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Editorial: Indigenous Peoples' Rights and Ancestral Domains

CONTINUED FROM INSIDE FRONT COVER

Territorial domains, the embodiments of a people's history, spirituality and life held sacred and in perpetuity for the descendants, has become a commodity -- fragmentized and desecrated. Paper title is all that is needed to own parcels or worse, vast tracts of land. Not the elaborate and time-tested rituals and ceremonies anymore that cull the memories of ancestors whose deeds, made fruitful because they were watered by their sweat and blood, can secure for the progeny an inheritance valuable and transcendent.

Along with the fragmentation of ancestral domain is the dissipation of the rightful occupants. The homogeneous people's nations bound by common ancestry, history, traditions, customs and language are rendered squatters in their own lands; unable to move about, till and care for their land like their ancestors did. Others are forcibly displaced to become migrants in other people's land.

Interestingly, the twin phenomena of ancestral domain usurpation and genocidal repression of Indigenous Peoples have reached global proportions not unrelated with the alarming ecological destructions. This nemesis threatens the whole planet earth and all living things, humans included. Forest denudation, dumping of mine tailings, industrial and nuclear wastes, oil spills, pesticides, acid rains, ozone layer depletion, and a lot more, all wreak havoc beyond the pale of human imagination. The subtle interrelatedness and interconnectedness of every living and non-living form, material and non-material realms elude science and technology. Human endeavor failed in these two fields and is unable to grapple with this too complex cosmic problem.

Fortunately enough for human beings, there are other fields that can better explain the problematic human existence, e.g. Philosophy, the Social Sciences: History, Anthropology, Political Science, etc. Under the guidance of these disciplines, movements are starting to catch fire the world over.

Certain sectors of society, touched one way or the other by the so-called ecological crisis of the 60s, spearheaded the campaigns on nature conservation more out of romantic concern for endangered flora and fauna. Paradoxically though, they are left untouched by human rights violation and outright decimation of Indigenous Peoples and their Ancestral Domains. Of late however, the sentimental but misplaced concerns have given way to movements that have found the correct venue for making waves not only in Parliaments of the First World countries like the Green Party of West Germany, but also in the very halls of the United Nations.

Indeed, unless this ecological destruction is seen as three features of human history namely: domination of Nature, domination of Humans and lastly as social conflict, all attempts at solving the crisis will only be ineffective and just palliate the situation. Hence the appropriateness of waging the campaigns in the political arena.

In the Third World countries, the Philippines in particular, the struggle for self-determination embodied initially in the defense of the ancestral domains against the encroachment of the Spanish and American colonizers continues to this day in the demands of the Indigenous Peoples for the recognition of their rights to these domains from the national government. This has been a long protracted struggle; very bloody at times.

Although a breakthrough has been reached with the inclusion of the provision in the 1987 Constitution for the Cordilleras and the Muslim Peoples, the tampering with of the Organic Act showed the insincerity of those in power. Here is in the concrete the two-pronged domination of Nature and of Humans with the third factor (social conflict) as the binding element.

The national government's vacillation in its stand on the issue as on other national issues of importance stems more from its lack of political will, shameful subservience to the erstwhile colonizers and dependence on the "crumbs" that fall from their table. Because of these, the state readily sacrifices sovereignty and human rights of its constituencies on the altar of extreme greed for profit and power by the U.S.

In spite of this state of affairs, not everything is bleak. The tenacity and persistence with which the Tribal Filipinos assert their rights and the militant support they get from their compatriots and from other Indigenous Peoples in other countries have gained momentum as to reach the halls of the United Nations in Geneva. The national federation of the Indigenous Peoples of the Philippines currently has about two hundred member organizations including those of the Cordilleras and the Muslims of Mindanao. They are definitely a significant force which have not remained outside the popular struggle for a true national democracy. In fact they constitute one of the decisive factors for the reconstruction of the Philippine nation-state. For they have kept the indigenous culture, its strength, its deep roots in what is ours - neither romanticizing nor underestimating it. It is an immense pool of human wealth which our modern Philippines can no longer disregard without denying its very essence.

That sense of the collective, the values of human solidarity, austerity, courage, industriousness, straightforwardness and frankness which come only from those who throughout centuries of oppression and exploitation have made these qualities and values part of their intimate nature.

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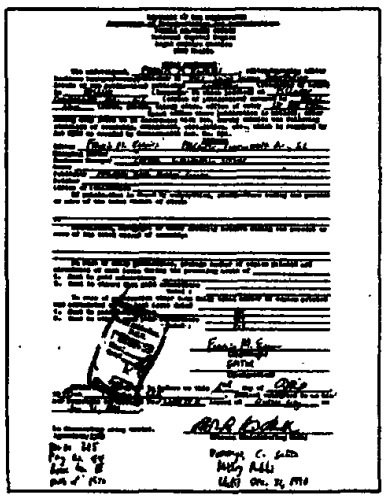

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Cover: "Animist Earth" by Anna Fer
Photographed by Rod Pablo

The Lumad Side on the Issue of Autonomy in Mindanao

RUDY B. RODIL*

Introduction

No one questions that the Lumad, popularly composed of 18 ethnolinguistic groups and distributed from the 13 Islamized and equally indigenous communities of Mindanao, Sulu and Palawan, have a right of occupation distinct from that enjoyed by settlers from Luzon and the Visayas.

What those in the majority tend to question is the Lumad claim to possessory rights over so-called areas of ancestral domain. The former argue on the side of the integrity of national territory and on the efficacy of national laws governing land disposition, and so far these have prevailed.

The Lumad have every reason to be dissatisfied with the present legal room the state has deigned to allow them. The 1987 Constitution itself is cause for restlessness. For example, Article XII, Section 5 states:

> The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being.
>
> The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

A corollary provision is Article XIV (Education, Science and Technology, Arts, Culture and Sports), Section 17 which says:

> The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.

These two provisions look fine as they appear. But then a most basic question readily comes to mind: How come that aside from "Muslim Mindanao and in the Cordilleras" no provision was made for Lumad autonomy, whether regional or local?

The dual issues of ancestral domain and indigenous culture are inseparable and constitute the heart of the autonomous question. Autonomy is supposedly a response to a demand for self-determination by communities of people who have been marginalized no less by the operations of state laws and policies. But it seems that these twin issues remain to be properly appreciated by the majority, more particularly those operating the state machinery. The uphill battle faced by the handful who understand in the Constitutional Commission is concrete testimony to this.

There is thus a continuing need to present and discuss the Lumad situation whenever and wherever the opportunity arises. Until such time that they are given their much deserved attention, it is my conviction that this government cannot lay claim to the attainment of true political unity and genuine democracy.

This paper is to revolve around the issue of Lumad ancestral domain. It is actually a revised edition of a paper entitled "Ancestral Domain: A Central Issue in the Lumad Struggle for Self-Determination in Mindanao," first presented at the Mindanao conference hosted by the Australian National University at Canberra last November 2 and 3, 1989.

Who are the Lumad and Where are they Found?

The specific details of their identity and locations are contained in Appendix A of this paper. For the purpose of a quick overview, the Lumad are the 18 or so ethno-linguistic groups which are indigenous to Mindanao, generally referred to by outsiders as Non-Muslims but call themselves or each other by their tribal designations, as follows, in alphabetical order: Ata, Bagobo, Banwaon, B'laan, Bukidnon, Higaunon, Mamanwa, Mandaya, Mangguwanga, Mansaka, Subanon, Tagakaolo, Tasaday, T'boli, Tiruray and Ubo.[1]

These indigenous communities were variously known in history, at least in documents written by outsiders, as "paganos", "infieles", "indigenous" among the Spanish colonizers; as "wild tribes", "uncivilized" and "non-Christian tribes" among the American colonialists, and as "Cultural Minorities", "Tribal Minorities", "National Cultural Communities", "Tribal Filipinos", "Indigenous Cultural Communities", and "Tribal Peoples" in government, church and academic circles.

From among themselves, designations like "Highlanders" and "Lumad" came into being in the last fifteen years or so.

I personally adhere to the name "Lumad" which is being advocated and propagated by the members and affiliates of Lumad-Mindanao, a coalition of all Lumad local and regional organizations which formalized themselves as such in 1986 but started in 1983 as a multi-sectoral organization.[2] This is the only Lumad organization I know that takes up the cause of the Lumad right to collective self-determination.

Collectively, they constitute according to the national census of 1980[3] approximately six percent of the entire Mindanao-Sulu population. They make up the majority population in only nine out of a total of 423 municipalities, a far cry from their situation around the 1900s when they were generally in control of a superficial area roughly encompassed within seventeen (17) provinces of contemporary Mindanao.[4] (See appendix A for details.)

Lumad Worldview on Land

In substance, all the Lumad groups share a common traditional concept of landownership: a territory occupied by a community is communal private property and community members have the right of usufruct to any piece of unoccupied land within the communal territory. Such proprietorship is premised on prior and uninterrupted occupancy by the community itself. Scholars who have done extensive studies on these people from as early as the first decade of the 20th century have arrived at similar findings.

According to John M. Garvan who did work on the Manobos of eastern Mindanao from 1905 to 1909:

> Manoboland, with the exception of such settlements as have been formed by non-Christian Manobos in the vicinity of Christian settlements and usually situated at the head of navigation on the tributaries of the Agusan, is divided into districts, well-defined and, in case of hostility, jealously vigilantly guarded. These territorial divisions vary in extent from a few square miles to immense tracts of forest and are usually bounded by rivers and streams or by mountains and other natural landmarks. Each of these districts is occupied by a clan that consists of a nominal superior with his family, sons-in-law, and such other of his relatives as may have decided to live within the district. They may number only 20 souls and again they may reach a few hundred.[5]

Garvan adds, and this is very important for our discussion, that according to customary law, the territory over which the chief maintains his jurisdiction is recognized as being the collective ancestral property of the clan or family. Hunting, fishing, agricultural and other rights are generally enjoyed by the clan members. Exceptions are made, however, for others who happen to be in good terms with the chief.[6]

A Japanese scholar, Shinzo Hayase, who did his doctoral dissertation on the Bagobos of Davao, discovered that:

> The Bagobos called the area where they resided *ingod*, and their community or village *banwa*... Each *banwa* consisted of one or more hamlets which were identified by their natural boundaries... The community maintained corporate rights over land within its boundaries and tribal authorities had the power of superintendence. Trespass, hunting, gathering of wild fruits, etc. were forbidden within the territory of any other community. Violations were punishable either by death or compensation.[7]

Bagobo community territory was not limited to arable land. It also included hunting grounds, bodies of water like rivers and forest areas. And arable land within the community need not actually be cultivated. Hayase further notes:

> The semi-sedentary way of life of the Bagobos meant shifting from one portion of their hill country to another within carefully defined limits. They were also apt to move for reasons linked to their animistic faith. If misfortune overtook them, such as a death or a serious illness in the family, they would move away from the spot occupied, believing it to be inhabited by an evil spirit. The greater tracts claimed by the Bagobo were under a heavy forest canopy, but they were their hunting grounds and the places where their fruit orchards were situated, and from which they derived much of their food.[8]

Dr. Stuart Schlegel, an expert on Tiruray ethnography, listed three interrelated items to describe the Tiruray view of land. He said:

> 1. No individual can claim ownership over the land. It is not given to a single individual... Conversely it is given to the community and the community has the obligation to take care of it. Whatever fruit a person may reap from its bounty, he has to share to the community especially those who need them most.
>
> 2. It is the source of existence. The spring of its bounty is the source of livelihood. Without it the people will die.
>
> 3. It is here where their ancestors lived, and where they are buried. As such, it is very sacred for it is where the spirits of their ancestors roam. Their ancestors help them take care of the land.[9]

These three examples will indicate an indigenous custom similar or parallel to the state system of national boundaries and disposition of land within. The jealousness with which clan communities guarded their territory is similar to that of a state protecting its territory against foreign intrusion.

The misfortune of the Lumad groups is that their ancestral territories became absorbed into state territory, initially through the acquisitive proclivities of our colonizers.

To put our discussion in historical perspective, allow me to take a quick review of how the state domain gobbled up Lumad ancestral domains.

Concept of State Domain Takes Root

The concept of state domain presently exercised by the Republic of the Philippines is traceable to the regalian doctrine of Spain. It is said that Spain's discovery of the Philippine archipelago gave the Spanish crown, as was the practice among European expansionists in the 15th and 16th centuries, possessory rights over our islands. Since the King stood for the Spanish state, it was understood that his dominion was also state dominion, and the king of the state reserved the right to and the authority to dispose of lands therein to its subjects and in accordance with its laws.

The regalian doctrine is regarded as legal fiction because no such law ever existed. In any case, it was on the basis of this authority that the Spanish crown handed down a law in 1894 commanding its subjects in the Philippine colony to register their lands. It was also on the basis of this same authority that Spain ceded, whether we agree to its legitimacy or not, the entire Philippine archipelago to the United States through the Treaty of Paris of 10 December 1898. American armed might placed visibly in Manila provided the back-up role.

To the United State government, the Treaty of Paris and the subsequent treaty of 7 November 1900, which added portions of Philippine territory overlooked earlier, effected a transfer of little of ownership, or in state lingo, of sovereign rights over the Philippine archipelago. Which explains why the Philippine Islands along with other Pacific Islands similarly acquired have been referred to in American textbooks as their Insular Possessions.

The Philippine Bill of 1902 or more formally, Public Act No. 235 passed by the U.S. Congress on 1 July 1902 was an organic law which served as the fundamental law of the Philippine Islands until the enactment of the Jones Law of 1916.

Eight sections of this law are directly related to the state ownership of land and to the manner of land disposition. Section 12 speaks of "all the property and rights which may have been acquired under the treaty of peace with Spain..." This is regalian doctrine fleshed out. Or the United States government's interpretation of the concept of state domain.

As if to cover up for an oversight, realizing that Spain may not have actually exercised genuine sovereignty over the entirety of the Philippine archipelago, the Philippine Commission, six months after the passage of the land registration act, enacted a law (Act No. 718) entitled "An Act making void land grants from Moro sultans or dattos or chiefs of non-Christian Tribes when made without governmental authority or consent." This law is self-explanatory and actually puts to rest any pretensions by any group in the islands, specifically the Moros and the Lumads of Mindanao, over any right or authority to dispose of lands within their respective areas of traditional jurisdiction.

There was no recognition of, or even the slightest acknowledgment or the existence of communal property with respect to land. And this became more manifest as the Torrens system, first introduced in South Australia as the Real Property Act of 1857-1858, was adopted in the Philippines.[10]

Land laws subsequently passed carried the seeds of the institutionalized and legalized destruction of the ancestral domain system all over the islands. The Lumad concept of communal property and the Torrens system are simply irreconcilable.

It was the Land Registration Act No. 496, passed by the Philippine Commission on 6 November 1902, which institutionalized the Torrens system in the country. It mandated and provided the guidelines for the registration and titling of privately owned lands, whether by individual persons or by corporations. The word "corporation" left no room for the Lumad concept of private communal property. It also gave land an entirely new character.

As observed by Ma. Lourdes Aranal-Sereno and Roan Libarios in their paper entitled "The Interface Between National Land Law and Kalinga Land Law":

> With the Torrens system, the ultimate proof as to the ownership and description of the land is revealed in the certificate (of title).
>
> The development of the system, by highly facilitating land registration, resulted in the transformation of real estate into an industry ... real estate becoming an asset as liquid as other factors of wealth upon which banks may be expected to loan funds.[11]

And unlike the indigenous communities which have developed a direct, almost natural relationship with their habitat, the certificate of title in the hands of the private owner gives him "the right to use and dispose of his

land" and the state itself" guarantees the indefeasibility" of this title. And so, add Sereno and Libarios, by virtue of the Torrens system, land

> can pass hands by the mere exchange of money, execution of the requisite documents and the registration of such documents... anybody who wishes to deal with the land need look only at the certificate of title. Transactions in good faith, entered into on that basis, will be safeguarded by the state. Parties to such transactions may have no relation at all to the land except what be stated in the certificate.[12]

The strength of the Torrens system is further reinforced by the provisions of the public land laws which happen to be patently discriminatory to the Lumad. The discriminatory character of the public land laws, unrecognized and unfelt by those in the majority who benefit from it, becomes the very wall which stands in the way of acceptance of the reality of ancestral domain and attendant customary laws.

Discriminatory Provisions of Public Land Laws and Other Laws Affecting Land

First, recall again that the U.S. acquisition of sovereignty over the Philippine archipelago did not carry with it the recognition of the communal ancestral domains of the Lumad.

Second, the Philippine Commission passed a Law (Act No. 718) on 4 April 1903, six months after the passage of the Land Registration Act, making void "land grants from Moro sultans or dattos or from chiefs of Non-Christian tribes when made without governmental authority or consent." Yet no law was passed, nor was there any provision in any law allowing the aforementioned chiefs to grant land to their respective followers with government consent. As a matter of fact, Section 82 of Public Land No. 926 which was amended by Act. No. 2874 by the Senate and House of Representatives on 29 November 1919 in accordance with the provisions of the Jones Law, carried the exact wordings of said law still, and the same has not been abolished to date, as follows:

All the Lumad share a common traditional concept of land ownership: a territory occupied by a community is communal private property and community members have the right of usufruct to any piece of unoccupied land within the communal territory.

> That all grants, deeds, patents, and other instruments of conveyance of land purporting to convey or transfer rights of property, privileges or easements appertaining to or growing out lands, granted by sultans, datus, or other chiefs of the so-called non-Christian tribes, without the authority of the Spanish government while the Philippine Islands were under the sovereignty of Spain, or without the consent of the Philippine Government since the sovereignty of the archipelago was transferred by Spain to the United States, and all deeds and other documents executed or issued or based upon the deeds, patents, and documents mentioned are hereby declared to be illegal, void, and of no effect.[13]

Third, the Land Registration Act No. 496 of 6 November 1902 required the registration of lands occupied by private persons or corporations, and the application for registration of title, according to Sec. 21, "shall be in writing, signed and sworn to by the applicant". The very matter of registration was not only totally alien to the Lumad, he was also unable to comply, illiterate that he was, even if by some miracle he acquired the desire to register. Also, what would he register? Registering in his name a communal property was inconceivable, going against the very grain of his culture.

Fourth, the Public Land Act. No. 926 of 7 October 1903, passed by the Philippine Commission, allowed individuals to acquire homesteads not exceeding 16 hectares each, and corporations 1,024 hectares each of, according to Section 1, "unoccupied, unreserved, unappropriated agricultural public lands". Nothing was said about the Lumad or of the Moro or of any other non-Christian tribes.

Fifth, Public Land Act No. 926, amended through Act No. 2874 by the Senate and House of Representatives on 29 November 1919 in accordance with the provisions of the Jones Law, provided that the 16 hectares allowed earlier to individuals was increased to 24. But the non-Christian was allowed an area (Sec. 22) "which shall not exceed ten (10) hectares" with very stringent conditions, to boot:

> It shall be an essential condition that the applicant for the permit cultivate and improve the land, and if such cultivation has not begun within six months from and after the date on which the permit was granted, the permit shall ipso facto be cancelled.
>
> The permit shall be for a term of five years. If at the expiration of this term or at any time therefore, the holder of the permit shall apply for a homestead under the provisions of this chapter, including the portions for which a permit was granted to him, he shall have the priority, otherwise the land shall be again open to disposition at the expiration of the five years.
>
> For each permit the sum of five pesos shall be paid, which may be done in annual installments.

Sixth, Commonwealth Act No. 41, as amended on 7 November 1936, indeed withdrew the privilege earlier granted to the settlers of owning more than one homestead of 24 hectares each and reverted to the previous 16 hectares. But the non-Christians who were earlier

allowed a maximum of ten hectares were now permitted only a measly four (4) hectares!

The resettlement programs which the American colonial government initiated as early as 1912, and which intensified during the Commonwealth period and in the post World War II years wrought havoc on the Lumad ancestral domains. There is no room to provide the details here. But suffice it to say that by the 1948 census, provinces which until 1939 were Lumad dominated were no longer so. The statistical situation in 1980 was not too far off the mark. The case of the empire province of Cotabato (now subdivided into Cotabato, South Cotabato, Sultan Kudarat, and Maguindanao) provides us with a flesh and blood story of marginalization. (See Appendix B)

Consequences Upon the Lumad of the State System of Landownership and Land Use

It is important to note here that no single Lumad ethno-linguistic group has ever reached the level of a centralized socio-political level similar to that attained by the Moro people with their datu system. There were only clan communities, several in fact within one ethno-linguistic category, and this would explain the high vulnerability of the Lumad to external intrusion. They simply had no social mechanism with which to protect their lands from being taken away even by individual settlers. The net effect of successful external intrusions was that individual communities ceased to be masters in their own ancestral lands and of their own lives; they have lost their self-determination. How do they feel about this? Let us hear from them and from those people who have worked with them or have done extensive studies about them.

Recorded in the Santa Cruz Mission Report of 1973 was this story by a B'laan in South Cotabato:

> I want to tell you about our people as they were before the settlers came. We were the largest number of people then. We lived in the wide plains of Allah and Koronadal Valleys. It is true that we were not educated but then we were happy; we made our own lives, we lived in our own way.
>
> Then the settlers came, our lives became unhappy. We ran to the mountains because we were afraid of settlers. Even today, the B'laan people are scared of the government officials. Our lands were taken away because of our ignorance. Now we are suffering. We have been forced to live in the Roxas and General Santos mountain ranges. Now we have only a few hectares of flat land to grow our food. And even with this little land, the government is running after us and they tell us that the land is not ours. It is the government's. They say the lands belong to the forestry. They will put us to jail. Truly we do not think that we are part of the government.

