" longitude
pt. 45	20° 57' 19" latitude	121° 50' 54" longitude
pt. 46	20° 59' 09" latitude	121° 52' 23" longitude
pt. 47	21° 01' 11" latitude	121° 52' 41" longitude
pt. 48	21° 03' 55" latitude	121° 51' 28" longitude
pt. 49	21° 07' 18" latitude	121° 52' 35" longitude
pt. 50	21° 09' 57" latitude	121° 53' 40" longitude
pt. 1	21° 11' 09" latitude	121° 56' 37" longitude

containing an approximate area of Two hundred thirteen thousand five hundred seventy-eight (213,578) hectares as a protected area.

Any modification to this Act due to factors such as changing ecological situations, new scientific or archeological findings or discovery of traditional boundaries not previously taken into account shall be made through an Act passed by Congress after full consultation with the affected public.

Private lands inside the protected area shall be governed as part of the protected area subject to rules and regulations relating thereto. Penal provisions, however, in this Act or in rules and regulations issued by the Protected Area Management Board (PAMB) shall not apply to private lands unless specifically stated.

Sec. 4. Definition of Terms. — For the purposes of this Act, the following terms are defined as follows:

(a) "Alienable and disposable lands" refer to public lands classified as agricultural and therefore alienable and disposable prior to the passage of this Act, provided that ancestral domains are not considered to be alienable and disposable as they are considered never to have been public;

(b) "Ancestral lands and domains" refer to all lands and natural resources occupied or possessed by indigenous cultural communities, by themselves or through their ancestors communally or

individually, in accordance with their customs and traditions since time immemorial and continuously to the present except when interrupted by war, force majeure, or displacement by force, deceit or stealth. It includes all adjacent areas generally belonging to them and which are necessary to ensure their economic, social and cultural welfare;

(c) "Forest lands" shall refer to all lands within the Batanes Protected Area which are public lands, not ancestral lands or domains and have not been classified as alienable and disposable, thereby placing it within the constitutional classification of national park;

(d) "Non-government organization" shall refer to any civic, development or philanthropic organization which is multi-sectoral in character;

(e) "Non-renewable resources" are those resources found within the protected area and its buffer zones the replenishment rate of which is either not known or takes more than twenty-five (25) years;

(f) "People's organization" shall refer to organizations whose purpose for establishment is to protect or advance the interest of specific sectors, such as but not limited to farmers, fisherfolks, women and the like;

(g) "Peripheral waters" shall refer to the waters covered under the technical description under Section 3 hereof;

(h) "Private lands" are those registered as such under the property registration decree, those over which private ownerships have ripened as provided for under the Public Land Act and those considered ancestral lands despite the lack of documentation that reflect such status;

(i) "Protected species" any individual of the following species: marine turtles, green turban snails, dolphins, whales, whale sharks or any species listed under the Convention of International Trade of Endangered Species (CITES), or any plant or animal that is or shall be declared as protected under the Philippine laws, rules and regulations issued by the Department of Environment and Natural Resources (DENR) or the PAMB or the management plan herein provided for.

Sec. 5. Management Plan. — The Protected Area Superintendent (PASu) shall prepare the management plan in consultation with the appropriate offices of the DENR and local experts who may donate their services including but not limited to people's organizations, non-government organizations, local government units and other government agencies. The management plan shall be reviewed, approved and adopted by the PAMB and certified by the Secretary of the DENR. Such certification is mandatory if the plan conforms to all laws and rules and regulations issued by the DENR of national application. In no case shall the DENR be allowed to revise or modify a management plan without prior consultation with the PAMB.

Within one (1) year from the effectivity of this Act, a Management Plan shall have been put into effect following the General Management Planning Strategy provided under the National Integrated Protected Area Systems (NIPAS) Act and according to the procedure herein set forth. It shall contain, among others, the following:

(a) The category of the protected area;

(b) Period of applicability of the plan;

(c) Key management issues;

(d) Goals and objectives of management in support of Section 2 hereof;

- (e) Site management strategy;
- (f) Major management activities such as but not limited to enforcement of laws, habitat and wildlife management, sustainable use management, infrastructure development and maintenance, fire and pest control;
- (g) Zoning;
- (h) Visitor management programs; and
- (i) Waste management programs.

The PASu in coordination with all concerned offices shall prepare all successor plans. One (1) year before the expiration of the period of applicability of the plan in effect, the PASu shall cause publication of notices for comments and suggestions on the next successor plan in a newspaper of local circulation and the posting of such notices in the provincial, municipal and barangay halls and in three other areas frequented by the public. Public hearings may be conducted on the successor plan upon the written request of any interested party. A finalized plan shall be made available for public perusal at the Office of the PASu upon its approval by the PAMB.