The Senate Committee on National Minorities reported in 1963:

> Among the provinces visited, the most pressing land problems were reported in the provinces of Davao, Cotabato, Bukidnon and the island of Basilan.
>
> Natives in these provinces complained that they were being driven away by influential persons and big companies who have been awarded rights to lands which have long been occupied and improved by the members of the cultural minorities.[14]

A Tiruray from Nangi, Upi in the province of Maguindanao had a similar story to tell:

> Years ago, our ancestors inhabited the land now called Awang, a few kilometers away from Cotabato City. Settlers came waving in front of them a piece of paper called land title. They (our ancestors) did not understand it. Like most of us now, they were illiterate. But they did not want trouble and the mountains were still vast and unoccupied. And so, they fled up, bringing their families along and leaving precious and sacred roots behind... We have nowhere else to go now. The time has come for us to stop running and assert our land right to the legacy of our ancestors. If they want land titles, we will apply for it. Since we are illiterate, God knows how we will do it. That is why we are trying our best to learn many things around us. By then, we will no longer be deceived and lowland Christians can be stopped from further encroaching on our land.[15]

Dr. Stuart Schlegel who took down this account made his own additional observations:

> The Tiruray's accommodation of the increasing number of lowlanders from elsewhere, the settlers' acquisition of the ancestral lands, as well as the entry of logging corporations in the area were the beginning of the loss of Tiruray lands, and eventually, the loss of their livelihood. When the settlers came, they only cultivated a parcel of Tiruray land. Today, the Tiruray can only cultivate a small portion of the settlers' lands.
>
> Since most of the farm lands are now owned by the settlers, the landless Tiruray hire themselves as tenants of the lands...[16]

Dr. E. Arsenio Manuel who did extensive work on the people he called Manuvu shared his equally revealing perceptions:

> Just at the time that the Manuvu people were achieving tribal consciousness and unity (late 50's), other forces were at work that were going to share their destiny. These outside forces can be identified as coming from three sources: the government, private organizations and individuals. The pressure from the City Government of Davao to bring people under its wings is much felt in its tax collecting activities, and threats from the police.
>
> Private organizations, mainly logging companies, ranchers, and religious groups are penetrating deep into the interior since after the 1950's.
>
> With the construction of loggers' roads, the opening up of central Mindanao to settlement has to pass. Christian landseekers and adventurers have come from three directions: from the north on the Bukidnon side, from the west on the Cotabato side, from the west on the Cotabato side, and from the south on the Davao and Cotabato side...[17]

Zeroing in on the effects of government laws, Dr. Manuel continues:

> Actual abridgment of customary practices has come from another direction, the national laws.
>
> The cutting of trees so necessary in making a clearing is against forestry laws, the enforcement of which is performed by forest rangers or guards. Logging companies, to protect their interests have taken the initiative of employing guards who are deputized to enforce the forest laws. So enforcement of the same runs counter to native practices so basic to the economy system of the Manuvu. The datus are helpless in this respect.[18]

Many Christian landseekers who usually followed the tracks of the loggers purchased tribal lands for a pittance. The datus, even if they were able to control the membership of barrio councils in their areas, could no nothing to annul such sales which normally were contrary to tribal laws.[19]

Tribal land is not the only casualty in the displacement process. Even the native ways, laws and institutions tend to be replaced by new ones.[20]

To sum up, where once the Lumad exercised control over a superficial area of territory encompassed in the present's 17 provinces, now they only constitute, according to the 1980 census, the majority in nine municipalities, as follows: Bukidnon -- Impasugong (60.92%), Sumilao (64.22%), Talakag (58.72%); Davao del Sur -- Jose Abad Santos (69.07%), Malita (62.61%); Don Marcelino (90%); Maguindanao -- South Upi (84.17%); South Cotabato -- T'boli (no data but this town was especially created for the benefit of the T'boli; and Zamboanga del Sur -- Lapuyan (68.31%).

One has to go down to the barangay level to find more local political units with Lumad majority. Unfortunately, this data is not available in the census. With their loss of land came less freedom to make decisions for themselves as they used to do and in accordance with their customs and traditions. And this brings into focus the question of common survival.

Struggle for Self-Determination

For the Lumad, the struggle for self-determination is an old one, but the specific articulation is relatively new. It saw light during and as a result of resistance to the Marcos dictatorial regime. The articulator is Lumad-Mindanao. A member of the Lumad Council of Elders, provides us with a brief account of the group's formation and a capsule of the Lumad's basic aspiration.

> The Lumad-Mindanao is an umbrella organization of 18 different ethno-linguistic groups (non-Moro) in Mindanao. This was formally organized in June of 1986 through a congress participated in by 15 of the 18 tribes -- numbering 173 participants including the Christian support group and our Moro brothers/sisters.
>
> Originally, Lumad-Mindanao is a multi-sectoral organization which was formed in 1983. Most of those who were initially involved in its formation were church people of both Roman Catholics and Protestants. These served as a symbol of their solidarity to the least of their brethren.
>
> In the succeeding two years, this concern for a Mindanao-wide Lumad organization was greatly felt. At that time several locally initiated Lumad organizations already existed.
>
> "During the 1985 assembly, there was a consensus that a purely Lumad people's organization must be established. An Ad Hoc committee was formed to plan out the formation of Mindanao-wide Lumad organization. The non-Lumads also came out with the Mindanao Lumad support group known as the KADUMA-Lumad, meaning in partnership with the Lumads.[21]

The two organizations' aspirations were formally articulated as follows:

1. Protection of the Lumad people's identity and right;
2. Protection of our ancestral domain, and
3. Protection and preservation of our cultural heritage.[22]

The more Lumad-like expression, however, is readily felt in a June 12 (1986) manifesto issued by the ALU-HAMAD or the Alyansa sa mga Lumad sa Habagatang Mindanao (Lumad Alliance for Democracy in Southern Mindanao) and done in Cebuano-Bisaya, their lingua franca in inter-tribal assemblies.

> Hugot namong ginahangyo nga ilhon ug respetuhon ang among katungod sa katilingbanong pagpanag-iya sa mga teritoryo kon tribal domain ug ang pagdumala niini subay sa Lumadnong pamaagi ug dili mahilabtan sa uban.[23]
>
> (We demand in the strongest possible terms the recognition of our communal ownership of our tribal domains and the right to control and govern these in accordance with our indigenous customary laws without outside interference.)

Concrete Gains of Lumad Struggle

"Lumad" identity is gaining wide acceptance among the 18 ethno-linguistic groups and the ideas of self-determination in accordance with customary laws is fast winning adherents. This is not something that can easily be quantified, but if one were aware of their respective histories and their separate inabilities to arrive at a more centralized form of social system, acceptance of a collective identity alone is already a gigantic leap.

But let me confine myself to the legal front. Or how their struggle has influenced recent legislations.

We will recall that the 1973 Constitution of the Philippines carried, for the first time in Philippine constitutional history, a sympathetic acknowledgment of the unique character of the tribal peoples of the country, as follows:

> The state shall consider the customs, traditions, beliefs, and interests of national cultural communities in the formulation and implementation of state policies.[24]

But this, however, was more a consensus rather than a genuine recognition of the tribal people's fundamental group rights. This is best reflected in Presidential Decree No. 410 of 1974 which was purportedly intended to protect the ancestral lands of this people but the non-issuance by President Marcos of a letter of implementation automatically rendered it a dead law.

The ripples of nationwide protests against the dictatorship of the Marcos regime positively affected the Lumad. The reverberations of the bitter Cordillera fight against the Chico dam project was felt in Mindanao. The Manobos of Bukidnon had to bear the consequences of water overflowing the banks of the Pulangi river into their fields as a result of the Pulangi river dam project.

In the drafting of the 1987 Constitution, the various Lumad organizations took active part in the public consultations as well as in lobby work. Lumad-

Mindanao was an active member of the Ad Hoc Coordinating Body for the Campaign on the Inclusion of National Minority Peoples' Rights in the Constitution.[25]

It was mainly through their joint initiative, supported by sympathetic advocates in the Constitutional Commission that the 1987 Constitution has been able to integrate vital provisions directly beneficial to the tribal communities all over the country.

Two very significant sections may be cited here as examples of legal provisions that are considerably close to what the Lumad have been seeking for, and definitely a radical departure from the aforecited provisions of the 1973 Constitution. Article XII, Section 5 of the 1987 Constitution states:

> The State, subject to the provisions of the Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being.
>
> The Congress may provide for the applicability of customary laws governing property rights or relations in determining the ownership and extent of ancestral domain.

The other provision is Article XIV (Education, Science and Technology, Arts, Culture and Sports), Section 11 which says:

> The State shall recognize, respect and protect the rights of indigenous cultural communities to prepare and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.

Subsequently, we were to find the name "Lumad" enshrined, for the first time in Philippine legal history, in the Organic Act for Muslim Mindanao, and ancestral domain exempted from agrarian reform.

Unfortunately for the Lumad, the composition of the Constitutional Commission itself was a microcosm of conflicts of interests within the country and the resulting Constitution provides us with a classic case of the left hand taking what the right hand has given away.

State Domain vs. Ancestral Domain

A close, second look at Article XII, Section 5 cited above will reveal that the Constitution is not fully sold yet to "protect the rights of indigenous cultural communities to their ancestral lands..." The phrase is restricted, to wit: "subject to the provisions of this Constitution and national development policies and programs."

Thus, while there is that phrase about "applicability of customary laws" with respect to property rights and ancestral domain, there is as well the careful choice of an auxiliary verb "may" rather than "shall" leaving it completely to the discretion of Congress whether or not to provide for the applicability of customary laws with respect to property rights and ancestral domain. Worse, Article XII, Section 2 asserts in unmistakable, clear-cut terms:

> All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. (Underscoring supplied)

denying to the Lumad the right to define, determine or delineate ancestral domains in accordance with customary laws. The mandate is for state domain to prevail over ancestral domain.

In effect, what parcel of land is left to the Lumad? Only that which is classified as alienable and disposable!

This bias in favor of state interest, or so it is claimed to be, did not only play a decisive role in the Constitutional Commission to the prejudice of the Lumad, it reappeared in the present Congress of the Philippines and made itself felt in the two Organic Acts for the Cordillera and Muslim Mindanao.

For example, Article III (Guiding Principles and Policies), Section 8 of Republic Act No. 6734 An Act Providing for an Organic Act for the Autonomous Region in Muslim Mindanao provinces:

> Subject to the provisions of the Constitution and this Organic Act, and national development policies and program, the Regional Government shall have the authority, power and right in the exploration, development and utilization of its natural resources. Provided, That the indigenous cultural communities shall have priority rights in the areas designated as parts of the ancestral domain.

A close second look at Section 5, Article XII of the 1987 Constitution will reveal that the Constitution is not fully sold out yet to "protect the right of the indigenous cultural communities to their ancestral lands..." The phrase is restricted, to wit: "... subject to the provisions of this Constitution and national development policies and programs."

"Priority rights" is severely watered down by that portion in Section 2, Article XIII (Economy and Patrimony) which states that when the natural resources are located within the ancestral domain the permit, license, franchise or concession for its development, exploration and utilization shall be approved by the Regional Assembly after consultation with the cultural community involved. Consultation has never been legally binding under Philippine laws and that the voice of these people consulted shall be mandatory upon those doing the consulting. And neither is it so provided in the Organic Act. While it is true that the Organic Act shall operate only upon the Tiruray of Maguindanao, meaning no other Lumad group is affected, the legal precedent has been set nevertheless and will affect decisions if and when Congress might decide to pass a law on ancestral domain for those communities which are not covered by the two Organic Acts.

One last point to consider is the exemption from agrarian reform granted to ancestral lands. We are all aware of the catastrophe that has overtaken the agrarian reform program from the inception of the present administration but let us not bother ourselves about this now, and focus instead on the exemption provision.

Until such time that areas of ancestral lands have been properly defined, delineated and registered, there is no preventing landseekers from the outside from encroaching upon tribal lands and getting away with it under the full protection of the law.

Landseekers as a rule operate at a much faster rate than government survey teams and the phenomenon has always worked against the interests of the Lumad.

All things considered, the Lumad have to date no reason to be complacent. By all means they must continue, and they are continuing their struggle for self-determination. Or else the little land that is left to them might disappear. And themselves with it. As the member of the Lumad Council of Elders earlier cited has said, "if you take away the land you would be taking away the life of the people.[26]

Prospects of the Lumad Struggle

Many times I cannot help but submit to the temptation to view the prospects of the Lumad struggle with extreme pessimism. But occasionally, rays of light would streak through and sustain glimmers of hope: that for as long as the Lumad continue their efforts and more and more non-Lumads file in support, time will come when the negative shall be transformed into positive. Their fight is not without precedents, plenty of them in our own national history.

Who would think, for instance, that those scattered revolts in the three centuries of Spanish colonialism would one day grow into the 1896 revolution and conclude with the establishment of a republic? Who among us did not wallow in pessimism in the dark days of the Marcos dictatorship? No one planned EDSA-1986, but it struck like lightning, and we liked the result.

Back to the Lumad. It will be noted that from the time of the first inter-tribal assembly in November 28 to December, 1977 jointly initiated by two church-based institutions[27] to the founding Congress of Lumad-Mindanao on 24-27 June 1986, processes like sharing of each other's community problems, problem analysis, and arrival at solutions tended to be consciously consultative and participatory.

The matter of collective identity took some time to take shape. In 1977, the name arrive at was "Tribal Filipino" -- clearly church-inspired but before long it lost its palatability. LUMAD started as an acronym, short for Lumadnong Alyansa Alang sa Demokrasya (Indigenous Alliance for Democracy), introduced during the Tribal Filipino and Tribal Filipino Workers' Assembly. In mid-1983, leaders of major ethno-linguistic groups met in a consultation or what has been referred to as "the first ever Lumad Mindanao General Assembly." In 1985, the alliance of Tribal Filipino regional groupings and Tribal Filipino Workers renamed itself the KADUMA-Lumad. What emerged in June 1986 was Lumad-Mindanao, a coalition of local and regional all-Lumad organizations.[28]

"Lumad" was born from the realization of a need by people who discovered from the similarities of their marginalized situation a common cause and a common destiny. But they did not dissociate themselves from the country and its general interests. So, when they cry out for self-determination, they do not demand for independence, just genuine autonomy or self-government in their own lands, in accordance with their customary laws. While they desire and need external support from sympathetic organizations like Kaduma-Lumad, and individuals, too, they also are deeply aware that their success lies in their own hands. It will be wrong for holders of state power to be blind to this, especially because Lumad marginalization is to a large extent a product of state doings, colonial or otherwise.

What are the prospects of the Lumad struggle? It is not easy to say. But it will be good to bear in mind that their journey from "uncivilized" "wild tribes" to "non-Christian tribes" in the American colonial period to "cultural minorities" to "cultural communities" to "Tribal Filipino" to "Lumad" took all of 90 years -- much shorter than the formation of the "Filipino".

NOTES

[1] Among scholars and researchers, the matter of which and what to call a tribe is yet unresolved. Leaders of Lumad-Mindanao, however, generally refer to the Lumads of mainland Mindanao as made up of 18 or so ethno-linguistic groups. They have not bothered themselves whether "tribe" or "ethno-linguistic" or "sub-tribe" is the most accurate designation. What seems most important is that they are able to identify each other by their group names.

[2] Taken from an account of an interview with a member of the Lumad-Mindanao Council of Elders, published in Kalinangan, September 1988.

[3] The table entitled "Language and Dialect Generally Spoken in Private Households" is the only one in the census that can be used to derive the statistical data.

[4] This was extracted from a comparison of the data in Appendix A and the various census in the country from 1903 to 1980.

[5] John M. Garvan, *The Manobos of Mindanao* (Washington: United States Government Printing Office, 1931). Memoirs of the National Academy of Sciences, Volume XXIII, First Memoir, p. 139.

[6] Ibid., p. 159.

[7] Shinzo Hayase, *Tribes, Settlers, and Administrators on a Frontier: Economic Development and Social Change in Davao, Southern Mindanao, the Philippines, 1899-1941* (Western Australia: Murdoch University, 1984), Ph.D. Dissertation, p. 22.

[8] Ibid., p. 247.

[9] From Stuart Schlegel, *Tiruray Subsistence* (Quezon City: Ateneo de Manila University Press, 1979). Excerpted in pp. 135-144 of *Human Rights and Ancestral Land: A source Book.* Prepared for the National Congress on Human Rights and Ancestral Land, 8-9 December 1983, Diliman, Quezon City, pp. 139-140.

[10] From "The Interface Between National Land Law and Kalinga Land Law" by Maria Lourdes Aranal - Sereno and Roan Libarios, excerpted in pp. 289-303 of *Human Rights and Ancestral Land: A Source Book*, p. 391.

[11] Ibid.

[12] Ibid.

[13] This is the full text of Act. NO. 718 passed by the American-dominated Philippine Commission on 4 April 1903.

[14] *Senate of the Philippines*, Senate Committee on the National Minorities. Report on the National Minorities, 1963, p. 2.

[15] Schlegel, Ibid., p. 140.

[16] Ibid., p. 143.

[17] E. Arsenio Manuel, *Manuvu Social Organization* (Quezon City: Community Development Research Council, UP, 1973), pp. 368-369.

[18] Ibid., p. 373.

[19] Ibid., p. 374.

[20] Ibid., p. 314.

[21] Same interview in *Kalinangan* as above.

[22] Ibid.

[23] This manifesto was a petition signed by ALUHAMAD with its five member organizations, and the Tribal Filipino Center for *Development-Southern Mindanao and* Diocesan TF Program, Kidapawan (Cotabato) Diocese. It is instructive for its specific details on what the signatories want in the areas of land and territory, governance of the Lumad, and culture.

[24] The 1973 Philippine Constitution is popularly referred to in the country as the Marcos Constitution.

[25] *Tribal Forum*, Volume VII, July-August 1986, pp. 6-9.

[26] *Kalinangan* as above.

[27] The proceedings of the Assembly and church leaders reflections on the event are published in *Worldview*, no date, by the Mindanao Sulu Pastoral Conference (MSPC-MISSSA) and the Mindanao Sulu Conference on Justice and Development (MSCJD).

[28] D.L. Mondelo, "Lumads Come of Age", *Tribal Forum*, Ibid., pp. 13-14.

APPENDIX A

LUMAD ETHNO-LINGUISTIC GROUPS AND THEIR GENERAL GEOGRAPHICAL LOCATIONS IN MINDANAO, SULU : Circa 1900[1]

Ethno-Linguistic Group	General Geographical Locations
MAMANWA	Shores of Lake Mainit in the present Surigao Norte, down to Tago along the eastern Cordillera.
MANDAYA[2]	Salug River Valley, and eastern coasts of Mindanao from Tandag to Mati.
MANOBO[3]	Most numerous at the Agusan river valley; smaller number in Sigaboy north of the Cape of San Agustin; along the coastal stretch from Padada down to Sarangani Bay; in Southern Bukidnon; in North Cotabato, and in Sultan Kudarat.
ATA[4]	At the region west, northwest and northeast of Mt. Apo corresponding to the northern portion of the present Davao City territory and the western portion of Davao del Norte.
BAGOBO[5]	At the foothills east and south of Mt. Apo, along the stretch from Talomo to Bolatucan river.
ISAMAL	At Samal island at the Davao Gulf.
MANGGUWANGAN	At the north of Davao Gulf; at the upper part of Salug river, extending to the east and west of it.
TAGAKAOLO	Around Mt. Haguimitan north of the Cape of San Agustin, and inland from coastal Manobos, Kulamans and B'laans from Malalag to Lais river.
KALAGAN[6]	Around the cove of Casilaran and partly along the Digos river.
B'LAAN[7]	At the west, east and south of Lake Buluan, and extending to Punguian Point, and in the Sarangani Islands of Balut and Tumanao.
T'BOLI[8]	From the south of Lake Buluan extending down to Sarangani Gulf.
TIRURAY (TIDURAY)	From the lower branch of the Pulangi (Rio Grande) to river Trampadidu, bounded on the west by Maganoy river.
BUKIDNON[9]	In northern Mindanao from Sulauan Point to Diwata Point including the Tagoloan valley, at the sources of the Pulangi river in Bukidnon, and in Nasipit in Agusan del Norte, then inland to Odiungan river behind Mt. Bolatocan.
SUBANON[10]	In the entire Zamboanga peninsula.

NOTES TO APPENDIX A

[1] The general and main sources of our data are:

a. *Annual Report of the Philippine Commission*, 1900, Volume II, Part II (Washington: Government Printing Office, 1901), pp. 350-353.

b. Jose S. Arcilla, S.J., "The Christianization of Davao Oriental: Excerpts from Jesuit Missionary Letters" in *Philippine Studies*, Volume 19, No. 4 October) 1971, pp. 639-724, particularly pp. 651-658.

More specific sources are the following:

a. Fay-Cooper Cole, *The Bukidnon of Mindanao* (Fieldiania: Anthropology Vol. 46. Published by the Chicago Natural History Museum, April 23, 1956; data were gathered in 1910.)

b. Fay-Cooper Cole, *The Wild Tribes of Davao District, Mindanao* (Field Museum of Natural History. Publication 170, Anthropology Series, Vol. XIII, No. 2.)

c. Ronald K. Edgerton, "Frontier Society on the Bukidnon Plateau, 1870-1941, pp. 361-390, in Alfred W. McCoy and Ed D. De Jesus, eds., *Philippine Social History* (Quezon City: Ateneo de Manila University Press, 1982).

d. E. Arsenio Manuel, *Manuvu Social Organization* (Quezon City: Community Development Research Council, UP, 1973).

e. Stuart A. Schlegel, *Tiruray Justice* (Berkeley, Los Angeles, California: University of California Press, 1970).

f. Elena Maquiso, *Prologue to Ulahingan: A Manobo Epic* (Ph.D. Dissertation: Dumaguete City, Silliman University, 1965)

g. Samuel Briones, *The Manobos of Salangsang Salaman, Lebak* (Sultan Kudarat). M.A. Thesis, Silliman University, 1969.

h. John M. Garvan, *The Manobos of Mindanao* (Washington: United States Government Printing Office, 1931). Memoirs of the National Academy of Sciences, Volume XIII. First Memoir. Research done in 1905-1909.

[2] Mandaya - Cole has included the Mansaka (inhabitants of mountain clearings, north and east of Davao Gulf), the Pagsupan (those near Tagum and Hijo rivers, the Mangwanga (the dwellers of the forests), the Managosan or Magosan (those of the headwaters of Agusan river, and the Divavaoan (those south and west of Compostela) under the Mandaya group.

[3] Manobo - If we are to base our ethnic classification on linguistic studies, like that one by Richard E. Elkins, "Root of a Language" (Filipino Heritage Volume 2, pp. 523-527), eighteen (18) groups would all be classified as Manobo, namely, the Western Bukidnon Manobo -Southern Bukidnon; the Illanen Manobo and Livunganen Manobo in Northern Cotabato, the Tigwa Manobo in southern Bukidnon; the Matigsalug and the Ata in northern Davao; the Kulaman in northern Cotabato; the Obo at the west and southeast of Davao City; the Higaunon in Misamis Oriental, Bukidnon and Agusan; the Agusan Monobo with several dialects in the Agusan-Surigao areas; the Dibabawon of northern Davao; the Tagabawa west and southwest of Davao City; the Sarangani Manobo of Davao del Sur; the Tasaday of South Cotabato; Manobo of South Cotabato; the Kagayanen of Cagayancillo in the Sulu Sea; the Kinamiguin of Camiguin Island, and the Binukid of northern Bukidnon.

The "Manuvu" in Manuel's book cited above corresponds to those inhabitants north of Mt. Apo who refer to their indigenous neighbors, as follows: On the Davao side the Tahabawa to the southeast as the Jangan and Attaw, and to the east and northeast as the Matidsaug. Although they use the term Bagobo to apply generically to the Tahabawa, Jangan and Attaw peoples, they prefer to call them by their ethnic names. They exclude, however, the Matidsaug people from the more inclusive Bagobo which has for a reference the people of the lowland and midland areas to the south and southeast of their habitat. To those who are steeped in the tribal lore, the term Bagobo is of recent introduction.

"On the Cotabato side, the Tahabawa are once more their neighbors to the south together with the B'laan. To west are the Ilianon, to the northwest the Puangion (those who used to inhabit the Pulangi River area), and to the north are the Kuamanon and once more the Matidsaug. Further north they have contacts with the Bukidnon whom they call as the Tandig."

[4] Ata - Manuel's comment on Cole's work on Davao is that the "Manuvu and Matidsaug" are not identified but are lumped together with the Ata. (*Manuvu Social Organization*, p. 7)

[5] Bagobo - Cole has listed Guiangan/Guanga/Gulanga, Obo, Tigdapaya and Eto as synonyms of Bagobo; Tagabawa appears in the Report of the *Philippine Commission*. Manuel's comments on Cole's classification: "Using the tribal map prepared by Cole as basis, it would appear that what are known to the Manuvu as the Tahabawa, Janga, and Attaw are grouped together under the name Bagobo, including such minor groups as Guianga (Guanga, Gulanga) Obo, Tigdapaya, and Eto. My Manuvu informants have identified the Gulanga as Jangan (which is the native pronunciation) the Obo as "Ubu" or "Ubbu", and the Eto as Ata, or Klata depending upon the dialect used by the speakers, while the Tigdapaya are not known to them". (Ibid., pp. 7-8).

[6] Kalagan (Calagan) - Also known as Kagan. In Cole's work, they are listed only as one of the synonyms of Tagakaolo, as follows: Kagan, Kalagan, Calaganes, Calagars, and are referred to as kinsmen to the Tagakaolo. Their location at the rich valleys of Padada and Bulatakay rivers brought them, said Cole, "in close contact with the Kulaman and Moro of the coasts, with whom they lived on friendly terms". He further noted how they acquired the name Kagan.

"The influence of the latter group was so great that the newcomers not only adopted their style of dress, but also substituted cotton for hemp in the manufacture of their garments. Today members of this tribe can still be recognized by their close fitting suits of red and yellow striped cloth, from which they have received the name of Kagan". (p. 158)

[7] B'laan - Cole cited the following as synonyms: Tagalagad - dwellers of the coastal areas; Tagkogon - dwellers of the cogonal plains west of Malalag with Tagakaolo between them and the coast people; Buluan or Buluanes - those living near Buluan Lake, and Bira-an, a name given to them by the Bagobo.

[8] T'boli - This group has always been referred to in past official documents, even in all censuses as Tagabili.

[9] Bukidnon - According to Cole, they refer to themselves as Higaunan or mountain dwellers. The principal name given by Cole himself is Monteses. Apparently Bukidnon is a name that came from the Bisayan neighbors.

[10] Subanon (Subanen) - The ethnographical and geographical study by Lieut. Col. John Park Finley, U.S.A. entitled "The Subanu" Studies of a Sub-Visayan Mountain Folk of Mindanao (Washington, D.C.: Carnegie Institution of Washington, 1913), Part I, provides the more detailed locations of these people as follows: Dapitan or Illaya Valley, Dipolog Valley, Bukidnon, Misamis Strip, Manukan Valley, Sindangan Bay, Pangarunan and Coronado, Siukun or Sicogon or Siocon, Kipit or Quipit or Chipit or Chipico or Bigity or Quepindo, Malayal and Patalun, Bolong Valley Tupilak Valley, Bakalan Valley, Lei-Batu Valley, Sibugai-Sei Valley, Dumankilas Bay, Dipolo Valley, Lubukan Valley, Labangan Valley and Mapangi Valley.

APPENDIX B

POPULATION SHIFTS AMONG THE MUSLIMS, LUMAD AND CHRISTIAN MIGRANTS IN COTABATO, 1918, 1939 and 1970 CENSUS

1. In 1918 Cotabato (now subdivided into Cotabato, South Cotabato, Sultan Kudarat and Maguindanao) had a total of 171,978 inhabitants distributed in 36 municipalities and municipal districts. Of this, 102, 361 or 59.51 percent were Muslims (largely of the Maguindanaon ethno-linguistic group), 43,067 or 25.04 percent Lumad (made up mainly of Tiruray, T'boli, Manobo and B'laan),and 5,110 or 2.57 percent Christian migrants. We have represented their distribution by town, as follows:

Population Range	Muslim	Lumad	Christians
50.00% up	20 towns	5 towns	---
25.00 - 49.9%	4	2	2
10.00 - 24.9%	4	7	2
9.9% and less	2	6	18

2. In 1939 the total population was 298,935 distributed in 33 towns. Of this, 162,996 or 54.52 percent were Muslims; 74,265 or 24.84 percent Lumad, and 59,909 or 20.04 percent Christians. They were distributed by towns, as follows:

50.00% up	20 towns	9 towns	3 towns
25.00 - 49.9%	5	2	2
10.00 - 24.9%	6	3	10
9.9% and less	2	8	13

3. In 1970 the total population was 1,602,117. Of this,444,521 or 27.75 percent were Muslims; 107,032 or 6.68 percent Lumad, and 1,076,485 or 67.19 percent Christians. They were distributed in 50 towns, as follows:

50% up	10 towns	---	38 towns
25.00 - 49.9%	8	1	4
10.00 - 24.9%	11	5	5
9.9% *and less*	21	31	2

NOTES TO APPENDIX B

a. In 1948 the census showed a total population of 439,669. Of this, 155,162 or 35.29 percent were Muslim; 39.631 or 9.01 percent Lumad, an unexplained drop from 1939, and 240,570 or 54.71 percent Christian. Data by towns not available.

b. The 1960 census revealed a total population of 1,029,119. Of this 356,460 or 34.63 percent were Muslim and 569,985 or 55.38 percent Christian. The Lumad population could not be determined because the *Pagan* classification had disappeared and was replaced with all purpose *Others*.

Source:

Data used here were part of a paper by the same author entitled "Bangsa Moro vs. Bangsa Filipino in Cotabato: A Game of Numbers? Or a Matter of Fundamental Right?, presented at the 8th National Conference on Local History, MSU - General Santos City, 18-20 September 1987.

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Behind and Beyond the "Tasaday"

THE UNTOLD STRUGGLE OVER RESOURCES OF INDIGENOUS PEOPLES

LEVITA DUHAYLUNGSOD AND DAVID HYNDMAN*

INTRODUCTION

Today, doing anthropological research on the "Tasaday" in South Cotabato in the Philippines is like a politician launching his campaign. When we embarked on our investigation in February 1989, the questions "Who are you, why are asking these questions, what will you do with the information?" were invariably and suspiciously asked by representatives from all interest groups. In the vastness of the South Cotabato province, our 13-day presence spread like an underground broadcast that spanned across several municipalities; and yet we were traveling almost *incognito* and on the primary purpose of visiting kin. The visibility of military men, uniformed and undercover, was a formidable obstacle. It was our family links that helped in even surviving the trip. Our efforts to make it to the famed caves were frustrated by the precondition that permission from Mai Tuan's camp would have to be solicited, otherwise, it meant attempting a risky backdoor access. Duhaylungsod attempted the latter in May to no avail because the Duhaylungsod family in Maitum had been threatened since our trip in February. Even when we wrote this paper in June at UP Los Baños, certain persons remotely known to us contacted Duhaylungsod and a sister-in-law in Manila on the strange pretext that they want to inquire about Edenton Mission College and whether we were writing on the Tasaday.

Indeed, in the Tasaday issue, one finds the validity in the controversy of Fabian's (1983:143) argument that "relationships between anthropology and its object are inevitably political". Although we are presenting our paper to a gathering for the scientific assessment of the Tasaday controversy, far more than academic debate is involved and for us to proceed poses additional threats to the already beleaguered individuals involved. We are withholding the names of many of the T'boli that we spoke with and identify only those who have a modicum of security. Even the latter, especially George Tanedo, are extremely vulnerable to the political power play that underlies the whole issue. It is an understatement to say that the local political volatility of the controversy has become much more serious than writers, journalists and anthropologists alike, have described, including our earlier one (Hyndman and Duhaylungsod 1988).[1]

Despite the "Tasaday" being continually portrayed as a living Stone Age people,our trip added to our conviction that we were not involved with authentic primitives from the past being exported to the present to cater to the West's fascination with the Other. We quickly found that conducting fieldwork on the Tasaday controversy in South Cotabato required communicating among different sources of authority. No one source was sufficient in itself, but by presenting a multi-voiced analysis we illustrate how we arrived at an overall "reading of the country" (Benterrak et al. 1984). More than ever, we are convinced that it is T'boli history that is important and precisely because it enhances our understanding of their struggle today to empower and take control of their communities and resources.

PRE-PANAMIN RESOURCE COMPETITION AT THE FRONTIER

The following is a write-up on South Cotabato by its Provincial Planning and Development Office (PPDO) in 1988.

What it was... then. what it is... now.

> Before the turn of the 20th century, the area to which South Cotabato would be carved, was sparsely inhabited by Muslims, B'laans, Manobos, Tagabilis, and other ethnic groups, who probably came to this part of Mindanao before the birth of Christ.
>
> From 1939 until after the Japanese occupation, an exodus of settlers from Central Luzon and Visayas poured into the virgin lands of promise, longing for a place in the sun, and seeking for pieces of land they could call their own. These people undauntedly faced the challenges of nature and the vagaries of politics.
>
> In the early 50's population and investment swelled in the southern part of Cotabato, the mother province, and at this stage - a louder voice arose in the management of the local government. After countless appeals and petitions, R. A. 4849 was passed and approved on July 14, 1966, separating South Cotabato from its mother province. Nevertheless, it was not until the local elections on November 1967 did the province elect its first set of officers. Finally on January 1, 1968 South Cotabato functioned as a regular government. It had only 11 municipalities then, but it had slowly transformed into a new and bustling province, from practically nothing to start with, in terms of basic facilities.

South Cotabato today is one of the most progressive provinces in the entire country. Four years (4) after its creation, it was able to provide facilities for provincial and national offices, built a capitol building and a provincial hospital, and equipped its motor pool with heavy equipment and motor vehicles.

Years ushered in big investments from both foreign and domestic sources. Highly mechanized farming came of age; ranches and livestock farms have been developed; fishing projects gained ground in both domestic and foreign markets. All this have continously paved the way for a sophisticated system of trade and industry in the province.

Today South Cotabato has already 18 component municipalities and one city. (Provincial Planning and Development Office (PPDO) 1988a).

There are "peoples without history" (Wolf 1982) in South Cotabato when seen through the achievements of the powerful as proudly written by the PPDO write-up. According to this reading of history, South Cotabato was "nothing to start with", the " virgin lands of promise" to be "carved" into a province that now "functioned as a regular government" under a capitalist mode of production "ushered in big investments from both foreign and domestic sources". The obvious gaps are the histories of the indigenous peoples whose powerlessness in fact made it possible for the colonial invaders to lead their easy lives. History, like anthropology, is always written within political formations. Through talking about the peoples of South Cotabato and letting them speak for themselves, our writing of the history of the pre-PANAMIN frontier contextualizes the resource competition between "invaders" and "invaded" as the clash between kinship and capitalist modes of production (Wolf 1982).

FIVE ORIGINAL PEOPLES OF SOUTH COTABATO

The Manobo are primarily from Sultan Kudarat province but around 50,000 live across the border in South Cotabato. The Kalagan live in the south of the province on the border with Davao del Sur province. The Tiruray-Upi are primarily located in North Cotabato. The B'laan live in South Cotabato and across the border in Davao del Sur province. The T'boli are truly located within South Cotabato, around 150,000 are in the municipalities of Kiamba, Maitum, Maasim, Lake Sebu, T'boli and Surallah. The two groups of the T'boli include the T'boli Mohen (coastal) and T'boli S'bu (Lake Sebu mountains) (George Tanedo interview 1989).[2]

George Tanedo identifies as a T'boli, the most numerous of the indigenous peoples at the time of frontier invasion. His father, Alfredo Tanedo, was a government surveyor and the first colonial invader among the T'boli Mohen, who came to the area in 1919. Alfredo, an Ilocano, married one of the daughters of Datu Kaka and settled in what is now known as Maitum. Today, the T'boli Mohen are located in coastal municipalities of Maitum, Kiamba and Maasim, whereas the T'boli S'bu are in the mountains of Lake Sebu and T'boli municipalities.

T'BOLI ENCOUNTER ON THE FRONTIER

T'boli sociopolitical structure resembles the Muslim sultanate. Maitum was the home of Sultan Walih, a leader of both the T'boli Mohen and the T'boli S'bu, when I arrived in 1947. Sultan Walih rode a horse, carried a 45-caliber sidearm and had a 50-man guard each armed with bow-and-arrow and sword. The T'boli Mohen were wet-rice cultivators in the coastal lowlands, which then were covered in rainforest. The T'boli S'bu practiced dry-rice kaingin (shifting cultivation) in the rainforested mountains. In 1947 Sultan Walih passed his authority to his brother Datu Alas, who changed his name to Datu Alas Boone. Alfredo Tanedo married a Boone and their children, George, Franklin and Romarico were among the first to attend Edenton Mission College which opened in 1947 (Virgilio Villanueva interview 1989).[3]

Virgilio Villanueva identifies as an Ilocano, one of the frontier colonial migrants of coastal South Cotabato and former mayor of Maitum during the period of "PANAMINIZATION". When he was mayor, the Tanedo brothers were among the few educated T'boli's. Virgilio Villanueva introduced the Tanedos to PANAMIN officials. George and Virgilio are key figures representing the indigenous T'boli and the Ilocano colonizer in coastal Maitum.

When Sariph Kabungsuan of Arabia established himself as the Sultan of Mindanao in the 15th century, the T'boli adapted their chiefdomship to the introduced political system popularly known as datuism. This system functions as a hierarchical political confederacy around a Datu (chief), and his clan and other clans linked by descent and alliance. By the time of the colonial frontier in the early 20th century at least one chief among the T'boli Mohen is known to have risen in importance over the others. Present-day Maitum was the seat of one such sultanate. The last one to exert authority around the end of World War II was Sultan Walih. The T'boli "functioned as a regular government" well before 1968. As "invasion" advanced, the political significance of the confederacy gradually diminished but this location retains great cultural importance.

Even today in Maitum T'boli S'bu always ritually purify themselves with sea water in recognition of the continuing cultural importance of this part of their homeland. This is indicative of the continuing importance of their religion and that they have not been converted to either Islam or Christianity.

RELIGION

...it has been the common assumption that Roman Catholics dominate the scene... The next largest group are the Protestants, segmented into several sects, which include the: Baptist, Alliance, Wesleyan, United Church of Christ in the Philippines (UCCP), and Presbyterian. Protestant missionaries were responsible in the conversion of some of our highlander brothers like the T'boli's. Some protestants are likewise active in charismatic movements within the province. The Iglesia Ni Kristo (INK) is another big group... There are many other sects existing in the province, although these are only represented by a minimal percentage, to mention some, Seventh-Day Adventist, Aglipay, Jehovah's Witnesses and Mormons. Furthermore, Paganism is still believed to be practiced by a few, particularly by the highlanders who have not been converted to Christianity by any missionary group (PPDO 1988b:20).

This reading indicates that, although Catholics dominate in the province, the Protestants are converting their "highlander brothers", the T'boli, from "Paganism" to Christianity and that all will eventually convert. Who are the Protestants attempting to convert the T'boli Mohen in Maitum?

EDENTON MISSION COLLEGE

> Edenton Mission College opened in 1947 by acquiring T'boli land by deception. Amado Chanco,the founder, promised free education for T'boli's in exchange for 54 hectares turned over to the church as part of the Christian Mission in the Far East (CMFE). Actually the land was titled to Amado Chanco and not the church for many years after the initial transfer. He and his family lived in luxury and he schooled his children in the United States. No free education was provided to the T'boli, and Amado Chanco drained the wealth from Edenton Mission College for evangelical expansion and personal gain (Fabian Duhaylungsod interview 1989).[4]

Protestant missionaries were early colonial "invaders" in Maitum and they assumed that making Christianity available justified deceiving the T'boli into relinquishing some of their lands for establishing their Edenton Mission College. The T'boli, operating on a kinship mode of production, are charged tuition fees they cannot afford. In the first place, they were not to be charged at all. In questioning Pastor Nap Edralin (interview 1989)[5] as to the current enrollment ratio between the migrant lowland Christians and T'boli, he indicated the former overwhelmingly outnumbered the latter, the reason for which is indeed, the cost of tuition. He was disappointed that in the entire history of the mission they have failed to produce a single T'boli pastor. Pastor Dasul, a B'laan from Maasim, is the only indigenous pastor trained at the mission. The only token service provided to indigenous peoples is Pastor Dasul"s evangelistic work among the Maasim B'laan; nothing is provided to the Maitum T'boli. Fabian Duhaylungsod, however, has managed to sustain a small congregation administratively independent from the mission. Nonetheless, he has not succeeded in integrating the few T'boli converts into the colonial migrants' parish. Decades of cultural resistance to conversion by the T'boli is perceived by the mission and the colonial migrant community as primitive backwardness rather than persistence of a cultural identity system.

DEVELOPMENT OVERVIEW

> But one thing the Americans did that made a great impact later in South Cotabato was their policy of attraction. This policy was aimed at attracting both the Muslims to the American rule and the Christians from over-populated provinces.
>
> Its other aims were to restore peace and order, instill political advancement and spark the social awakening. So that the time between 1914 and 1937 was a period of preparation, assimilation and transition. It was also a time in making initial venture in settlement. There was the municipality of Glan where the group of Tranquilino Ruiz, Sr. settled in October, 1914, and a batch of Ilocano settlers landed at Kalaong, Kiamba on March 9, 1920.
>
> Then came a significant thrust. Under the administration of the late President Manuel L. Quezon, a survey party was sent to make a report in the areas of Mindanao to be selected as sites for settlement projects. On December 20, 1938, a week after the return to Manila, the survey team submitted a report of their survey. Two months later, the first group of settlers together with a number of employees sailed from Manila to Koronadal. Along the Sarangani Bay, on February 27, 1939, the first batch of settlers led by the late General Paulino Santos, after whom the bustling city of General Santos is named, arrived (PPDO 1988b:2).

False consciousness among the provincial planners attributes "political advancement" and "social awakening" to American colonial "invaders". Although the Americans never "attracted" the Muslims or the T'boli, through the social laboratory policy imposed under the late President Quezon, they succeeded in attracting thousands of Visayans and Luzon colonial "invaders" to the frontier of what was to become South Cotabato. With Alfredo Tanedo's arrival at Maitum in 1919 and the Kiamba colonizers in 1920, the Ilocanos dominated penetration along the coast. With General Paulino's arrival at Sarangani Bay in 1939, the Visayans dominated expansion up the Surallah Valley. It was the immediate postwar period of the 1950's, following Pres. Magsaysay's campaign to the "land of promise", that witnessed the massive exodus of Ilocanos and Visayans to South Cotabato.

HISTORIC GROWTH TRENDS

> The years between 1948-1960, the period when settlers from Visayas and Luzon were continually arriving, had brought the population of South Cotabato to an average annual growth rate of 15.54%. In the following years, there was however, a big decrease of rates until 1975 (1988b:35).

DIALECTS/LANGUAGES

> The most recent survey conducted in order to determine the population characteristics, particularly the dialects/languages generally spoken by the populace, was in 1980. The survey revealed that the majority of households in the province are Hiligaynon or Ilonggo-speaking. The percentage of Cebuano speaking households closely follow. The percentage of Ilonggo speaking households is 36.76%, while Cebuano-speaking is only 30.72% (PPDO 1988b:18).

South Cotabato underwent a massive colonial "invasion" and in the pre-PANAMIN frontier period grew in migrant population from 42,787 in 1918 to 466,110 in 1970 (PPDO 1988b:23). Already multilingual in Manobo, the T'boli Mohen started speaking Ilocano and the T'boli S'bu started speaking Ilonggo; but eventually Ilocano became the dominant *lingua franca* with the T'boli. The pre-PANAMIN frontier became "multi-voice" and competition for resources was intense. As land became titled to colonial "invaders", it was underpinned by legal arrangements that failed to recognize aboriginal title of the T'boli. To the T'boli the land and its owners are not subject to a single higher authority, the state. Nor is land vested in someone's proper name or is quantified over a given period or area. Ownership is circumscribed by extensive

and intimate knowledge of the place. It is a use right through membership in clan groups identified with the names of their cultural landscape. The T'boli were marginalized between the Ilocanos taking their land on the coast nd the Visayans taking their land in the interior lowlands. The clash of kinship and capitalist modes of production started with settler capitalism and eventually penetrated the mountains with granting of logging concessions.