The zoning of the protected area shall give primary consideration to the traditional zones used and recognized by the Ivatans and tenured migrants unless such uses are deemed detrimental to biodiversity and the protection of the natural characteristics of the protected area.

The plan shall be in a language understandable in the area, plainly written and available for perusal to the general public at the PASu office.

Sec. 6. Institutional Mechanisms. — The following administrative and policy-making mechanisms shall apply:

(A) The Protected Area Management Board. — There shall be a PAMB which shall be the policy-making body of the protected area. It shall be composed of:

- (1) The Regional Director, Region II, of the DENR as the chairman;
- (2) The Provincial Planning and Development Officer;
- (3) One (1) representative from each municipal government of Batanes, to be appointed by a majority vote of each Sangguniang Bayan;
- (4) One (1) representative from each barangay, to be appointed by the Sangguniang Barangay;
- (5) At least three (3) representatives from non-government organizations to be chosen among themselves;
- (6) One (1) vote during every meeting shall be reserved for one national government agency as may be called for that specific meeting by the PAMB depending upon the specific needs in the agenda;
- (7) At least two (2) representatives who are considered authority on Ivatan culture, customs and traditions, whether by academic qualifications or continuous and authoritative indigenous knowledge of such culture; and

(8) At least three (3) representatives from peoples' organizations or cooperatives to be selected among themselves.

Every member of the PAMB shall be considered to represent his or her sector and shall be deemed to carry the vote of such sector unless challenged in writing five (5) days after the decision being challenged is made known to the members of the sector through the provision of written information.

The PAMB for the Batanes Protected Area shall have the following powers and functions:

- (1) Issue all rules and regulations to prohibit acts that may be prejudicial to the protected area and the policy declaration herein set forth as well as establish criteria and set fees for the issuance of permits for activities regulated by this Act or the management plan;
- (2) Issue rules and regulations for the resolution of conflict through appropriate, culturally sensitive and effective means;
- (3) Adopt rules of procedure for the conduct of business, including the creation of committees to whom its powers may be delegated;
- (4) Approve the management plan and oversee the office of the PASu;
- (5) Deputize interested individuals for the enforcement of the laws, rules and regulations governing conduct in the protected area; and
- (6) Approve proposals for funding, budget allocations and exercise responsibility over all funds that may accrue to the Batanes Protected Area which are donated for the purpose of the above policy declaration.

The DENR through the Regional Executive Director (RED) shall exercise the authority to oversee the PAMB to ensure that it is acting within the scope of its powers and functions. In case of a contradiction between administrative orders issued by the DENR pursuant to the NIPAS Act for national application and the rules and regulations issued by the PAMB, the PAMB shall notify the Secretary of the DENR who shall decide whether to apply the rule or withdraw it for purposes of the Batanes Protected Area. The decision of the Secretary shall be guided by a preference to locally initiated and specific policies enacted by the PAMB. The decision of the Secretary shall be appealable to the Regional Trial Court with jurisdiction over the protected area.

(B) The Protected Area Superintendent (PASu) Office. — There shall be a Protected Area Superintendent within the Department of Environment and Natural Resources who shall serve as the chief operating officer of the protected area. The PASu shall have the following powers and functions:

- (1) Prepare the management and successor plans as herein provided;
- (2) Serve as the Secretariat for the PAMB with duty to provide the PAMB with all the information necessary for it to make appropriate decisions when necessary;
- (3) Hire and supervise the necessary personnel to support operations as the budget allocated in this Act by the PAMB and by the DENR may allow;

- (4) Establish a productive partnership with the local community, including groups interested in the achievement of the herein goals and objectives, in the planning, protection and management of the protected area;
- (5) Develop and implement a park information, education and visitor program;
- (6) Enforce the laws, rules and regulations relevant to the protected area and assist in the prosecution of offenses;
- (7) Monitor all activities within the protected area for their compliance with the management plan; and
- (8) Perform such other functions as the PAMB may assign.

(C) Delegation of Authority. — The PASu may, as necessary, delegate authority granted in this Section to his staff.