The T'boli still remain marginalized to the system that is harnessing South Cotabato export resources to the cause of the world capitalist system. Only the colonial "invaders" are providing such food commodities as rice, copra, cotton, and pineapples. In their remaining homeland the T'boli still control their means of production and produce food, goods and services that only circulate reciprocately within the community. To the colonial migrants, this system is interpreted as a backward practice and unless they develop more market orientation they will never prosper.

The American transnational Weherhauser operated one of the earliest logging concessions out of Pulimbang in Sultan Kudarat and adjacent Maitum municipality in the early 1960's. They left the Philippines in 1964 and their concession was purchased by George Hofer (Samuel Duhaylungsod interview 1989)[6], a German naturalized Filipino who had married a T'boli and is related to the current Vice-Governor Thomas Hofer.

LOGGING CONCESSIONS

During the 1960's logging concessions were found throughout the T'boli S'bu homeland, much of the T'boli Mohen forests weree already cleared by the Ilocano migrants and what remained was taken by the Basilan Lumber Company (BASILCO), later to become Mindanao Lumber Development Company (MILUDECO) owned by the family of Gaudencio Antonino, who was a senator in the 1960's. What was to become the Tasaday reserve was already under a logging concession to Borja and Bautista (B&B). To the west of their holding was the Hofer concession. Northwestr of B&B was the Habaluyas logging concession and northeast was the Crisotelo Montalban concession. The latter is now presently operated by the Bayanihan Company, whose manager is also a previous partner of Habaluyas. The Bayanihan Company is believed owned by a Chinese businessman (George Tanedo and Tim Duhaylungsod interview 1989).[7]

That Elizalde (1971) found it remarkable "that this vast and undulating sea of tropical rainforest could be inhabited by man" is therefore a gross illusion. "PANAMINization" in fact heralded in another epoch of intensifying resources competition.

"PANAMINIZATION:" RESOURCE EXPLOITATION ADVANCES

By the time PANAMIN arrived in South Cotabato competition on the resource frontier was already well-established. The remaining region under contention was the mountainous homeland of the T'boli being increasingly pinched between the Ilocano and Ilonggo invaders.

LAND CLASSIFICATION

Greater portion of the land area of the province is described as hilly to mountainous. Almost one half of the total land area is described as such... Other portions have very steep slope. These consist of the area covered by mountain ranges which is also classified as forest lands. This is likewise the source of our lumber products which generate a good percentage of income for the province... About 27.56% [218.021 ha.] are classified forest lands, but a good portion needs reforestation based on ocular surveys conducted. The hills and mountains which were once fully covered with trees are now being denuded, if not by loggers, by the kaingeros. The province is still lucky nonetheless, because around 61,087 hectares or almost 30% of the forest lands are still classified virgin (PPDO 1988b:12,14).

Today, the T'boli live in the zones classified as mountainous to very steep forest lands suitable for lumber products. While the loggers have had concessions since the 1960's the T'boli are portrayed as the culprits for the degradation of the forest. When PANAMIN entered the frontier, B&B concession was already logging in Barrio Ned.

BARRIO NED

Barrio Ned of the T'boli's was recognized in 1963. By the time a reserve was set aside for the "Tasaday", there were eight sitios. The sitios outside the reserve are Kalalong, Angco, Batian and Yama. At least 15,000 T'boli consisting of about 3,000 families continue to live in the four sitios of S'long, Labanaw, Tasafao, and Bohong within the reserve. Kalibuhan northwest of Ned is Manobo territory and Blit is dominantly T'boli, not Manobo (George Tanedo interview 1989).

South Cotabato Land Classification According to Slope

Slope	Land Area		Description
	Hectares	Percent	
0-8 degrees	165,810	20.96	Level to undulating
8-18	65,580	8.29	Undulating to rolling
18-30	70,722	8.94	Rolling to hilly
30-50	393,403	49.73	Hilly to mountainous
>50	95,563	12.08	Very steep
Total	791,078	100	

The way PANAMIN competed was to recommend for Presidential decree (PD) 995 of 6 April, 1972 that set aside 19,000 hectares for the 26 "Tasaday", thus immediately eliminating half of the B&B concession and the remaining half was sold to Hofer. Moreover, the reserve does not give recognition to the fact that it was already the homeland of 15,000 T'boli. Only a token 130,000 hectares was allocated for the T'boli in 1974 through PD 407. Mai Tuan, who

was an important figure in the creation of the Tasaday, has been mayor of the municipality ever since. These lands were not set aside for the benefit of the T'boli.

They were part of PANAMIN's countrywide routine use of forced primitivism, reservations and hamletting to insure their exclusive control of indigenous peoples' resources. The tactic was to let agribusiness, prospecting, mining and logging interests exploit their lands and resources (Rocamora 1979).

Creating the gentle, stone age Tasaday perfectly fitted PANAMIN 's forced primitivism whereby only indigenous people scantily-clad or attired in traditional clothing were eligible for dole-outs of medicine, canned goods and clothing and with no follow-up medical trips (Rocamora 1979:12).

Even before PANAMIN created the Tasaday, a B'laan man was forced to pose naked for photographs (Pastor Edralin interview 1989) and they attempted a hamletting project in Angco sitio in Ned.

PANAMIN's attraction program was based on sweet potato gardens and dole outs of food. When the food rationing ended, the scheme collapsed and Angco has been under the influence of the Moro National Liberation Front (MNLF) ever since. Expropriating lands and resources was confined to non-Muslim indigenous peoples because PANAMIN never successfully competed against the MNLF.

The MNLF kidnapped the German journalists from Stern at the Tasaday reserve in 1986 and ransomed them through Hofer.

During martial law under the Marcos dictatorship, state agribusiness and hydro-electric required PANAMIN to handle indigenous peoples who were the victims of these programs through use of reservations and strategic hamletting, patterned on the CIA counter-insurgency Montagnard program in the pre-liberation Vietnamese highlands (Rocamora 1979:13).

HAMLETTING

> PANAMIN's reservation program is basically a strategic hamlet program, probably imported from the Vietnam Montagnard program, and thus a military control program; it should not come as a surprise that there is little development, since military objectives may be considered to have been achieved (Fr. Vincent Cullen in Rocamora 1979:20).[8]

The first regional director of Bukidnon and Misamis Oriental in Mindanao was Oliver Madronial, a military officer with five years experience in the Montagnard program (Rocamora 1979:19). PANAMIN attempted to grab the whole territory of the Dibabawon and Mandayas by hamletting Malamodaw barangay in Mawab, Davao del Norte. They successfully resisted but to this day the community is still nicknamed PANAMIN. In 1982 ex-convicts hired by North Davao Mines successfully defended its mineral rights against armed PANAMIN forces (Samuel Duhaylungsod interview 1989).

By the end of 1977 PANAMIN had organized 2,600,000 indigenous people on to 400 reservations, more than half of the then estimated 4.5 million in the Philippines. According to a Mindanao PANAMIN official, "We settle the natives on reservation land which we manage for them. From then on, any company that is interested in the land deals with us" (Rocamora 1979:17). PANAMIN policy secured reservations which it administered as government property and it did not push Presidential Decree No. 410 (1974) which allowed indigenous peoples to acquire legal title over their ancestral lands.

PANAMIN'S PARA-MILITARY UNITS

> The purpose of PANAMIN is to check on the loyalty of the cultural minorities... if they pass, we submit their names to the constabulary for integrating into para-military units. Those minorities who pass our loyalty check are permitted to participate in the government's fight against subversive elements (Roque Reyes in Rocamora 1979:18).[9]

Counter-insurgency was the largest item in PANAMIN's budget (Rocamora 1979:19). Among the T'boli over 300 weapons, mostly Garand-carbines and some armalite machine pistols (Adler 1986), were distributed through Mai Tuan; out of a total of over 400 PANAMIN weapons to South Cotabato. PANAMIN made the T'boli the most militarized indigenous peoples in the Philippines. Moreover, PANAMIN hired Hukbalahap fighters, who had surrendered to Magsaysay and resettled in Pangantukan, Bukidnon, and Talacogon, Agusan del Sur, for counter-insurgency operations at Lake Sebu (Samuel Duhaylungsod interview 1989).

PANAMIN AND COUNTER-INSURGENCY

> Through its security program and in close coordination with the military, PANAMIN has maintained the loyalty of the 4.25 million non-Muslim hill tribes to the President and to the government. As a result the cultural communities have served as a strong deterring factor to the expansion plans of Muslim rebels and the NPA's (PANAMIN in Rocamora 1979:19).[11]

In 1981 a B'laan man born in South Cotabato, who had worked for PANAMIN when the Tasaday story broke in the early 1970's, was hired by the Filipinas Foundation, Inc. (FFI) as research assistant under Eduardo Munoz-Seca, a photo-journalist. He later reported that they had been taken to the Tao Mloys and the Sanduka who were allegedly more primitive than the "Tasaday". These people later claimed they were T'boli's and that Munoz-Seca had ordered them to undress and pose for him. Subsequently, a linguistic analysis by Hidalgo confirmed that the Tao Mloy were T'boli and an anthropoligical study by Fernandez also indicated that the Sanduka were T'boli (Malaya 1986). In fact, Tao Mloy is a T'boli term meaning 'fugitive' which they use to refer to those who avoid contact with colonial "invaders" by fleeing further into the interiors of their homelands (George Tanedo and Domingo Non interviews 1989).[12]

ICHDF ORGANIZED BY PC WITHIN PANAMIN AREAS

PLACES	DEPLOYMENT	NO. OF ARMS ISSUED
I. Agusan del Sur:		
1. Salag	-	Total 5
II. Bukidnon:		
1. Bukidnon	-	5
2. Kalagangan	-	4
3. Katablaran	-	4
		Total 13
III. Cotabato, South:		
1. Upper Siguil (Tboli)	4 teams (22)	22
2. Datal Siman (Tboli)	2 teams (22)	22
3. Shambalol (Tboli)	2 teams (22)	22
4. Datal Maan (Tboli)	1 team (11)	11
5. Aflek (Tboli)	2 teams (22)	20
6. Basag (Tboli)	2 teams (22)	22
7. Blit (Tboli)	2 teams (22)	22
8. Tahanlid (Tboli)	2 teams (22)	22
9. Tabayong/Kamalas (Tboli)	4 teams (44)	38
10. Afus (Tboli)	1 team (11)	10
11. Laconon (Tboli)	1 team (11)	11
12. Lamsalome (Tboli)	1 team (11)	10
13. Kematu (Tboli)	8 teams (88)	83
14. Lamlubong (General Santos City)	2 teams (22)	22
15. Ble-Anuk (General Santos City)	1 team (11)	11
16. Kalbalol (Polomolok)	1 team (11)	11
17. Lamblison (Tupil)	1 team (11)	11
18. Telofo	1 team (11)	11
19. Lumabat (Malongon)	1 team (11)	1
20. Telew	1 team (11)	10
21. Kyumad (Maasim)	1 team (11)	6
		Total 404
IV. Davao del Norte:		
1. Mansaka (Mamut)	-	7
2. Talaingod (Tibi-tibi)	-	7
		Total 14
V. Davao del Sur:		
1. B'laan (Colonabao)	-	Total 50
VI. Davao Oriental:		
1. Sangab	-	Total 20
VII. Kalinga (Luzon):		
1. Besao	-	Total 42

RECAPITULATION

I. Agusan	5
II. Bukidnon	13
III. Cotabato, South	404
IV. Davao del Norte	14
V. Davao del Sur	50
VI. Davao Oriental	20
VII. Kalinga (Luzon)	42
Grand Total	548

(Juan Artajo, 22, February, 1977 PANAMIN)[10]

The Tasaday proved to be PANAMIN's most contained scheme and the one to gain the most notoriety. George Tanedo and Mai Tuan, both schooled at the Edenton Mission College, were important "Tasaday" power brokers. When George figured in the 1986 International Conference on the Tasaday Controversy and other Urgent Anthropological Issues (ICTCUAI), he was a key person in uncovering the hoax. His claim to the legitimacy of his position is anchored on his wife's kinship relation to Bidula, one of those who originally posed as a Tasaday. Moreover, he was used as a "xerox Tasaday" during the PANAMIN-staged cultural parade for then President Gerald Ford's state visit to the Philippines (George Tanedo interview 1989).

When the Philippine congressional inquiry followed on from the revelations of the ICTCUAI, Maitum local leaders, especially the Tanedo's organized the Edenton Mission College as the venue for the hearing to take evidence from local witnesses. The conference went ahead with Bidula as the main witness, but the congressional committee met at the last minute at Lake Sebu.

The continuing issue of the "authenticity" of the Tasaday particularly has no credence amongst any of the interest groups in Maitum. That there ever existed "primitive" Tasaday is considered laughable because Saay (Udelen) was such a well-known resident of the community.

Saay Boone was educated at the Edenton Mission College and during the late 1950's and early 1960's lived in Maitum with a council woman named Felisa Narvaez. Datu Kaming, Bidula's grandfather, also lives in Maitum. As repeatedly indicated in Maitum, Elizalde's big mistake was to "marry' Udelen and Bidula and not to have chosen all his Tasaday from T'boli's living in Barrio Ned and Blit. According to George Tanedo (interview 1989), Tasaday is a T'boli place name for a mountain and the caves, another place of cultural significance, are named Kilib mata awa. Balayem is well known as the only

Manobo made into a Tasaday. All others are T'boli who regularly speak Manobo, a tactic used to draw attention away from the fact that the hoax was perpetuated in the T'boli homeland.

Bidula was abducted to appear at the Lake Sebu hearings, but even under this duress certainly established that the Tasaday were a hoax. Bidula's abduction was part of the long pattern of manipulation against the T'boli posing as "Tasaday". Because Bidula and Saay are the critical "Tasaday" actors in the scandal, they have suffered the worst PANAMIN exploitation. Today they are back together again as a married couple and, with Elizalde, have a libel suit against Filipino academics and journalists[a] who have exposed that they are not authentic primitive stone age Tasaday.

"PANAMINization" was well associated with enforced primitivism but the Tasaday case was extreme because resource competition was already intense on the frontier. The continuing persistence to portray the Tasaday as primitive is motivated on who gets to control the reserve and more resources are at stake than just logging.

"OSCC"-ification" OF A MILITARIZED FRONTIER

The office of Muslim and Cultural Communities (OMACC) succeeded PANAMIN in 1984 after Elizalde became the first Marcos crony to flee the Philippines following the assassination of Aquino in 1983. Elizalde took P25-45 million from PANAMIN bankrupting the organization (Moses 1986; Southworth 1988). Since the demise of "PANAMINization", militarization, land dispossession and competition for T'boli resources has intensified (Tribal Forum 1985:25-28).

Under OMACC indigenous peoples continued to be compromised by export-oriented and foreign-capital-dependent state development policies (Okamura 1987). Indigenous peoples live on the other side of the frontier in the Philippines where they comprise only 14 percent of the population. Residing primarily in the mountains and occupying over 55 percent of the land (Okamura 1987), the state economically considers their natural resources as national resources and politically considers their lands as strategic sanctuary for insurgents. It is their land, rather than the peoples themselves, that continued to guide the OMACC. Counter-insurgency was one of the agency's principal objectives, their 1987 budget specified "OMACC as a civil agency can therefore be actively involved in the counter-insurgency program within the framework of the policy of attraction and reconciliation" (Okamura 1987:14).

Aquino abolished OMACC by Executive Order 122 in January 1987 and created three new offices for Northern Cultural Communities, for Southern Cultural Communities and for Muslim Affairs; but their objectives, policies and activities remain the same as those of OMACC and PANAMIN (Okamura 1987).

OSCC AND ITS ROLE

> The OSCC, unlike its predecessors, which engaged in repressive activities against cultural communities such as relocating cultural communities into reservations and facilitating the dispossession of their ancestral lands by corporate entities, it (the OSCC) concerns itself in the socio-economic, socio-cultural, and socio-political development of the southern cultural communities. The socio-economic concerns of OSCC include projects on agricultural productivity, community-based livelihood and skills training. The socio-cultural concerns include projects on literacy programs, support to cultural and traditional institutions and practices. And lastly, the socio-political concerns of OSCC include projects on leadership training of tribal leaders and tribal youth who have potentials of becoming tribal leaders in the future.
>
> The general functions of OSCC are assumed from the functions of the former OMACC and the defunct PANAMIN. As stated earlier, access to the Tasaday has been placed under the sole control of PANAMIN, thus, the OSCC as the incumbent government agency responsible for the welfare of the southern cultural communities must likewise find out the real situation of the Tasadays.
>
> ... In OSCC's short visit to the Tasadays, an ocular survey was made and it was contended that based from their physical features that the "Tasadays really looked like primitive people" and "there is a genuine Tasaday tribe" (Lopez 1989).[13]

OSCC continues to perpetuate an ethnocentric image of the Tasaday as authentic primitives but it is for the preservation of the persisting PANAMIN interest that the reserve is militarized and new "Tasadays" are recruited to return permanently to the caves. Members of the "Tasaday" cast are again being recruited from Maitum, some of whom have already disgustedly returned home. Rice and dried fish have reportedly been purchased from Maitum to feed the cast. The Tasaday Community Care Foundation, a non-government organization (NGO), is backing-up the recruitment drive and Franklin Tanedo, George Tanedo's brother compromised over an illegal logging conviction, has been compelled to work as its front-man in Maitum.

ECOLOGY

> The following are some measures of the extent of damage to our environment and the destructive use of our natural resources, and other relevant data:
>
> 1. More than 90% of the total land area of the province is subject to erosion.
> 2. 30% of the area is severely eroded.
> 3. 50% ofthe crop lands alone is subject to erosion.
> 4. More than 2,000 tons of top soil lost annually to erosion.
> 5. Less than 7% of the 240,400 ha grasslands is used for pasture.
> 6. Kaingin practices destroyed 18,000 ha of grasslands and 27,000 ha of forest lands.
> 7. Majority of the forestral area is poorly vegetated mostly second growth forest.
> 8. Less than 30% of the province's area is forested.
>
> Such environmental problems persist because excessive and illegal logging, and kaingin practices remain unabated while reforestation and other environmental conservation measures move at a snail's pace. Aside from de-forestation, improper tillage practices in marginal lands and overgrazing of pasture lands

[a] This libel suit was subsequently dropped. -- Ed.

aggravate the situation. In another perspective, law enforcers are apparently unable to enforce forestry laws while the general awareness of the public on the dire effects of deforestation is not yet at a satisfactory level. It is estimated, thus, that if the trend continues, South Cotabato will be ecologically ravished by the turn of the century (PPDO 1988b:109a).

By the era of "OSCCification", logging concessions needed to be replaced by resource alternatives on the T'boli forest frontier because the environment had become so seriously degraded. Population had doubled since PANAMINization and had reached 985,674 by 1987, which represented the fourth highest annual increase of any province. (PPDO 1988b:21)

QUANTITY AND LOCATION OF MINERAL DEPOSITS, SOUTH COTABATO

Metallic	Approximate volume (metric tons)	Location
Iron	2,000,000	Tupi
Copper	N/A	General Santos City
Gold	N/A	Polomolok
Silver	N/A	General Santos City, Polomolok

(Source: PPDO 1988b:17)

In post-PANAMIN times the T'boli homeland has remained a reserve only for a handful of "Tasaday", not for the 15,000 T'boli from Barrio Ned. The reserve is protected not because it is homeland to the "Tasaday" but because of its valuable potential for further advances in resource exploitation. Gold prospecting is unfolding to become the latest assault on T'boli resources. In Maitum, Fabian Duhaylungsod Jr. (interview 1989)[14] has had a gold assay confirmed of 6 gm per tonne. Heightened militarization on the T'boli resource frontier is certainly not over iron ore nor the negligible amount of gold as acknowledged by the provincial government to be located in the Visayan-dominated region of Polomolok.

DECLARATION OF LOCATION

The Bureau of Mines must be approached for a Declaration of Location (DOL). The maximum DOL permitted to an individual is 81 ha. A DOL is good for one year and is renewable only to a new person. An application to survey is good for two years. After the survey phase, a fee of P15,000 is required per claim. With a technical description deputized by the Bureau of Mines a mining lease of 25 years may be taken out, with the possibility of a further 25 year extension. A corporation can lease a maximum of 5,000 ha per province and the maximum to individuals is 500 ha. There must be 60/40 Filipino/foreign equity. I am negotiating with Banahaw Mines with Australian equity in order to increase my lease to 5,000 ha, the location of which is 22 km downstream of the Tasaday reserve. Only the President can authorize a lease within the reserve (George Tanedo interview 1989).[16]

PROSPECTING AROUND THE TASADAY RESERVE

There are 1,500 individual gold prospecting leases of 81 ha each in seven municipalities, including Barrio Ned. In Maitum, Blucor is competing with George Tanedo. As far as I am concerned, resources belong to surface dwellers and any benefits derived should redound to them (Governor Sueno interview 1989).[15]

When we arrived in Davao on a flight from Manila the first thing we learned was that the Tanedos had been at the airport that day awaiting the arrival of an Australian. We later learned from George Tanedo that he was actually waiting for the Australian representative from Banahaw Mines.

The entire perimeter of the Tasaday reserve is now virtually ringed in DOL's, but Mai Tuan and George Tanedo hold the only significant ones in the hands of the T'boli.

DEAR GENERAL DE VILLA

The Santa Cruz Mission as a religious organization is part of the Diocese of Marbel. This Mission has been working assidously for 27 years among the Tribal people of South Cotabato. Its services in the fields of education, health, agriculture and religion are well-known and admired both in South Cotabato, throughout the Philippines and in many parts of the world (Bishop Gutierrez, Lunay S'bung Newsletter 1989).[16]

TO THE LAST GRAIN OF RICE

Q. What can you say about your work with the Tasaday people?

A. Very challenging and fulfilling. In a period of 1 1/2 years, we have been working with these peoples, we feel we have helped shaped their minds so they will recognize themselves better as human beings. We noticed, however, that the PANAMIN which worked with them before, have conditioned them to indolence. We are trying to erase that. We are trying to teach them dignity of labor so they could be self-reliant.

Q. Do you feel the people of Blit and Tasaday love you?

A. They show it by helping us build the schools or teachers' quarters. Rain or shine, they were there with us. When we ran short of food, they share their food, even the last grain of rice they have, even those reserved or stored for sends. They also look after our security, always making sure that we are not alone (interview, Lunay S'bung Newsletter 1989).[17]

OSCC ATTACKS SCM

The OSCC on Dec. 2 directed Sta. Cruz Mission director Fr. Mansmann to "immediately remove all your belongings from the Tasaday reservation area, otherwise they will be accused of illegal entry."

The Sta. Cruz Mission set up two schools and community centersin the Tasaday and Manobo Blit reservations three years ago upon the persistent request of the residents there.

The military, on the other hand, has been bombing the forested areas of the Tasaday reservation and recruiting and training unqualified tribal Filipinos into armed CAFGU members (Lunay S'bung Newsletter 1989).[18]

ELIZALDE AND OSCC CONSPIRACY

Three Santa Cruz Mission staff were arrested for trespassing on the Tasaday reserve and for being communist supporters. I feel they should have gone to jail because their charges would have been dismissed. Elizalde wrote Fr. Rex that SCM could remain on the Tasaday reserve as long as four conditions were met, but Elizalde, of course, no longer has any authority to make any demands concerning the Tasaday (Governor Sueno interview 1989)

PHILIPPINE INFORMATION AGENCY

> I was a member of the OSCC committee to investigate the activities of the Santa Cruz Mission. It took 18 months operating in the area before OSCC charged the SCM with exploitation and slavery. I am very much interested to visit the so-called Tasaday area but it is very difficult to conduct an independent inquiry into the Tasaday issue because of the various interest groups. Right now, the only way one could go there is through Mai Tuan (Olivia Sudaria interview 1989).[19]

Like the OSCC, the Santa Cruz Mission considers the Tasaday to be authentic and primitive. The SCM perceive primitives, who, without a capitalist mode of production, do not posses the dignity of labor and are barely able to recognize themselves as human beings. However, the T'boli possess enough "self-reliance" in their kinship mode of production to feed themselves and the mission "to the last grain of rice". The OSCC and the Santa Cruz Mission are not alone in perpetuating the rhetoric of primitivism.

WHERE NATURE AND BEAUTY ABOUND

> T'boli Arts and Crafts are produced through a process that is no longer found anywhere else in the world. Through several generations, the T'boli tribe has passed down a skill in the ancient art of tie and dye, using the abaca material, which, when woven is called "tinalak". Likewise, the tribes retain the ancient crafts of embroidery, basketry, weaving, beadwork and carving. The tribe further excels in brasswork, using the ancient process of wax mold.
>
> Other tribal artforms are seen in the dance, musical instruments and costumes.
>
> T'boli crafts can be bought at the Santa Cruz Mission site at the municipality of Lake Sebu, or at its outlet at the supermarket of Koronadal (PPDO 1988).

As their lands and resources are usurped, the province also portrays the T'boli as only gaining their identity through ancient crafts, costumes and dance.

Tourists are encouraged to vicariously experience the T'boli through the Koronadal supermarket or the Santa Cruz Mission. The "Tasaday" are not mentioned as a tourist attraction because there is a war going on in the T'boli homeland.

Commoditization of the South African gold mining frontier proceeded only after the indigenous peoples were pacified and their kinship mode of production was destroyed to provide African labor to the mines (Wolf 1982: 350). The trajectory of gold commoditization in South Cotabato has not yet forced the demise of the T'boli kinship mode of production as occured in the South African gold frontier. Nonetheless, if gold is commoditized it clearly poses a critical threshold for the T'boli.

HAMLETTING OF BLIT

There are enough reasons to conduct an operation, [I have] confidential reports on the area submitted to higher headquaters. As the military commander of the area, I decide where to conduct an operation and I am responsible for the actions of my men (Col. Soriano, Lunay S'bung Newsletter 1989).[20]

Col. Orlando Soriano, Task Force Buayan commander, appeared before Bishop Gutierrez and the municipal mayors during a peace and order campaign.

He had authorized bombing of the Tasaday reserve which had driven over 300 T'boli's into Blit where they had to build their houses surrounding the military.

OSCC continues to perpetuate an ethnocentric image of the Tasaday as the authentic primitives but it is for the preservation of the persisting PANAMIN interest that the reserve is militarized and new "Tasadays" are recruited to return permanently to the caves.

The Governor could not encourage us to make the trip to the reserve because he has no influence with Mai Tuan or Col. Soriano. The power of Mai Tuan has escalated to the proportion that even Governor Sueno admits that the province has minimal influence in T'boli and Lake Sebu municipalities.

In fact, Mai Tuan is working on creating a separate T'boli province out of these municipalities (Governor Sueno interview 1989).

Distressed and displaced persons, which include "cultural and ethnic

communities" and "rebel returnees", constitute the largest category of clientele catered to by provincial social workers as the Tasaday reserve becomes the focus of militarization in South Cotabato.

LOGGING AND MILITARIZATION

> Hofer lost their logging concession in 1988 due to militarization. In 1979 they had acquired an additional concession from B&B. They only got to operate their B&B acquisition for 10 years, although they had a 25-year lease. Their concession was suspended, on orders issued through the office of the Defense Minister Fidel Ramos, for allegedly supporting the MNLF. Hofer was accused of providing 250 bags of rice to the MNLF, but actually they were advancing rations to Muslims hired to work in their rattan concession (Philip Musin interview 1989).[21]

Militarization in South Cotabato manifests in various guises, from evangelists to media men. We interviewed a radio announcer who claimed he was a National Intelligence Coordinating Agency (NICA) agent deployed as a deep penetration agent (DPA) in the MNLF. He indicated that Radio Philippines Network (RPN) General Santos City keeps a video tape interview with Saay. We paid him P160 in exchange for a copy to be sent through RPN Manila but it never reached us despite several follow-ups. Another agent, who was also in the media network, accused Joey Lozano, the local journalist who broke the hoax story, of being a communist and indicated he was in hiding. He also alleged possession of a taped interview with Datu Galang indicating Judith Moses, producer of "The Tribe that Never Was", coerced him into participating in the latter's production. The tape, however, was not made available to us. Our attempts to follow how the local press handles the scandal was rendered futile because the tag of communist or communist sympathizer, a pervasive pattern throughout the Philippines, is conveniently used to discredit those who are exposing the hoax.

Clearly, the gold potential of the Tasaday reserve is heightening militarization of the T'boli people. From usurping a portion of T'boli homeland, Visayan and Ilocano colonial "invaders" dispersed power between the T'boli Mohen and T'boli S'bu and today this is manifested in George Tanedo competing for influence among the T'boli Mohen and Mai Tuan among the T'boli S'bu.

Despite this polarization, the T'boli are beginning to deploy arms in the pursuit of their independent interests. It remains to be seen if they will relinquish their capacity to reproduce their social networks and hierarchies while actively participating in commodity production.

TASADAY RESERVE: CROSSROADS OF INDIGENOUS AND "INVADER"

> Academics are being used. If the Tasaday can be maintained as authentic, then PANAMIN/OSCC have exclusive access to the area. If they are proven to be a hoax, the T'boli, through their Kontra Moro Brigade (KMB) will fight to claim the reserve as their rightful homeland. The militarized contenders surrounding the reserve are at a stalemate as they position for access to the gold. The mayor of Kiamba is married to a T'boli and supplied arms to the KMB that secured the truce. The AFP are to the north of the reserve, the NPA to the east, the KMB to the south and the MNLF to the west (Domingo Non interview 1989).

The "Tasaday" controversy is, therefore, beyond what they eat, speak or wear. For anthropologists to continually insist on determining the reality and degree of primitiveness of the "Tasaday" is to further contribute to the perpetuation of the "illusion of primitive society" (Kuper 1988). The T'boli of South Cotabato cannot be portrayed as being "encapsulated Time in culture gardens" (Fabian 1983:153). Rather, they are a people whose self-determination has been historically arrested and is still being prevented by the political ecology of colonialism. Unfortunately, their remaining recourse is to empower themselves through armed struggle.

FOOTNOTES

[1] Indigenous people delegates from the Philippines to Session 7 of the United Nations Working Group on Indigenous Populations held in Geneva in August 1989 expressed their concerns over developments in the Tasaday hoax in the following statement:

The Aquino government, through the Office of Southern Cultural Communities (OSCC), continues to perpetuate the primitiveness of the Elizalde/PANAMIN-created "Tasaday" in South Cotabato province of Mindanao. The presidential pronouncement of their authenticity in November 1988 masks the reality of manipulation and militarization of the T'boli in the sordid portrayal of the "Tasaday" story. Extensive and serious expropriation of the T'boli homelands and intimidation of those exposing the hoax is, in fact, at the core of the controversy.

Massive Visayan and Ilocano colonial invasion brought the frontier population to one half million by 1970. Invasion marginalized the T'boli to the production of commodities in the lowlands which became dominated by migrants and transnational agribusiness but they continued to exercise control over their resources and produce their own subsistence in their remaining mountain homeland, despite logging concessionaires (BASILCO, MILUDECO, B&B, Habaluyas, Hofer and Montalban) which have been operating since the 1960's. Manuel Elizalde started competing on the resource frontier by establishing, through PANAMIN, the Tasaday reserve in 1972 which eliminated B&B logging and ignored 15,000 Barrio Ned T'boli living in the reserve. The "Tasaday" hoax proved to be PANAMIN's most successful forced primitivism scheme. The reserve remains protected, not as homeland of a handful of T'boli recruited as "Tasaday" actors, but for who controls appropriation of the resources. Gold prospecting is replacing logging as the latest assault on T'boli resources and the entire reserve is ringed in leases. Militarization, masterminded by Elizalde,

is forcing T'boli off the reserve where they are being hamletted into Blit.

Some journalists and academics have trivialized the controversy by only pronouncing on the alleged primitiveness of the "Tasaday". The scandal is entirely beyond what they speak, eat or wear. Those who expose the hoax are summarily labeled as "Communists" and, more than ever before, the intimidation has spread to South Cotabato residents, especially in Maitum. This statement is issued to provide a measure of international recognition for the beleaguered individuals involved. Meanwhile, the T'boli are networking with other indigenous peoples in the Philippines to assert their right to self-determination and control over their ancestral domain. They welcome, through Lumad Mindanao, support for and alliance with their struggle.

[2] The Tanedo family resides permanently in Maitum, South Cotabato. George Tanedo has consistently been a leading figure among the T'boli and in the "Tasaday" controversy. During our intensive discussions, George impressed on us that by exposing the truth about the T'boli, he is under increasing threat from the PANAMIN camp. Under the socio-political conditions in South Cotabato, individuals are virtually powerless in the face of veiled threats and intimidations.

[3] Virgilio Villanueva is an important Ilocano power-broker residing in Maitum. He was the long-standing mayor of Maitum during the era of "PANAMINization."

[4] Fabian Duhaylungsod taught at the Edenton Mission College for over 20 years after Presbyterian missionary work among several Muslim peoples. Although he is now retired, he continues his evangelistic work among the T'boli Mohen in the outlying sitios of Maitum.

[5] Pastor Nap Edralin is the senior administrative officer of the Edenton Mission College.

[6] Samuel Duhaylungsod is a Forest Ranger of the Bureau of Forest Development assigned to the Davao del Sur and Davao del Norte provinces of Mindanao.

[7] Tim Duhaylungsod was manager of the Montalban logging concession during the era of PANAMINization.

[8] Fr. Vincent Cullen worked with the Manobos of the Bukidnon reservation during the era of PANAMINization.

[9] Statement of Roque Reyes in 1977. PANAMIN's two highest officials after Elizalde, Jose Guerrero and Roque Reyes, were both military men.

[10] Official PANAMIN document made available to us from the files of Judith Moses. Juan Artajo is former Project Director of PANAMIN for the T'boli (MacLeish and Conger 1971:243).

[11] Official PANAMIN statement issued through their 1979 National Security and Information Campaign.

[12] Domingo Non is Professor of History and Vice-president of Mindanao State University in General Santos City, South Cotabato. He has lived in the province for over 12 years and is an expert on T'boli history. He delivered a paper on the local history of the Tasaday controversy during the Internatioal Conference on the Tasaday Controversy and other Urgent Anthropological Issues (ICTCUAI) in 1986.

[13] Jose Lopez is a lawyer and Undersecretary of the Office of Southern Cultural Communities and strongly opposes the Sta. Cruz Mission's presence in the Tasaday reserve. The document was kindly provided from the files of Judith Moses.

[14] Fabian Duhaylungsod, Jr. was the municipal development officer of Maitum during the last years of PANAMINization.

[15] Ismael Sueno is the current provincial governor of South Cotabato. During the ICTCUAI, he argued that the more fundamental issue in the Tasaday controversy is the impoverishment of the indigenous peoples in the province, more than their primitivism.

[16] Bishop Dinualdo Gutierrez, DD is the bishop of the Diocese of Marbel which sanctioned the presence of the Sta. Cruz Mission in the Tasaday reserve.

[17] Sta. Cruz Mission interview conducted among the eight lay missionaries they assigned to the Tasaday reserve.

[18] The Lunay S'bung Newsletter is published under the Sta. Cruz Mission Cultural Foundation. The title means "Torch-tree Gathering or the Community of Lords and Ladies of Lemlunay, the T'boli tribes equivalent of King Arthur's Camelot- a mythical place of Golden Age. Now, by extension, those who are laboring for a New Golden Age for Mindanao's Beleaguered Tribal Peoples."

[19] Olivia Sudaria, manager of the Philippine Information Agency in General Santos City, South Cotabato, was appointed member of the committee created to investigate the activities of the Sta. Cruz mission.

[20] Col. Orlando Soriano made the command decision to hamlet the T'boli surrounding Blit. On November 15-16, 1988 the military bombed Datal Lawa, four hours walk from Blit, from the air; carried out a reconnaisance plane mission on November 18 and on the 21st of November five helicopters and a Sikorsky gunship appeared over Blit firing two rockets and discourging 45 fully-armed troops under Lt. George Cardos and 28 T'boli CAFGUs under Commander "Bong" from T'boli town (Lunay S'bung Newsletter 1989).

[21] Philip Musin is presently personal secretary to Thomas Hofer, Vice Governor of South Cotabato. He was formerly the manager of the Hofer logging operation until they lost their concession in 1988.

REFERENCES

Adler, Christian (1986) The Tasaday Hoax: The Never Ending Scandal. Paper presented to the 1986 International Conference on the Tasaday Controversy and other Urgent Anthropological Issues. Quezon City: Philippine Social Science Center.

Artajo, Juan (1977) Integrated Civilian Home Defense Force (ICHDF) Organized by Philippine Constabulary (PC) Within PANAMIN Areas. Prepared for PANAMIN February 22, 1977.

Benterrak, K., S Muecke and P. Roe (1984) Reading the Country. Freemantle, Australia: Freemantle Arts Press.

Duhaylungsod, Fabian (1989) Interview. Maitum, South Cotabato: February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Duhaylungsod, Tim (1989) Interview. Maitum. South Cotabato: February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Duhaylungsod, Samuel (1989) Interview. Maitum, South Cotabato: February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Edralin, Nap (1989) Interview. Maitum, South Cotabato: February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Elizalde, Manuel (1971) The Tasaday Forest People "A Data Paper on a Newly Discovered Food Gathering and Stone Tool Using Manobo Group in the Mountains of South Cotabato, Mindanao, Philippines. Washington D.C.: Smithsonian Institution Center for Short-lived Phenomena.

Fabian, Johannes (1983) Time and the Other. New York: Columbia University Press.

Gutierrez, Dinualdo (1989) Open Letters. Lunay S'bung Newsletter. On Tasaday Reservation. Koronadal, South Cotabato: Sta. Cruz Mission Cultural Foundation.

Hyndman, David and Levita Duhaylungsod (1988) The Development Saga of the Tasaday: Gentle Yesterday, Hoax Today, Exploited Forever? Paper presented to the Fifth Conference on Hunting and Gathering Societies. Darwin: Australia.

Kuper, Adam (1988) The Invention of Primitive Society. London: Routhledge.

Land Resources Evaluation Project (nd) Agro-Socio Economics and Land Evaluation: Province of South Cotabato. Volume 2. Manila: Bureau of Soils.

Lunay S'bung Newsletter (1989) On Tasaday Reservation. Koronadal, South Cotabato: Sta. Cruz Mission Cultural Foundation.

MacLeish, Kenneth and Dean Conger (1971) Help for Philippine Tribes in Trouble. National Geographic 140:220-255.

Malaya (1986) May 7, 8, 9.

Moses, Judith (1986) The Tribe that Never Was. New York: 20/20 Producer, American Broadcasting Corporation.

Musin, Philip (1989) Interview. Koronadal, South Cotabato: February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Non, Domingo (1989) Interview. General Santos City, South Cotabato: February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Okamura, Jonathan (1987) The Politics of Neglect. Tribal Forum 8:5-30.

Provincial Planning and Development Office (1988a) South Cotabato: The Bread Basket of the South. Koronadal, South Cotabato: Office of the Provincial Government.

Provincial Planning and Development Office (1988b) Socio-Economic Profile of South Cotabato. Koronadal, South Cotabato: Office of the Provincial Government.

Rocamora, Joel (1979) The Political Uses of PANAMIN. Southeast Asian Chronicle 67:11-21.

Soriano, Orlando (1989) Quoted in the OSCC attacks SCM; Cory help sought. Lunay S'bung Newsletter. On Tasaday Reservation. Koronadal, South Cotabato.

Southworth, J. (1988) Taker of Tribal Maidens Fool the World. Courier Mail (August 21):13.

Sueno, Ismael (1989) Interview. Koronadal, South Cotabato:February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Sudaria, Olivia (1989) Interview. General Santos City, South Cotabato: February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Tanedo, George (1989) Interview. Maitum, South Cotabato: February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Tribal Forum (1985) Land Our Lost Heritage: How Do We Regain It? 7:1-52.

Villanueva, Virgilio (1989) Interview. Maitum, South Cotabato: February 4-16, Fieldnotes of Levita Duhaylungsod and David Hyndman.

Wolf, Eric (1982) Europe and the People Without History. Berkeley: University of California Press.

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Paglilitis, Pamamagitan, Paghatol

INDIGENOUS CONCEPTS OF LAND DISPUTE PROCESSING IN SILANG, CAVITE

NESTOR T. CASTRO*

Cavite province has made it to the headlines with the recent land controversy in Langkaan, Dasmariñas. This issue revolves around the planned conversion of 230 hectares of prime agricultural land into an industrial estate to be operated by a Japanese corporation, Marubeni.

In order to push through with the land conversion scheme, the National Development Corp. (NDC), which owns the land in question, has asked the 150 farmers cultivating the area to leave. They are being offered P55,000 per hectare as disturbance compensation. Most of the farmers are resisting the conversion plan and have called for the implementation of the Comprehensive Agrarian Reform Program (CARP) in the agricultural site. The Department of Agrarian Reform (DAR) has sided with the farmers on this issue. On the other hand, the Department of Trade and Industry (DTI), the Department of Justice (DOJ) and congressmen belonging to the majority party, the Laban ng Demokratikong Pilipino (LDP), have insisted on pushing through with the land conversion.

In the course of the dispute, many farmers have been bribed or threatened by people close to the provincial governor. The industrialization of the province is one of the main projects of Cavite governor Juanito Remulla.

The Langkaan controversy is nothing new in Cavite. Since the early 1970's, there has been an increasing number of cases of ejectment of farmers in the province, notably in the municipalities of Dasmariñas, Gen. Trias and Silang.

There have been some studies about land disputes in Dasmariñas and Gen. Trias, and to a limited extent, also in Silang, However, one gray area in these researches is the nature of dispute processing involved.

This paper focuses on the land disputes in Silang, Cavite and discusses the indigenous processes involved in resolving these disputes.

Objectives of the Paper

Generally, this paper aims to contribute in the documentation of Philippine customary laws. It is a common misconception that custom laws only exist among our ethnic minorities while the rest of the Filipinos have been fully absorbed into the national legal system.

Based on this general goal, the specific objectives of the paper are the following:

1. Identify the indigenous concepts of dispute processing in Silang, Cavite,
2. Look into the interface between customary land law and the national land law, and
3. Propose ways of integrating customary land law into the country's agrarian reform program.

Scope and Limitations of the Paper

This research limits its scope both in terms of the type of disputes being studied and in geographical scope. In terms of the former, this paper deals only with land disputes. This choice was arbitrary on the part of the author since practically nothing has been written before regarding Tagalog customary land law. Early Spanish chronicles have mentioned a few things about pre-hispanic Tagalog criminal law but never about Tagalog land law.

This arbitrary choice has affected the pace of the research. It was easier to collect data on various types of disputes which informants provide than to look for specific types of disputes. Thus, it took a greater time and effort to document a mere ten (10) cases of land disputes. *(2 cases will be reproduced here - Ed.)*

In terms of geographical scope, the research limits its study to Silang, Cavite. At first, efforts were made to collect data from other municipalities as well such as Dasmariñas, Gen. Trias, Maragondon and Tagaytay City.

However, having a few samples of documentation from this wide range of area could be prone to question. There are possibilities of differences in cultural practices even within one province. Thus, the research area was limited to one municipality.