Sec. 7. Ancestral Lands and Domains. — Lands occupied since time immemorial by the Ivatans shall be deemed never to have been public and shall be available for disposition according to the customs and traditions practiced by the occupying claimant under Ivatan customs and traditions as they evolve. In the absence of specific proof to the contrary, such lands shall be presumed to be claimed communally. Such ancestral lands and domains shall be identified, delineated and titled in accordance with the provisions of Republic Act No. 8371, otherwise known as the Indigenous People's Rights Act (IPRA).

Sec. 8. Tenured Migrants. — Tenured migrants are those who have actually and continuously occupied the forest lands within the protected area before June 30, 1987 and are substantially dependent on such areas for their livelihood. For purposes of official documentation of rights and extent of occupation within the protected area, the tenured migrants shall be issued a tenure instrument over such areas as have been occupied or cultivated since June 30, 1987. If, despite consideration paid to current practices, areas occupied by tenured migrants are designated as zones in which no occupation or other activities are allowed, provision for their transfer to multiple use zones or buffer zones may be accomplished using humanitarian considerations in so doing.

Upon a cancellation of a tenured migrant instrument for cause, abandonment or by voluntary surrender of rights, the PASu shall take immediate steps to rehabilitate the area in order to return it to its natural state prior to the cultivation or other activity by the tenured migrant.

Sec. 9. Prohibited Acts and Penalties. —

(A) The penalties in Articles 309 and 310 of the Revised Penal Code depending on the value of the resources taken, damaged or destroyed shall be imposed upon any person who:

- (1) Hunts, destroys, disturbs or removes from the Batanes Protected Area any wild plants or animal products derived therefrom without a permit from the PAMB;
- (2) Conducts mineral exploration or extraction within the forest lands as defined herein;
- (3) Conducts quarry operations for aggregates, limestone, coral, sand or other quarry material without a permit from the PAMB or without other permits required under existing laws;

- (4) Engages in commercial fishing within municipal waters;
- (5) Engages in fishing with the use of explosives, noxious substances, electricity or drift nets with mesh below three (3) centimeters between the knots when stretched; and
- (6) Cuts, removes, gathers, takes timber or forest products from the forest lands without authorization.

Valuation of the damage shall take into account biodiversity and conservation considerations as well as aesthetic and scenic value.

(B) A fine of not less than Fifty thousand pesos (P50,000.00) but not more than Five hundred thousand pesos (P500,000.00) and/or imprisonment of not less than one (1) year nor more than five (5) years and the restoration and rehabilitation of the damage shall be imposed upon any person who:

- (1) Alters topography through digging, blasting, earth-filling activities or stonewalling without a permit from all proper authorities as required under existing laws, rules and regulations and from the PAMB;
- (2) Damages roads, trails or leaves them in a damaged condition or mutilates, defaces, destroys or vandalizes any object of natural beauty or scenic value within the protected area;
- (3) Constructs or maintains any kind of structure without a permit from the PAMB or without other requisite permits under existing laws such as but not limited to municipal permits, public works requirements and Environmental Compliance Certificates; and
- (4) Alters, removes, destroys or defaces boundary marks, buoys or signs in the protected area.

(C) A fine of not less than Five thousand pesos (P5,000.00) nor more than One hundred thousand pesos (P100,000.00) and/or imprisonment from one (1) year to three (3) years shall be imposed upon any person who:

- (1) Occupies lands classified as forest lands as herein defined without a legal instrument for such occupation;
- (2) Violates any rules and regulations in the management plan of the PAMB or agreements reached before the PAMB in its exercise of adjudicative functions;
- (3) Dumps any waste materials on land or sea other than in areas identified as dumping sites by the concerned local governments, or leaves human wastes or refuse on land or sea in exposed or in unsanitary condition;
- (4) Kills or injures any protected species or fails to release it when accidentally caught or found beached;
- (5) Possesses a chainsaw without clearance from the PAMB which shall specify the legal uses for which it can be applied;
- (6) Knowingly brings into the Batanes Protected Area any exotic species or substances which may pose a hazard to public health, protected species habitat or populations or scenery; and

(7) Brings out of the Batanes Protected Area live fish without a negative certification from cyanide testing.

(D) Imprisonment of six (6) years and one day to ten (10) years and/or a fine of not less than Five thousand pesos (P5,000.00) nor more than Five hundred thousand pesos (P500,000.00) shall be imposed upon any alien engaging in any fishing activity within the municipal waters of Batanes. The offender shall further be deported after service of sentence. If such activity is carried on using a vessel of foreign registry, the penalty shall include the confiscation of the vessel in favor of the government. The same penalty and perpetual disqualification from public office shall be imposed upon any Filipino citizen knowingly aiding and abetting the commission of this offense.