The choice of Silang as the research area was made due to several factors. First, it was more accessible for the author because of his employment in a non-governmental organization in the said municipality. Secondly, Silang is one of the oldest towns in Cavite and in the country. Thus, its practices could be vestiges of an ancient culture. Lastly, in the course of my documentation, I was able to retrieve more field documentation of cases in Silang than in the other municipalities.

Methodology of Research and Analysis

The research was mainly done through actual field documentation of land cases. Aside from interviewing informants, efforts were made to observe occasions of land dispute processing whenever these are being carried out. In one specific instance, I was even involved in the mediation process.

As a supplement, library research was also conducted in order to trace the historical background of these land disputes.

A total of ten (10) land disputes were documented from the research area. However, only seven (7) of these were subjected to analysis. [Refer to the Appendices for the documentation of two of these seven cases.] This is so since two (2) other cases, one in Barangay Carmen and another one in Sitio Bulwagan, Barangay Paligawan, remain as disputes which have not yet been subjected to dispute processing. Another documentation from Barangay Lumil, was later found to be part of a bigger case involving two barangays. Thus, this was integrated with the case documentation of Barangay Tartaria.

Hoebel's (1972) methods and techniques are adopted in the analysis of the collected data. The descriptive line of investigation such as that undertaken by Barton (1919) in his study on Ifugao Law was preferred rather than the ideational road.

As much as possible, the whole procedure of dispute processing each case, as recalled by the informants, was documented. Even through this procedural process, the substantive aspect of law could be culled from the analysis.

All key words and key concepts related to indigenous law were subjected to linguistic analysis. The paper ends with a preliminary wordlist of terms used in Cavite indigenous law. While some of the terms came out from the documented cases, other terminologies obtained from informants were included so as to have an over-all picture of the extent of Cavite custom law.

Since there has been no previous study about indigenous land law in Silang or elsewhere among the lowland groups in the country, my task was like that of an archaeologist. With the documented cases as the base, I dug further into its indigenous roots by removing the modern-day Western-oriented elements. Concepts which do not originate from Western jurisprudence are held suspect and are thus subjected to analysis.

Roots of the Agrarian Problem in Silang

Silang is one of the oldest municipalities in Cavite. According to folklore, Silang was already a chiefdom led by the couple Gat Hinigiw and Gat Kaliwanag, even before the coming of the Spaniards (Saulo and Ocampo, 1985: 262). The two traced their lineage from Borneo. The couple bore seven children namely Gat Pandan, Gat Pogpog, Gat Pelayo, Gat Mamagtay, Gat Amatong, Gat Katumala and Gat Amakit. However, because of a quarrel between the siblings, all of them, except Gat Pandan, left Silang to settle in other places. The cultivation and development of Silang into a more habitable community is attributed to Gat Pandan.

Besides the abovementioned story, we know practically nothing about Silang's prehistory. Early Spanish chronicles describe Tagalog folkways upon Spanish contact but these refer to Tagalogs from other areas especially Manila and outlying settlements. Even if we deduce that the culture of the people of Silang were no different from other Tagalogs, these Spanish chronicles wrote nothing about Tagalog land laws, which is the focus of this paper.

It is clear, however, that the roots of the agrarian problem in Silang, Cavite could be traced to the Spanish colonial period. During the early years of Spanish rule in the country, vast tracts of land were granted by the King of Spain to loyal conquistadors and their successors. Through this system, called the *encomienda*, the grantees were given the power to collect tribute from the natives residing in a definite area of territory.

In 1571, Silang was granted as a part of the bigger encomienda of Diego Jorge de Villalobos. With this, the people of Silang were transformed from owner-cultivators into tribute-paying farmers.

The corresponding responsibility from the royal grant was to provide spiritual indoctrination to the populace. Thus, in 1585, the *encomendero* invited Spanish friars to set up the Catholic parish in Silang. From that year until 1598, Silang was under the spiritual care of the Franciscan Order. In 1598, the Spanish Crown ordered the systematic division of the Philippine archipelago into separate mission territories.

Many encomenderos, however, were uninterested in developing the lands in Cavite since they earned only a little out of it. Involvement in the galleon trade was a more profitable venture. This is why the encomenderos in upland Cavite, which includes Silang, sold out their lands and shifted their operations to Cavite's coastal towns. The Silang encomienda later on broke up into separate *haciendas* owned by small landowners.

Eventually, Silang's haciendas were passed on to the Spanish friars either by purchase or through the indulgencia, the practice of donating land to the church in exchange for the salvation of souls. There were also outright cases of landgrabbing by the friars. For example, in 1688, the Recoletos forcibly occupied the Silang villages of Alipaopao, Oyaye and Malinta on the guise that these were part of the lands that they bought two years earlier. This occupation was

accomplished through the burning of the residents' houses and rice granaries. The original settlers of the place filed a case in court against the Recollect Order. The plaintiffs, however, lost the case and were even made to pay a fine of P3,000 (Ang Pagpapatalsik, 1985:6).

During the 1600s, more cases of landgrabbing by the Church transpired in Silang. The people made a complaint to the *Composiciones y Indultos*, a court tasked with looking into cases of fraud of acquiring lands. In 1697, this court summoned the friars in order to show their land titles. The defendants, however, negated the court order on the grounds that this would mean that they were bowing to the law of man, which is in conflict with the law of the Holy Pope (*Ibid*).

The Rise of Tenancy in Silang

The people of Silang were subjected to forced labor under the *bandala* system. Through this system, people were required by the government to work without pay in building roads, churches, ships and others. In 1691, one hundred men from the town were forced to work in the construction of a galleon.

During those years, the friars found it difficult to find workers for their haciendas. Thus, a law was enacted, the *casa de reserva*, which gave selected hacienda tenants the right to be exempted from the *bandala*. In addition, those who were not a part of the *casa de reserva* were made to pay higher taxes. Through this system, more people were enticed to work in the haciendas in order to escape forced labor.

In the hacienda, the farmers worked on the land and paid land rent to the friars through a share of the harvest or through cash. Eventually, the latter system became the norm in haciendas. The tenants under this system were called *inquilinos*. Aside from the *buwis* (land rent), the income of the farmers went to paying the loans for cash and farming implements such as carabaos, plows, knives, etc.

The hacienda administrator, called *uldog* by the tenants, decided on who among the tenants should remain and who should be terminated. Tenants could be evicted just because they had a quarrel with the *uldog* or because the latter's wife ordered it to be so. Another method of ejecting tenants was through the raising of the *buwis*.

Peasant Resistance

Just across the border of Silang was the Dominican-owned Hacienda Biñan in Laguna. In 1629, some residents of the Silang-Biñan border sold their lots to Don Lorenzo Olaso. The latter, in turn, sold the land to the Dominican Order without undergoing the proper legal procedures. It was the law then that the transfer of land ownership should be authorized by the *Protector de los Indios*, who would see to it that there were no cultivators in the land in question. In case of the presence of farmer cultivators, the latter should be informed of the transfer of ownership. There was also no public auction made regarding the sale of the land.

In 1704, the Dominican priests forged an agreement with Silang residents to transform the land into a *paligawan* (grazing ground) for 4,000 cattle. However, there were several incidents wherein the cattle went into the farmers' plots and destroyed their crops. Because of this, the farmers resorted to killing the cattle. Within a span of thirty-six years, 6,000 cattle were butchered by the farmers. In addition, one hacienda administrator was hit by an arrow.

In 1704, the Dominicans filed a case against the farmers. The Royal Audencia ordered the survey of the land. After the survey, the size of the friar land was doubled. In 1743, a new survey was conducted by Don Juan Monroy causing the extension of the friar land's boundaries thus tripling its original size.

In April 1745, the people of Silang rose against the Dominicans. They burned the hacienda's rice granary and destroyed its irrigation canal. The *uldog* and sixteen Chinese tenants fled to Manila. Likewise, Hacienda Sta. Cruz was attacked and many cattle were killed. A total of 1,500 armed farmers joined the uprising led by Josep del Vega. The insurgents protested the landgrabbing perpetuated by the friars' forced labor and the hiring of Chinese instead of Indio tenants.

A negotiation ensued between the insurgents and government representatives. The former demanded the expulsion of the *uldog* and asked for a guarantee that the parish of Silang would remain under the hands of the Jesuits because of fears that the Dominicans were taking over the whole of Silang.

Governor-General Pedro Calderon, who was also the judge of the Royal Audiencia, stepped in to stop the rebellion. He ordered the two-year suspension of the surveyor, Don Monroy, and asked the latter to pay a fine of P2,000. The lands annexed by the Dominicans were returned to the farmers. To add, farmers were allowed to work in the Dominican hacienda as long as they paid *buwis*. The rebels were also given amnesty for their actions. With this, the Silang uprising came to an end.

On March 9, 1746, the area comprising Silang was purchased by the residents of the town from the King of Spain for 2,000 Mexican pesos to "save it from becoming a friar land" (Saulo and Ocampo, 1985:261). The purchase was effected through the representation of Bernabe Javier Manahan and Gervasio de la Cruz. The payments were made in three installments during the period of 1747 until 1749.

Another form of peasant resistance was through social banditry. Cavite became the hub of *tulisanes* who robbed rich landowners, especially the friars. Among the known *bandidos* in Cavite were Luis de los Santos alias Parang, Juan Sta. Maria, Juan Colcuera alias Balat, Lino alias Yngles, Santiago Mojica Espineli alias Kuping, Casimiro Camerino and Sebastian Mandaloyo. Although they came from all over Cavite, their sphere of operation included Silang and it was common for them to seek refuge in Silang's mountainous areas.

Of course, the apex of peasant resistance in Silang was the Revolution of 1896. The main content of the revolution against Spain was anti-feudal. Unfortunately, the revolution was eventually led by ilustrados who had landed interests such as Emilio Aguinaldo himself and the Victor Kiamzon of Silang.

ownership of land accumulated into the hands of a few people since it was common for farmers to be unable to pay their debts. It was through this scheme that individuals such as Macario Bayan and Lazaro Kiamzon were able to amass extensive properties in Munting Ilog, Silang.

This preference for amicable settlement surely falls under the category of an indigenous concept of dispute processing. This is so since under the national legal system, the act of settling the case before the judicial verdict is not legally permitted in most classes of criminal cases as lawyers and judges say that "the law cannot be compromised."

The Polarization of Class Divisions in Silang

During the 1800's, most of the farms in Silang were devoted to cash crops in order to meet the increasing commercial demand from Manila and other countries as well. Crops such as coffee, rice, sugarcane, cacao, chili, abaca, corn, tobacco, coconut, betel and beans were planted in Silang. In line with this was the construction of roads, irrigation dikes, sugar centrals, tobacco factories and textile mills. The population of the town also grew that is why new towns were formed such as Carmona in 1857 and Amadeo in 1872.

The local elite benefited from this boom. In the past, their growth was stunted by the friars' monopoly of the land and economic activities. These native elites engaged in providing loans to farmers for their daily needs as well as for expenses for marriages, baptisms and death rites. Through the *pacto de retroventa*, wherein farmers applied for loans using their land as collateral, the

While the few became richer, most of the farmers became poorer. The price of land and carabaos increased that is why they were unable to buy these. The leasehold tenants went back into sharehold tenancy because of the increasing cost of agricultural inputs. In the leasehold system, the tenants shoulder the expenses for the agricultural inputs while in the sharehold system, the landowners provide these. The practice of subtenancy became a common practice also. In this system, the legitimate tenants hire other tenants to help them in their work. However, the landowners do not recognize the subtenants.

During the late 1800's, most of the friar lands were converted to state or private enterprise ownership. In 1893, the Augustinians transferred the ownership of their lands to the Sociedad Agricola de Ultramar. In 1894, the hacienda owned by the Recoletos was bought by the British Manila Corporation, Ltd. On the other hand, the Dominican hacienda became the Philippine Sugar Estates Development Company.

Institutionalization of the Agrarian Problem

The Americans institutionalized this class divide, especially with the passing of Act No. 496 or the Land Registration Act of 1902. This act adopted the Torrens system of land titling. Under this system, the ultimate proof of ownership of the land is a piece of certificate (Aranal-Sereno and Libarios, 1983: 432).

The ordinary farmers did not know how to read and write nor were they knowledgeable of the procedure for land registration. Thereby, this act enhanced the *ilustrados'* advantage in claiming lands.

One such ilustrado was former president Emilio Aguinaldo. In 1925, he was able to acquire a Torrens Title for 350 hectares of land in the barrios of Lumil and Tartaria. In Puting Kahoy, Francisco Arambulo was able to acquire 224 hectares of land through loans incurred by farmers. In Paligawan, Pedro Giron simply showed the farmers a piece of paper certifying his ownerhip of the land.

This agrarian situation continues up to the present day in Silang. Vast tracts of agricultural land in the municipality are owned by a few landowners. A significant portion of the population remains as landless tenants.

Analysis of the Cases of Land Disputes

We shall now attempt to describe the nature of indigenous land dispute processing in Silang, Cavite. The term "dispute processing" is used instead of "dispute settlement" or "dispute resolution" since the latter terms imply outcomes that may or may not result from efforts to deal with disputes (Mojares, 1985: 15).

The seven (7) documented cases of land disputes were obtained from five (5) barangays of Silang, namely Tartaria, Lumil, Bulwagan, Paligawan, San Miguel and Tibig. With regards to time frame, all of the cases are relatively recent, having transpired during the period of the late 1960's to the present.

Moreso, most of these were only resolved during the 1980's. It must also be noted that the length of dispute processing lasted for several years for most of the cases, the longest of which lasted for thirteen (13) years.

Regarding the types of disputes involved, most of the cases pertained to ejectment of tenants. Four (4) cases were outright ejectment cases while the rest were related to ejectment. Specifically, the other three (3) cases refer to injunction of ejectment and raising of land rent, claim for tenancy rights and damages to crops, and dispossession and collection of rentals and/or owner's shares in the harvests.

It must be taken into account that all of these seven cases of land disputes fall under the land tenancy problem, *i.e.* disputes involving the land-owner(s) and its tenants. This type of dispute would surely have a bearing on the legal processes involved in the resolution of these problems. The role of class comes into play.

In all of the cases, the state-recognized court is utilized probably because of this difference in class status between the litigants. It was observed that in disputes among farmers, the state court is seldom resorted to.

There were both instances of the landowners or the tenants initiating the filing of a complaint. However, the mechanics of dispute processing does not always begin with the filing of a case in the state court.

This is just one tiny element in the whole process. There are instances where off-court discussions are utilized first but the deadlock in negotiations warrants for a "higher level" of forum for dispute processing.

Landowners always file a civil case against their tenants as a means of pressure for them to leave the land. They know that farmers are not familiar with the national legal system and are thus threatened with the very thought of being charged in court. The burden in terms of time and money for court appearances reinforces this fear of civil courts.

In Silang, Cavite, indigenous courts, such as the council of elders of the Cordilleras, no longer exist. Perhaps, such courts existed in pre-hispanic Cavite as could be gleaned from the persistence of indigenous terms associated with courts, such as *hukom* (judge), *hukuman* (court), *manananggol* (counsel for the defense), etc. With the absence of indigenous courts, the state courts take over the vacuum. However, indigenous processes still play an important part and are integrated into the present court system.

The Preference for Amicable Settlement

One such indigenous concept integrated into the court system is that of "amicable settlement." In 3 cases the element of "amicable settlement," or an attempt to forge such, could be found. In *Vidal-Jardiniano vs. Amita*, the judge handling the case openly expressed, but "off-the-record," the litigants should attempt first to reach an amicable settlement before filing the case in court.

Kit Machado, in his study on "Politics and Dispute-Processing in the Rural Philippines," defines "amicable settlement" as the process of mediation between disputants involving one or more third parties (in Mojares, 1985: 17). He notes the preponderance of court cases settled amicably before a final judicial verdict is rendered (*Ibid.*, p. 19). To prove this, he cites that 90% of cases in municipal courts and a substantial number of case in the Courts of First Instance (CFI) are dismissed due to "amicable settlement."

This preference for amicable settlement surely falls under the category of an indigenous concept of dispute processing. This is so since under the na-tional legal system, the act of settling the case before the judicial verdict is not legally permitted in most classes of criminal cases as lawyers and judges say that "the law cannot be compromised" (*Ibid.*).

Machado adds that the use of the national judicial process until a verdict is rendered is the least common pattern of dispute processing in the country (*Ibid*, p. 20). In some cases, the recourse to the court's decision is only a last resort after all efforts toward settlement have failed. He concludes:

"Philippine culture, society and economy combine to create a general predisposition favoring "amicable settlement" of disputes, including most which could result in criminal prosecution. The transplanted Western legal assumption that the public is an aggrieved party when certain acts, defined as criminal, are committed is not widely shared by Filipinos. Such acts tend to be viewed as private matters between the parties and their families. In rural communities where Filipinos have many-faceted, long-enduring relationships with their neighbors, many of whom may be relatives, there is a presumption in favor of compromise and reconciliation rather than further disruption of personal and community relationships by active prosecution of a criminal complaint."

The Use of Go-betweens

Another element of Cavite indigenous land law is the use of the *tagapamagitan* or the go-between. In *Medina vs. Caparas* the go-betweens come from staff members of a non-governmental organization in Silang, the International Institute of Rural Reconstruction (IIRR). In *Loyola vs. Enriquez*, an attempt to recruit the parish priest as the *tagapamagitan* was made by the defendants. In both instances, the go-betweens come from respectable institutions of the community which do not have any interest in the dispute or any bias towards one party of the disputants.

Machado sees this reliance on intermediaries to arrange "amicable settlements" as a common practice in many types of Philippine social relationships (*Ibid.*, p. 17). He shows that go-betweens are used in everything from arranging marriages to making requests of others.

In relation to dispute processing, Machado (*Ibid.*, p.18) recognizes the mediation played by such persons and

connects their role to the whole process of trying to work out an amicable settlement. He says,

"(The amicable settlement) may be initiated by... the complaining party, who may send out "feelers" indicating willingness to consider a "settlement". Usually, the complaining party is "approached" by someone who has influence with him, who will convey an offer or request a proposal of terms for a "settlement". This person may be "someone who cannot be refused," one to whom the aggrieved is obligated through a relationship of dependency and/or reciprocity. If the accused or interested third parties do not have such an individual, personal networks are mobilized in an effort to find one who can and will make the "approach."

Talking

It is interesting to note that in Cavite, the term for "amicable settlement", *pag-usapan*, is synonymous to "talking". When a problem arises and someone wants to settle the case amicably, he or she says, "Baka pwede namang pag-usapan na lang natin ito." This is not surprising since it is through the "talking" between the disputants that an amicable settlement is reached. The preference towards reaching an amicable settlement in traditional Philippine society could also he seen in the actual term for "legal case," which is *usapin*.

Roberts (1979: 1549) stresses that there are two basic forms of conflict resolution, *i.e.* through fighting or talking. He notes that the latter is more resorted to where procedures for resolving disputes through settlement-directed talking are well established (*Ibid.*, p. 162).

From the collected cases, it can be seen that the amicable settlement procedures were conducted in instances were the disputants could easily communicate with each other. This not only refers to familiarity with each other (as opposed to instances where tenants do not even know the landowners and vice versa) but also to actual accessibility for contact. In three cases the disputants live within the same municipality that is why the opportunity to talk with one another is possible.

The Role of Kinship

Kinship also plays an important role in indigenous dispute processing. Fernandez (1983: 463) rightly argues that the kinship patterns are reflected in the indigenous legal traditions even among Westernized Filipinos.

In most instances, the dispute is not limited to those directly involved in the case but involves as well the relatives of the disputants. However, this role is not limited to just taking the side of one's kin. In certain cases, the relative may intervene in order to try to forge a settlement.

In *Residents of Tartiara and Lumil vs. Aguinaldo Jr.* - the counsel for the defense was a relative of one of the defendants. In the *Loyola* case, a relative of the complainant was used as an emissary so as to introduce the go-betweens who then relayed the message of the defendants.

The *Vidal-Jardiniano* case shows the different dimensions of the role of kinship in dispute processing. One is with regards to the strengthening of group solidarity among members of the same disputing party. In this case, the sense of solidarity between the defendants is reinforced by the fact that they are related to each other. This sense of solidarity is not present or is weak in instances where the farmers are not related with each other.

This case shows how the desire to attain an "amicable settlement" is pressured upon the disputants because of kinship relations. In the said case, the wife of the counsel for the defense is a cousin of the complainants while the counsel for the plaintiffs is a nephew of one of the defendants. Thus, this link with one another is invoked in one of the discussions between the disputants.

CONCLUSION

We can see from the documented cases of land disputes the syncretic form of dispute processing in Silang, Cavite. Indigenous elements of dispute processing have been incorporated into the national legal system.

Even in everyday life, vestiges of ancient dispute processing practices remain such as in the invocation of oaths. In order to attest the veracity of a claim, it is common to hear people say, "Mamatay man!" or "Tamaan nawa ako ng kidlat!" The use of oaths and swearing is an important element in indigenous law.

The interface between national law and indigenous law is not a phenomena unique to Silang but could be found throughout the country. However, the actual outcome of the interface may vary. In many instances, such as what usually transpire in tribal communities, this brings about a clash between the two systems. On the other hand, among the hispanized Filipino communities, this usually results into a legal amalgamation (*Ibid.*, p. 464).

Even though indigenous concepts have seeped into the national legal system, this is not attributable to the state's recognition of indigenous law. This is mainly due to the people's own understanding of law. As a matter of fact, there is no governmental policy to integrate or even consider these indigenous elements.

One may dispute this fact by pointing out the *katarungang pambarangay* as an example of the government's recognition of indigenous law. However, if we examine closely this concept of barangay justice, we can see that foreign, such as African, models are invoked (*Katarungang Pambarangay*, 1984). There has been no serious attempt by the government to encourage the study of existing custom laws in the country. To add, we may cite the superficiality of *katarungang pambarangay* as could be seen with the experience in the Medina case, the barangay captain merely put in blotter the complaint of one of the disputants and then submitted the case to the Municipal Trial Court for adjudication. In fairness to this Marcos-initiated scheme, it is probable that this system works in cases of small disputes such as in petty thefts, slander, drunkenness, etc.

There is still no study with regards to the effectivity of the Barangay Agrarian Reform Committees (BARC'S), the quasi-governmental body at the barangay level, whose functions include the mediation and conciliation between parties involved in an agrarian dispute (*CARL*, 1987: 36). The time is still too short to judge its performance.

What is clear, however, is that there is no directive whatsoever from the Department of Agrarian Reform (DAR) enjoining the BARCs to utilize indigenous dispute processing. This is one thing which the DAR could go into. Since the BARC concept is relatively new and is still being institutionalized throughout the country, the enrichment of its orientation is still possible. The Comprehensive Agrarian Reform Program (CARP) itself is being criticized by farmers' groups because of its many loop-holes. The Garchitorena and the Langkaan experiences are cases in point. Many groups are therefore pressing for a new and genuine agrarian reform program. The Congress for a People's Agrarian Reform (CPAR), a coalition of farmers' federations and advocacy groups, have presented the People's Agrarian Reform Code (PARCODE) as an alternative. In reforming the law itself, the role and use of indigenous land law should be considered both by government quarters and by private groups. And since indigenous law varies depending on the culture area, there is a necessity to formulate regional variations of the law instead of simply adopting a country-wide program.

Within the government, however, this endeavour has to be an over-all effort or else, this may be blocked again by pro-landlord elements such as what happened in the Langkaan land conversion case. The government's sincerity and political will to implement a pro-people program is of utmost importance.

This effort should begin with the all-out research and documentation on Philippine indigenous law. Initiatives such as those being conducted by the University of the Philippines College of Law should be encouraged and supported by actual governmental resources.

It must be born in mind, however, that advocating reform within the national legal framework may be insufficient (Aranal-Sereno and Libarios, 1983: 456). Even the Silang cases show that the desire for change clash with the dominant classes and foreign interests in Philippine society. Thus, the move to indigenize our legal system should be within the whole framework of restructuring our society and empowering our people.

CASE NO. 1
PACIANO DE LEON, ET. AL.
vs. EMILIO AGUINALDO

Case Description	: Protest against ejectment and raising of land rent.
Place of Occurence	: Barangay Tartaria, Silang, Cavite
Date of Occurence	: 1966
Complainants	: Paciano de Leon, et. al.
Defendants	: Emilio Aguinaldo
Recorder	: Nestor T. Castro
Date Recorded	: December 11, 1989

Case History

The 370-hectare farmlands of Barangay Tartaria, Silang, Cavite are tilled by 170 tenants who claim that their forefathers have been doing the same many generations ago. It was during the late 1800's when the first settlers arrived in the area from Talisay, Batangas. The original settlers of the area, which was then called Sitio Pasong Kaong of Barrio Lumil, were Jose de Leon, Biroy Bathan, Boni Bathan, Juan Manila, a certain Macatangay and their families. After the 1911 explosion of the Taal volcano, Simplicio de Leon, Valentin Sarmiento, Toriano de Leon, Melchor de Leon and their families also migrated into the area.

The old residents recall how their parents and grandparents carried coconuts on their heads, walking several days through the rolling terrain until they reached the forest that is now Tartaria. After clearing the forest, they planted coconuts, fruit trees, corn, upland rice and other crops. By the 1890's the Tartaria lands were already yielding good harvests.

In 1896, Emilio Aguinaldo, the mayor of Kawit, Cavite came to the area to recruit revolutionaries to fight the Spaniards. Later, he claimed the land as his and by 1925, managed to obtain a Torrens title to the land from the American regime. This title covers 350 out of the total 370 hectares of land in Tartaria.

During those times, copra was sold at a high price in the world market because of the increasing demand for soap and butter in the industrialized countries, especially England and the United States. Aguinaldo enticed the Tartaria residents to plant more coconut with a *pangako* (promise) that they won't have to pay any *buwis* (land rent).

However, this *pangako* was never followed. Since the 1910's, Kapitan Inggo, as Aguinaldo was called, never set foot again in Tartaria. Instead, he assigned his overseer to the vast land covering about sixty (60) hectares. Aside from coconut trees, abaca was another major crop in the farmlands.

Tartaria has had seven overseers since Aguinaldo's time. The overseers collect the *buwis* for and in behalf of Aguinaldo. At first, this was pegged at one-tenth of all of the harvests. No crops could be harvested without the overseer's permission. There were times when grains, fruits and vegetables rotted unharvested while the tenants suffered from hunger.

By 1930's the *buwis* was raised to one-eights of the produce. By the 1940's this was again raised to one-sixth even though the farmers had to shoulder all of the expenses for the agricultural inputs.

The overseer made the people believe that Aguinaldo has at his beck and call two giants, who are husband and wife, in his Kawit estate. According to him, anybody who stole coconuts and other crops could be seen by the giants thus causing the latter to punish the offender. The overseer was also known to carry a whip and later, a caliber .38 pistol.

After World War II, the tenants secretly diversified the crops to include legumes intercropped inconspicously with other crops. They also built farm to market roads.

In 1962, Aguinaldo's heirs, one of whom was Emilio Aguinaldo, Jr., donated fifty-eight (58) hectares of the land to the Philippine Army (PA). Originally, this was intended to be a site for the PA school. However, the Department of National Defense (DND) decided that a constabulary training center would be set up instead in the property. The next year, Camp General Mariano Castaneda was established in the site. This camp includes the Philippine Constabulary (PC) Agro-military Camp and the PC Museum.

The construction of the camp brought about the ejectment of thirty-five (35) families. General Garcia, the camp commander, promised the affected farmers to be given house lots, money, eight (8) hectares of homestead land together with electricity and water services. However, the farmers were simply given house lots and allowed to use only a one-hectare farmlot.

Still, an additional number of residents were being ejected. The Aguinaldo heirs were also demanding for higher *buwis*.

Case Proceedings

The Tartaria residents protested the moves of Aguinaldo and his heirs to eject the tenants and increase the land rent. They sought help from a Manila-based farmers' union, the PLUM-Federation of Industrial and Agricultural Workers (FIAW). The latter, in turn, convinced the farmers to file a complaint through the Court of Agrarian Relations (CAR). The farmers, led by Paciano de Leon, agreed. They were represented by PLUM-FIAW lawyer Atty. Moya. The case is now referred to as CAR Case No. 305: "Paciano de Leon vs. Emilio Aguinaldo."

The overseer resorted to *pananakot* (terrorism and intimidation). The overseer during that time was Leon Bathan. He kept a private army of goons. Bathan prohibited the people from planting permanent crops such as coffee and mango trees. He would uproot the legumes and other crops which were planted without the overseer's knowledge.

The Aguinaldos also resorted to bribery. The PLUM leaders received one thousand pesos (P1,000) as *suhol* (bribe money). These supposed representatives of the complainants negotiated with the other party without consulting their clients. The farmers were just shown a copy of a *kasunduan* (agreement) which was written in English, the contents of which the farmers did not understand.

On June 27, 1966, the CAR handed a decision on the complaint. The court invoked the Agricultural Land Reform Code in settling the case. The sharehold system was to be replaced with the leasehold system. Instead of paying the *buwis* in terms of a share of the harvest, the new system pegs the rent at P35 per hectare in all lands where coconut trees are not planted and P20 per hectare in lands where there are coconut trees. The coconut trees are considered as property of the land-owner and the tenants do not receive a share from the coconut harvests. Furthermore, they could be ejected from the place if they pick coconuts.

The *buwis* may go higher or lower depending on the changes in the rate of the peso to the dollar. During that time, the rate was P3.90 for every dollar.

Tenants were asked to pay the *buwis* every June 30 and December 30. they could also pay the *buwis* in full in June if they wanted to. The amount should be handed over to the landowner or his overseer at the Silang municipal hall.

The ruling further prohibits farmers from taking care of animals which might destroy the coconut trees. In instances where the trees are destroyed, the farmers will have to pay P20.00 for trees without fruits and P40.00 for those that are already bearing fruit.

Furthermore, farmers are forbidden to plant permanent crops which take two years or more before bearing fruits. One such crop under this category is coffee. However, coffee trees planted before 1958 would be allowed to remain but the sharehold system would still apply to these.

Lastly, the CAR's ruling provides the landowner with the authority to transfer the tenants to another part of his land if he so desires.

The farmers were unhappy with the *hatol* (decision) on the case. However, they thought that there was no other choice.

CASE NO. 5
FR. DOMINADOR MEDINA vs.
ESMERALDO CAPARAS AND
GABRIEL CAPARAS

Case Description	:	Ejectment
Place of Occurence	:	Brgy. San Miguel, Silang, Cavite
Date	:	May to July 1989
Complainant	:	Rev. Fr. Dominador Medina
Defendants	:	Esmeraldo Caparas and Gabriel Caparas

Informants

1. Esmeraldo Caparas, male, of legal age, married, a farmer, a resident of Brgy. San Miguel, Silang, Cavite, defendant in the case.
2. Fr. Dominador Medina, male, of legal age, single, parish priest of Silang, complainant in the case.
3. Roberto Domino, male, of legal age, married, a resident of San Miguel, a witness in the case.

Recorder	:	Nestor T. Castro
Date Recorded	:	February 19, 1990.

Case History

In 1965, the parish priest of Silang, Cavite allowed Gabriel Caparas to act as the *katiwala* (caretaker) of a parcel of land in Barangay San Miguel, also in the town of Silang. This parcel of land measures six thousand five hundred twenty-eight (6,528) square meters, more or less, and is owned by the Diocese of Imus through a Transfer Certificate of Title No. T-113451 as it appears in the Register of Deeds in the province of Cavite.

The property was originally intended as a public cemetry although it was unused for that purpose.

Gabriel Caparas built a house made of light materials in the church property. He was also allowed to plant some crops in the piece of land for his own consumption and income. His role as *katiwala* was mainly to prevent any person from entering the property without the church officials' consent.

Mr. Caparas was eventually helped by his son Esmeraldo in performing his function as *katiwala*. Esmeraldo Caparas and his family moved into the premises. In January 1988, he built a new house adjacent to his father's house.

The older Caparas, in turn, renovated his old house. The new one was now made of concrete. He was able to get a municipal permit for the construction of the house and an endorsement from Fr. Dominador Medina, the parish priest, for electrical installation and connection.

During the latter part of 1988, Fr. Dominador Medina sold Lot 1-B, the lot adjacent to the right and the back of the properties in question, to two entrepreneurs who were related to each other by kin.

One of the businessmen who got the back part of Lot 1-B thought that it would be better if he could get the lot where Esmeraldo Caparas' house stood since it has access to the road. Thus, on January 26, 1988, Fr. Medina sent a verbal message to Gabriel to dismantle his house and vacate the place.

Case Proceedings

Esmeraldo Caparas refused to vacate the place. Fr. Medina consulted Herminigildo M. Linaja, a notary public and legal advisor of the parish. Mr. Linaja suggested that the Diocese of Imus write a formal eviction order to the younger Caparas.

On May 25, 1989, Atty. Esteban M. Mendoza, counsel for Bishop Felix Perez, D.D., the Bishop of Imus, wrote a letter to Esmeraldo Caparas asking the latter to vacate the church property since he occupied the place without the knowledge of his client.

He gave the defendant ten (10) days to vacate the premises upon the receipt of the letter. The lawyer also asked the defendant to pay within the same period for the damages incurred to his client due to the alleged illegal occupancy of the property.

He did not say, however, how much he was demanding for the alleged damages. Furthermore, Atty. Esteban threatened the filing of formal charges in court if the defendant did not comply with the order.

Esmeraldo Caparas approached his friend and neighbor, Roberto Domino, in order to find someone who could help them settle the case. The latter recommended that they seek help from the International Institute of Rural Reconstruction (IIRR), a non-governmental organization in Silang which has, among its projects, a legal referral project for farmers. They talked with Nestor T. Castro and Cresenciano G. Quintos who were handling the said project. The two conducted their own investigation on the matter.

On May 30, which is less than ten days since the letter was written, Fr. Medina filed a civil case with the Office of the Barangay Captain of San Miguel. The case was registered as Barangay Case No. 5 and cites the Catholic Bishop of Imus, as represented by Fr. Medina, as the complainant and Gabriel and Esmeraldo Caparas as respondents. There was really no convening of the Barangay court. There was no meeting between the litigants. The barangay secretary merely interviewed the defendants so as to get their side. With this, the barangay captain issued a Certification to File Action stating that no settlement/conciliation was reached.

Fr. Medina invited the defendants to come to the parish church so that they may discuss the matter. The defendants, however, failed to show up on the said date. They showed up on another date but the parish priest was not around.

Last July 17, 1989, two cases were filed by the Catholic Bishop of Imus, as represented by Fr. Dominador Medina, with the 2nd Municipal Circuit Trial Court of Silang-Amadeo. Civil Case No. 405 for Ejectment was filed against Esmeraldo Caparas while Civil Case No. 406, also for Ejectment, was filed against Gabriel Caparas. In both cases, Atty. Esteban M. Mendoza is listed as the counsel for the plaintiff. Attached in the separate complaints was a general power of attorney granted by Bishop Perez to Fr. Medina. This power of attorney was issued June 24, 1989 and notarized by Mr. Linaja.

The complaint charged Esmeraldo Caparas with illegal occupancy of the parish lot with Gabriel Caparas as an accomplice. It demanded that the defendants pay P15,000 to the plaintiff for the actual and compensatory damages that it suffered with the illegal occupation. In addition, it is demanding P5,000 as attorney's fees and appearance fees.

A Court Summons was issued by Judge Deogracias N. Agellon, Jr. requesting the defendants to appear in court on August 3, 1989, at 10:00 in the morning, to file their reply to the complaints.

With this new turn of events, Esmeraldo Caparas and Roberto Domino rushed to the IIRR. They requested Nestor Castro to act as *tagapamagitan* (go-between) in the case. Mr. Castro and a co-employee, Herminia Anarna, sought Fr. Medina. The latter told them about his side of the story. He added that he didn't really intend to push through with the court case. He said that this was merely a pressure to the defendants so that the latter would talk with him directly instead of evading the issue. He expressed his willingness to an amicable settlement.

The two *tagapamagitan* relayed this message to the defendants. Esmeraldo Caparas agreed to meet Fr. Medina. In their private meeting they settled for a compromise. Esmeraldo Caparas would be allowed to stay in his premises for a year. After a year, he would have to transfer his house at the back of Gabriel Caparas' house. The expenses for the transfer of the house would be incurred by the parish priest. Thus, the businessman who bought the adjacent lot would have access to the road. Esmeraldo Caparas and his father, in turn, will not be ejected from the property.

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REFERENCES

"Ang Pagpapatalsik at Iba Pang mga Suliranin ng mga Magbubukid ng Silang, Cavite." (mimeographed) Peace Formation Program, 1985.

Aranal-Sereno, Maria Lourdes and Roan Libarios. "The Interface Between National Land Law and Kalinga Land Law," Philippine Law Journal, LVIII (December 1983), pp. 420-456.

Balandier, George. Political Anthropology. Middlesex, England: Penguin Books, 1970.

Barton, Roy F. Ifugao Law. Berkeley: University of California Press, 1919.

_____. The Kalingas: Their Institutions and Custom Law. Chicago: University of Chicago Press, 1949.

Barrameda, Mary Constancy, ed. Human Rights and Ancestral Land: A Source Book. Quezon City: UGAT, 1983.

Bohannan, Paul. "Land, Tenure and Land-Tenure," LTC Reprint. No. 105 (November 1973).

Capistrano, Lyn. "The Samahang Magsasaka ng Tartaria: A Case Report on People's Organizations," (draft), n.d.

Comprehensive Agrarian Reform Program (CARP) Implementing Rules and Procedures. Quezon City: DAR, 1989.

Hoebel, Edward Adamson. The Law of Primitive Man. New York: Atheneum, 1974.

Jurisprudence on Agrarian Relations, III, 1 (April 1979).

Katarungang Pambarangay Law: A System of Communitarian Justice. Metro Manila: Bureau of Local Government Supervision, 1984.

Lynch, Owen J. Jr. "The Philippine Indigenous Law Collection: An Introduction and Preliminary Bibliography," Philippine Law Journal, LVIII (December 1983), pp. 457-534.

McAndrew, John P. The Political Economy of Urbanization in Two Philippine Municipalities. Silang: IIRR, 1986.

Mojares, Resil B., ed. Dispute Processing in the Philippines. Quezon City: Bureau of Local Government Supervision, 1985.

Roberts, Simon. Order and Dispute: An Introduction to Legal Anthropology. Middlesex, England: Penguin Books, 1979.

Reed, Edward P. "Agrarian Reform and Rural Reconstruction: A Seminar Report," IIRR Special Report (July 1980).

Saulo, Alfredo B. and Esteban A. de Ocampo. History of Cavite. Trece Martires City: Provincial Government of Cavite, 1985.

Suner, Fely. "Sitio Bulwagan, Paligawan, Silang, Cavite" (typewritten; 3 pages), 1985.

Tesoro, Edna S. "Land Tenancy Issue in Bulwagan" (typewritten; 6 pages), 1985.

PRELIMINARY LIST OF TERMS USED IN CAVITE INDIGENOUS LAND LAW

Alagad ng batas - Police; literally "follower of the law".

Amin - Admission of guilt; literally "ours".

Ari-arian - Property; from ari (own).

Atas - Decree.

Awa - Compassion; A plea from the convicted for a lighter penalty.

Ayon sa/kay - According to.

Ayusin - To work for an amicable settlement.

Basbas - Sanctioned; with approval; literally "blessing".

Batayan - Basis; from batay (based on).

Bayad - Payment.

Batas - Law.

Bilanggo - Prisoner.

Bilangguan - Prison.

Bilibid - Prison; the original meaning means "all tied up".

Bimbinan - Jail; connotes temporary imprisonment.

Bintang - Accusation.

Bitay - Death verdict; originally by hanging but now through the electric chair.

Buwis - Land rent; literally "tax".

Kabayaran - Retribution; from bayad (payment).

Kagalang-galang - Honorable; a description commonly attributed to a hukom (judge).

Kaila - To deny in a lying manner.

Kalaban - Opponent in a case; from laban (fight).

Kalima - Land rent pegged at one-fifth of the harvest in instances where the tenant shoulders all of the expenses for agricultural inputs; literally means "fifth".

Kamatayan - Death penalty; from patay (dead).

Kambal-tubig - Janus-faced; literally "twin of the water".

Kampi - To side with.

Kapat - Land rent pegged at one-fourth of the harvest in instances where the tenant shoulders all of the expenses for agricultural inputs; literally means "fourth".

Karapatan - Right; from dapat (should; must).

Kasama - Sharehold tenant.

Kasinungalingan - A lie; from sinungaling (liar).

Kasulatan - Document; a written agreement.

Kasunduan - Pact; from sunod (to follow).

Katarungan - Justice; from tarong (Bis., upright).

Katibayan - Evidence; from tibay (strong).

Katiwala - Overseer; from tiwala (trust).

Katotohanan - Truth; from totoo (true).

Katulong - Farm helper; from tulong (help).

Kautusan - Promulgation; from utos.

Kulong - Imprison.

Kulungan - Prison.

Dakip - Arrest.

Dapat - What should be; the ideal; literally "should".

Daya - Unfair; literally (to) cheat.

Diumano - Allegedly.

Gawad - Verdict; literally "bestow".

Gawi - The norm.

Habambuhay - Life imprisonment; literally "while still alive".

Habol - Appeal; literally "to run after".

Hatian - Share in the harvest; from hati (share).

Hatol - Verdict.

Hiling - Judicial prayer.

Higanti - Revenge; vendetta.

Hukom - Judge.

Hukuman - Court.

Huli - Arrest; may have been deprived from huli (late) implying that the criminal was slow in running that causing his/her capture.

Labag - Violation.

Lakad - To let an influential person refer the case to authorities so that it may be acted upon immediately or favorably; literally means "walk".

Lagay - Bribe; literally "to put (something)".

Lagda - Signature.

Lawad - The portion of the field which is not planted with fruit trees.

Laya - Free.

Litis - Litigate.

Lutas - To resolve something such as a dispute or case.

Luto - Dispute processing wherein the rules are slanted to favor one party of the litigants; literally (to) "cook".

Makipag-ayusan - To settle amicably; dennotes reaching of a compromise which would be acceptable and/or favorable to both parties.

Manananggol - Lawyer; from tanggol (defend) thus originally may refer only to the counsel for the defense.

Matwid - Righteous; just; from tuwid (upright).

May-ari - Landowner; literally "owner".

Maykanya - Synonymous with may-ari.

May isang salita - One who keeps his/her word.

May pagkiling - Seems to favor one party in a case; from kiling (slant).

May sala - Guilty; literally means "with sin".

Nagpapaupa - Paid farmworker; from upa (rent).

Nasasakdal - The accused.

Namumuwis - Leasehold tenant; from buwis.

Pakawalan - To release from imprisonment; from wala (none).

Pag-aari - Ownership; from ari (own).

Pag-agaw ng lupa - Landgrabbing.

Pagdinig - Hearing; from dinig (hear).

Paglilitis - Litigation.

Pagpapaalis - Eviction; from alis (leave)

Pagpapatalsik - Ejectment; banishment.

Pagsubok - Trial by ordeal; from subok (try).

Pag-usapan - Initial stage in an amicable settlement wherein the litigants discuss for a common ground; from usap (talk).

Palayain - To set free.

Pamamagitan - Mediation; literally "to come in between".

Pangako - Promise.

Paratang - Accusation.

Parusa - Punishment; from dusa (suffering).

Pasya - Decision; ruling.

Pataw - Verdict.

Patunay - Proof; from tunay (real).

Pawalansala - To declare as not guilty.

Piit - Imprison.

Sakdal - Accused or charged with an offense.

Saksi - Witness.

Sala - Crime; literally "sin".

Salarin - Criminal; from sala.

Sang-ayon - Concurrence; agreement.

Sinungaling - Liar.

Siyasat - Investigate.

Sumbong - Complaint.

Sumpa - Oath.