(E) A fine of not less than Five thousand pesos (P5,000.00) nor more than Five hundred thousand pesos (P500,000.00) and/or imprisonment of not less than one (1) year and not more than five (5) years shall be imposed upon:

(1) Any person who shall induce another or conspire to commit any of the above acts or suffer their workers to commit any of the above acts shall be liable in the same manner as the one actually performing the act; and

(2) Any public officer, or officer of the law, who, in dereliction of the duties of his/her office, shall maliciously refrain from instituting prosecution for the punishment of the violators of the law, or shall tolerate the commission of the offenses. Conviction for this offense shall also carry the penalty of perpetual disqualification from public office.

Sec. 10. Special Prosecutor. — Within thirty (30) days from the effectivity of this Act, the Department of Justice shall appoint a special prosecutor to whom all cases of violation of laws, rules and regulations in the protected area shall be assigned. Such special prosecutor shall coordinate with the PAMB and the PASu in the performance of his/her duties and assist in the training of wardens and rangers in arrest and criminal procedure.

Sec. 11. Local Government Units. — Local government units shall participate in the management of the Batanes Protected Area through its representation in the PAMB and shall ensure that rules for the conduct of business adequately allow them the opportunity to consolidate plans and projects with the management planning process.

Sec. 12. Revenue Sharing. — The local government units within the protected area shall continue to collect fees and charges including applicable taxes due to the local government, fees for local government services or the use of its facilities and other revenues within the powers of the local governments to collect.

The Integrated Protected Area Fund (IPAF) set up under Republic Act No. 7586 shall include taxes from the permitted sale of wild flora and fauna, donations, endowments, contributions and grants for the pursuit of the purposes of the protected area and the policy declaration herein but subject to onerous conditions as may be imposed by the donor or grantor, proceeds from the leases by tenured migrants and such revenues as the PAMB may legally impose and collect.

Sec. 13. Existing Facilities within the Protected Area. — Within sixty (60) days from the effectivity of this Act, existing major facilities such as roads, buildings, airports, seaports, water systems, power plants, transmission lines, communications facilities, heavy equipment, irrigation facilities, commercial sea vessels, medical facilities and junk shops within the boundaries of the protected area shall submit project descriptions to the PAMB through the PASu.

Based on its submission, the PAMB, with the help of the DENR, shall determine whether the existence of such facility and its future plan and operation will be detrimental to the protected area or whether conditions for its operation shall be imposed. If any of such conditions are violated, the facility shall be liable to pay a fine of Five thousand pesos (P5,000.00) for every day of violation. Upon reaching a total fine of Five hundred thousand pesos (P500,000.00), the PAMB through the PASu and deputizing other government entities, shall cause the cessation and demolition of the facility at the cost of its owners.

Existing facilities allowed to remain within the protected area may be charged a reasonable royalty by the DENR. All incomes from such royalty shall accrue to the Integrated Protected Area Fund (IPAF).

Sec. 14. Utilization of Energy and Non-renewable Resources. — Any exploitation and utilization of energy and other non-renewable resources within the protected area shall be allowed only through PAMB approval, in consultation with the Department of Energy. In no case shall an exemption from the Environmental Impact Assessment (EIA) system be made for energy and non-renewable resource exploitation projects within the protected area.

Sec. 15. Appropriation. — The amount necessary for the implementation of this Act shall be included in the budget of the Department of Environment and Natural Resources in the annual General Appropriations Act.

Sec. 16. Construction. — The provisions of this Act shall be construed liberally in favor of the occupants of the protected area. The NIPAS Act shall have suppletory effect in the implementation of this Act.

Sec. 17. Repealing Clause. — For the purpose of the scope of this Act, the provisions of the NIPAS Act are hereby modified in accordance with the provisions herein. All other laws, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly. Within the scope of the protected area as herein specified, the prohibitions and penalties under the NIPAS Act are hereby superseded.

Sec. 18. Separability Clause. — If any part or section of this Act is declared by the courts as unconstitutional, such declaration shall not affect the other parts or sections hereof.

Sec. 19. Effectivity Clause. — This Act shall be translated in English and Ivatan. The English version shall be published once every week for three (3) consecutive weeks in a newspaper of general circulation and in Ivatan in a newspaper readily available in the area in and around the scope specified hereunder. It shall likewise be posted in the appropriate language in a conspicuous place in the provincial, municipal and barangay halls within the area as well as in three other places frequented by the public. Fifteen (15) days after the last publication, this Act shall have full force and effect.

Approved: January 5, 2001.