Takas - To get away from prison or to elude arrest.

Tagapamagitan - Go-between.

Tanggi - Denial of an accusation.

Tanggol - To defend; literally "to protect".

Tawad - Plea for clemency; literally "to bargain".

Tawag - Summons.

Tubigan - Irrigated rice field.

Tupad - To follow rules or things agreed upon.

Tutol - Objection.

Ugali - Tradition.

Uldog - Hacienda administrator.

Usapang lalaki - Gentleman's agreement.

Usapin - Case; from usap (talk).

Usig - Interrogation.

Utos - Ruling (of the court); literally "order" or "command".

Walang isang salita - One who doesn't keep his/her word.

Walang pinapanigan - Neutral; from walang panig (no side).

Walang sala - Not guilty; literally "no sin".

Self-Determination and Indigenous Law

MARY CONSTANCY C. BARRAMEDA

Introduction

One of the ironies faced by Third World countries is the continual subjugation meted out to them by their erstwhile colonizers. Their declaration of independence, for all intent and purposes, was a matter of changing flag colors along with the national anthem and the setting up of a central state apparatus manned by indigenous puppets and clowns who can turn vicious against their compatriots for convenience.

It is not surprising therefore, that peoples of the Third World ceaselessly put up a struggle, the form of which varies proportionately to the exploitative controls. Self determinating efforts primordially for survival and perpetuation of the species were directed against the forces of nature and untamed animals. These have taken on newer forms and are now directed against forces which humans themselves have created.

Originated from and oriented to enhancing the various dimensions of human existence namely: techno-economic, political and legal, familial/social, and ideational - these self-determining efforts evolved and complexed through time. Scholars of society termed this complex whole as culture.

This paper explores one aspect of culture -- law or the legal system which the modern man has exalted as one of his greatest achievements. Even as he acclaims law as such, in the same breath he denounces it as an instrument that so dehumanizes him.

Colonizers have suitably supplanted what used to be every society's prerogative - that of ingenously and indigenously creating order and harmony among its constituency. Subtly at times but ruthlessly most often, they impose their own version of the instrumentality for peace and order with total disregard of the others' capacity of directing their own lives. Doubtless, the intent behind the imposition is the usurpation and plunder of the vast wealth and resources of the colonies.

Some Historical and Theoretical Considerations

Law or the legal system like the rest of man's creation has been reified and deified, torn from its social matrix from whence it sprung and treated as an isolated phenomenon. In life as to become familiar and natural, it is regarded as always having been so infallible and to be obeyed no matter how discriminating, immoral and inhuman.

A cursory look into the history of law, particularly the western jurisprudence which is the ascendant of the Philippine national legal system is in order for a better grasp not only of the substances and purposes of law but more importantly, of the law process itself.

For the Third World countries like the Philippines, this law process which is very vital in nation building has become nothing more than a mechanical exercise of replicating the western colonizer's legal systems.

Political scientists and legal historians trace the origins of the western law and jurisprudence to the later part of the Middle Ages. Universities in Europe delved deep into a systematic study of law for which reason the period was termed as the age of law and lawyers (Sibley, 1970, Bryce, 1901, Post, 1963).

An amazingly complex body of law governed the life of the Middle Ages of which the Roman Law and Canon Law (the two most important sets of laws that influenced the modern world) were only a part. In fact Sibley (Op cit p. 204) underscores the point that within this network of legal systems, there was very little if ever of the Roman and Canon Laws.

With feudalism taking foothold, feudal law prevailed in spite of the emerging competing systems notably the Germanic folk law and the law of the local marketplace.

Coming out as it were from the interactions of the people, the last two sets of laws are based on customs and traditions of the people and not enacted by any king, or state apparatus or any person in authority.

Other organized sectors that seek emancipation from the feudal system already in the early part of the Middle Ages were the Church groups and the merchants. The former have their canon law while the latter the "law merchant." Interestingly, although none of these laws governing relationships among these people were enacted by any king, feudal lord or whoever holding authority, these laws were obeyed (Jenks, 1913). No one knows why. Its authority is derived from association and corporate groups of merchants and traders that had proliferated with the rise of trade and commerce.

In the absence of centralized apparatus, it is logical that each social and vocational group tend to develop its own standard of ethics and solidarity which are both moral and legal in nature. As Sibley (op cit) puts it:

> ... in quest for social solidarity and order, man discovers law in the day-to-day economic and social relations which arises parallel to the feudal scheme of things... This law is obeyed not primarily because it is sanctioned by threat of physical force but because man sees the order which it embodies, as an expression and condition of their social solidarity and economic relations.

Sibley however, cautions against romanticizing the corporate autonomy of the "gesselschaft" and the "genossenschaft" of the medieval ages: While it is true that the emergence of the multiplicity of law or legal pluralism in the absence of a centralized governing apparatus bespeaks of freedom and democracy, the same multiplicity breeds conflict. History is replete with evidences in this regard. Consequently, medieval man sought out ways to counteract competing interests reflected in the myriad of laws with something integrative.

It is this quest for a unifying framework that Roman legal scholarship took its full force whose impact reverberates down to the 20th century. The Roman Law proved to be the answer with its "vigor" and organizing power amidst shifting surroundings" (Vinogradoff, 1909).

The impressive Roman Law is nothing but a systematic arrangement and codification of all imperial decrees into a corpus called "The Code." This consisted of separate distinct parts, the greatest of which was the Codex. Along with this, the digest was developed which contained well-arranged extracts from classical jurists bearing all complex issues of both private and public Roman law. The third portion of the Code was the Institute which contain textbook-like discussions of problems raised in the Codex and Digest. This was used by the students of law in the pursuit of their legal education.

Needless to say, this was the system in operation throughout the Roman empire set forth particularly by the Roman Emperor Justinian and a commission of jurists (Sibley, op. cit, p. 206; Post, 1963). This was the one factor why Roman Law found acceptance among the different nations of the medieval times. Apart from the need for an integrative law, Rome was the conquering and ruling power of the time (Bryce, 1901) and she extended her conquest through these laws.

In Germany and Scotland, the imposition was slow and gradual and only as subsidiary to the Germanic and Scottish custom laws respectively. Later however, emergence of the judges who were trained in the famous University of Bologna, Italy, who were biased against customs requiring that these be proved before they could be part of the common law, and the inevitable socio-economic changes resulting from the demise of the feudal system and the consequent formation of towns and commercial centers, Roman Law supplanted custom laws.

In France, the body of customs particularly those relating to land were definitely not Roman. In some parts of Gaul, law had gone back into that shape of body of customs from which it had emerged a thousand years before. Bryce (1901) maintained that the Romanizing of French Law started much later. It was only towards the middle of the 17th and the early part of the 18th century (1667-1747) when the codification set in Comprehensive Ordinances each covering a branch of law began to be issued. Based on principles prosecuted by jurists, these Ordinances advanced the complete Romanization of the customary law of Northern France.

Fortuitously enough, for the purposes of this paper, part of the origin of the Philippine law starts somewhere here. Among the countries that took the French Code for a model were Belgium, Italy, Portugal, and Spain. The latter transplanted the Roman law to the Philippines and for 300 years governed the islands with it. Bryce (op cit) perceptively remarked that law often enough remained unchanged even when the colony had passed to new rulers or had gained independence. Such irony befell the Philippines and continues to the present.

The other ancestral legal system from which the mongrel Philippine national legal system had emerged is the English law.

English legal historians boast of English law as homegrown. Edward Jenks (1912), a foremost English barrister ethnocentrically without denying however, the influence of Roman law in the later stages of the development of the English law, maintained:

> ...it is the glory of the English law that its roots are sunk deep into the soil of national history; that it is the slow product of the age-long growth of national life.

By this Jenks meant that English law sprung from the union of custom law of the various Teutonic peoples who lived in England from the earliest known period, 449 A.D. The rules that emerged were worked out by subtle, acute and eminently disputatious intellect of these Gallicized Norsemen. (Russell, 1930; Bryce, 1901; Cameron, 1961).

As in Germany and France, Roman law was accepted only very much later and only as subsidiary to the custom laws. In Saxony where native law books and Sachen Spiegel were established and used for so long, the Roman law has even lesser influence.

English law found its way to North America, to the United States and to the Philippines, in that pecking order.

Given this bit of scrutiny into the history of western jurisprudence, a lot of wax covering the institutions called law or the legal system melts enabling us to see its true nature and lead us further in the unraveling of its mystification. Originally rising from man's behavior as he goes about his daily living in relation with his fellow humans, these canon customs or living law governed societies and subgroups whether in bands, tribes, chiefdoms and other forms of political organizations. Yet, in the march of time, the varied array of laws produced by different societies and groups across the globe became homogenous and unified.

Colonization, with the Greeks and the Romans on the lead in the Old World, Western European notably England, France, Spain and Portugal in the New World was the one big event that brought the human race into a dangerous monolithic culture. The legal system of these conquering mighty powers was summarily imposed on the subjugated Third World countries to bring them up to the rung of civilization whence sit these European nations in the ladder of evolution.

Western ethnocentricism rode on the back of the Aristotelian myth that only those who live under a government are "homo politicos". Later day social scientists add the tandem of concepts that only "homo politicos" have laws and only they have laws who have courts (Davis, et al, 1962 in Pospisil, 1971). These law systems of government, it goes without saying, are those of the Greeks and the Romans and later, with the conversion of Rome to Christianity, these laws included the canon laws of the Church. These were institutionalized and became well-entrenched in the doctrine of the Natural Law.

Natural Law Defined

For a considerable length of time - from the later part of the Middle Ages to the 18th century this doctrine was the prevailing thought. It upheld that law is an absolute entity, independent of space and time and not culture bound. As formulated by the Greeks, elaborated by the Romans and by Christianity, the natural law essentially means a body of norms which is everywhere held by human reason to be binding, unchangeable and cannot be supplanted by any other law (Sibley, 1981; Pospisil, 1971). Canon experts equated Natural Law with Divine Law found in the Jewish law and the Gospels (op cit).

Given this conception, it would not come as a surprise that part of the "white man's burden" is to apply to the colonies their laws and legal system whole and entire. After all what is good for the colonizers is equally good for the occupied territories. So it seemed. Law is demythologized only after anthropology had come of age and with the help of empirical evidences.

The breakthrough came with the challenge posed by Montesquieu in the 17th century. He argued that natural law is created by society and is relative to the type of government, type of political and military institution, religious and social systems dynamically interacting as organic wholes (Montesquieu, 1949).

The relativism of law posited by Montesquieu pertains to the jural laws contained in the legal and jurisprudential systems and not to the social scientific laws rooted in the psyche of humans. Montesquieu regarded these as absolute. Jural laws are relative precisely because they are based on concrete realities obtaining in the physical and ecological niche occupied by a given people within their techno-economic, political, social and religious systems. In a nutshell jural laws emerged from and are bounded by the culture of the people (Durkheim, 1960).

Already at this time (17th century) Montesquieu bluntly exposed the role of legislators who, posing as representing the will of the people, are in reality despots. In the guise of democracy, they legislate laws that enhance their power and authority very much against the will of the constituency.

Half a century later, Savigny, taking off from Montesquieu's rejection of the doctrine of the Natural Law as valid for all peoples and at all times, brought in the dimension of the "Volkgeist." Law to Savigny, is the expression of the national spirit or volkgeist of a people which has to be "watched for and discovered rather than made or tampered with by legislators" (Stone, 1966 p. 102 in Pospisil, 1971).

Clearly defined, volkgeist is the "unique, ultimate, and often mystical reality that not only formed a dominant configuration of the people's culture but also believed to be linked, to some extent to their biological heritage" (Stone, op cit).

Historically, jural law to Savigny, started as customary law, unwritten and handed down from one generation to another, embedded and intertwined in the entire tradition of a particular culture. Historical documents showing law and the legal system neatly codified with commentaries was preceded by a long period of unwritten living law.

Thus in Germany where the idea of the volkgeist capsulizes the nascent German nationalism to the extreme, there was an outright rejection of the French code. Although Roman Law was taught in universities and practiced in some German states, it still was very much regarded as Foreign.

In the light of the Third World countries' quest for self determination, Savigny's insistence of the volkgeist and adherence to history transcended the ethnocentrism of his time and projected himself into the crying need of the 20th century nation-states. We shall go back to this later in the discussion of nationalism on the symbolic level.

One other legal anthropologist who improved on Savigny's concept of law as an indigenous cultural heritage but rendered the latter's unscientific volkgeist to more systematic treatment is Sir Henry Maine.

He expounded on his scheme of the transformation of law in an evolutionary framework: first, the archaic society or extended family which is patrilineal and patriarchal, the second stage which is the tribal society and the third stage, the territorially organized society.

According to Maine, no true law existed during the first level of societal development based on his studies on Ancient Rome, Hebrew, Hindu and Irish laws. The pronouncements of the male head of the extended family on disputes and misbehaviors were taken seriously, he being the locus of power. But he was not a law enforcer for law then did not exist. Law emerged when people started to settle down in delineated and organized territories with the differentiation of religion and ethics, and when true political authority began to exercise jurisdiction over them. (Maine, 1963) Flawed as these observations are in the light of available data modern Anthropology has about bands, tribes, chiefdoms and nation-states, Maine however, is credited for his lasting contribution using the scientific methods (empirical, historical and systematic) in the study of law.

Specifically instructive is his idea of the dynamism of law. He posited that with the emergence of territorially-based societies no longer bound by kinship, certain segments of the elites usurped jurisdiction from the patriarch and claimed to have the monopoly of legal knowledge. Based on his study of Hindu and Hebrew Laws, these elites turned legal scholars were mostly priests. With the advent of writing, customary laws were reduced into codes by these legal scholars for easy reference and uniformity of application.

One untoward effect of codification is the "ossification" of laws. Society at large changed but codified laws remained fixed in the language they are written, instead of the ubiquitous and corresponding change characteristic of living/customary laws. Conscious efforts on the part of legal experts to device ways and means to update law became a necessity.

Maine pointed out three ways by which progressive societies sought to overcome the fixity of laws (in Pospisil op cit p. 146). The first is fiction. Here, society makes the necessary adjustments through interpreting and reinterpreting the legal rules. In Maine's words, legal fiction means any assumption which conceals of affects to conceal the fact that the rule of law has undergone alterations, its letter remaining unchanged although its operation is modified (1963, p. 25).

The second medium of change is equity. This is premised on the principles of fairness and justice and applied in the adjudication and interpretation of law, "tempered to the individual case" (Pospisil, op cit p. 147). Maine sees equity as a body of rules (presumably the Natural Law per se) existing by the side of the original civil law, founded on distinct principles and claiming incidentally to supersede the civil law in virtue of a superior sanctity inherent in these principles (1963 p. 27).

The third medium of change is legislation. This is the purposive creation of law by a ruler, an autocrat on an elected

The multiethnic and multinational character of the Philippine culture and society more than argues for indigenization.

or appointed body of legislators. Unlike equity, laws created through legislative process is not dependent on special or superior principles. In fact, this is where laws inimical to the constituency – unjust and inhuman – come about. Corollary to this is the mistaken notion of the role of legislators as non-volitional.

Durkheim (1960) who agrees with Montesquieu on all matters concerning law except on the latter's stand on the legislative aberrations of representative democracy absolves legislators of any culpability regarding unjust laws. He lays the blame on some mysterious social forces responsible for shaping culture, the social relations of people as well as their laws.

> The frugality and equality imposed by laws are not created by these laws. As far as the legislator is concerned, he produces nothing that is new. Even if the legislator did not exist, there would have to be laws though less sharply defined. However he alone can frame them. He, the legislator is only the instrument of their promulgation, not their generating cause (op cit p. 42).

A whole tradition of liberalism and democracy exemplified by the types of government in the western world argues for the creation of laws by the legislative body and the precedents of decisions by the judiciary. Reality however, is not that simple. Holmes' (1881) remark that "the life of law has not been logic, but experience" is not an idle one. Social forces hinted earlier by Durkheim to which those in authority are subjected regardless of their will, have to be explored. These are not mysterious nor ethereal. On the contrary, these forces are too earthly, too material that they can be subjected to concrete analysis. Which brings us to the most controversial and hotly discussed by critics of all persuasions, the paradigm of Marx and Engels.

No other theoretician explained the twist and turn of law and told it like it is as did Marx and Engels. Done in the latter part of the 19th century when expansionism, brought about by the industrial revolution and ushering in the world market economy heavily dependent on capitalism, their paradigm lay bare the ramification of law to which the colonies of Europe now known as Third World are preyed on.

Law to Marx and Engels is not definitely composed of immutable sets of principles plucked out of nowhere. It is the offshoot of the relation among humans as they go about harnessing and/or creating products from nature. With the growth of the techno-economic base, the relationship became more complex; the laws governing the relationships accordingly complexified, requiring experts on a full-time basis to create, explain and interpret these laws.

What used to be tacit and oral agreements gradually are institutionalized in the customs and traditions of a people as "living laws." Through time with the changes of the techno-economic base, these laws not only complexify but become separate as it were, from the people, taking a dynamism of its own and becoming an instrument of division and strife.

In Marx's words:

> In the social production which men carry on, they enter into definite relations that are indispensable and independent of their will. These relations of production correspond to a definite stage of development of the material powers of production. The sum total of relationship of productions constitutes the economic base of society – the real foundation in which rise the legal and political structures, and to which corresponds definite forms of social consciousness (Marx, 1959 p. 43).

This classic quote from Marx once more and in stronger accents points out what Montesquieu, Savigny, Maine firmly believed all along -- legal principles are derived uniquely by specific societies and therefore cannot be applied universally and arbitrarily to other human societies without transgressing the rights of these societies.

What rings out loud and clear from the rebuttal against universalism is the expose of the ulterior motive for the enactment of laws and decrees by economic and power wielders and the concomitant internalization of these laws by the constituency. This remarkable insight into things enable us to explain with greater clarity the Third World predicament of enslavement and oppression.

The spate of data accumulated by Anthropology since its inception as a discipline render the aforementioned arguments more credible.

At that stage when human beings lived directly from the fruits of the earth, everyone helped according to his ability, age, and sex and according to the resource of their environment. They foraged for wild fruit and vegetables, roots and nuts, fished and shared what they had in a general reciprocal manner. There were no rich and poor; everyone got according to his need. For as long as there was food in the camp, nobody gets hungry. This much have been documented by anthropologists through participant observation and through their study of the chronicles by colonial officials and missionaries (Leacock, E. and Lee, R. 1982).

Law properly so called is unwritten and intricately woven into their cultural practices. At this stage of techno-economic development, it can be fairly assumed in praise of the bands and tribes that there was no law at all. There was no need for it! Given the ethos of egalitarian patterns of sharing, more on generalized rather than balanced reciprocity, strong anti-authoritarianism, emphasis on the importance of cooperation in conjunction with great respect for individuality, mobile band membership and living arrangements, and most of all their common techniques of handling problems of conflict like merciless teasing and joking, endless talking and ritualization of potential antagonism (Leacock and Lee, op cit), order and harmony are achieved without law.

This paradoxical existence of order and anarchy well documented by Evans-Pritchard and Fortes, Meyer (1940, 1946) in their study of African society of Neur, defy the ethnocentricism of Western

legal minds who until then upheld their legal system as the paragon for achieving fuller humanization. Humanization and civilization being equated thus.

The determining influence of the mode of production or the techno-economic infrastructure on law is best seen in the next levels of societal transformation. A caveat is in order here. Lest we construe the mode of production and the legal system in a one to one cause and effect tandem, it is well to be reminded of the anthropological principle of interrelatedness of things preceding over which one or the other dimensions of society exerts a determinant or dominant role. Leacock (p. 45 in Engels, 1972) comments more straightforwardly that all oppressive relations are interconnected and embedded in our system as a whole and therefore only a united effort can effect a fundamental change.

Engels did well to point out this phenomenon of interrelatedness in his Origin of the Family, Private Property, and the State (1972).

He traces among others the evolution of family from group marriage to paired and then to monogamy as exemplified by the gens, phratries and tribes. This kinship network evolved coincidentally with property ownership from communal to private.

Originally matrilineal, the corresponding property ownership, mostly hunting grounds, is communal. The transition into patrilineality coincides with the shift in ownership of property from communal to private. This shift in the social organization with the accompanying shift in the relation of production explains (as it is being explained in turn in the light of modern day realities) how private properties are held by a monogamous family and passed on to the offspring whose paternity is well established.

In the meantime the state grew out of necessity. It was not imposed as it were from the outside. Whether it was the increase in population which forced population groups to settle down and embark into agriculture or the other way around, the fact remains that there was increase in population and production with much surplus that necessitated trading and commerce.

Change was inevitable. With the growth of production and reproduction (Harris, 1981) came the social division of labor whence arose the great cleavage of society into classes, the haves and the have nots, the masters and servants, the exploiters and the exploited.

It is in this social milieu that the state, the overarching apparatus for control, emerged which, while being an offshoot of the stratification and differentiation of society into classes, paradoxically perpetuates and enhances the same differentiation.

It is here that the contextualization of the legal apparatus as an appendage to the state exemplified in the Greek City State is in place. Through law the state legitimizes its control and its use of physical coercion. Modern legal scholars the likes of Chambliss (1973) who follow the Marxist paradigm in explaining the phenomenon of law go beyond the concept of law as "codification of those lasting human values". Indeed, law is not anymore derived from practices of every day reciprocal relations necessary for reasonable social intercourse and social cooperation (Vanogradoff, 1920 p. 368); where those in position of power (elders, tribal chief) merely declare, not create, laws.

A case in point is the Vagrancy Law which Chambliss (op cit p. 431) critically analyzes to substantiate his argument that

> ... criminal law is not a history of public opinion or public interest reflected in criminal law legislation. On the contrary, the history of criminal law is everywhere the history of legislation and appellate court decisions which in effect (if not in intent) reflect the interests of the economic elites who control production and distribution of the major resources of society.

He further explained the ways by which this is being carried out, namely: through direct involvement in the law-making process, through influence and control over law enforcing bureaucracies and lately through mobilization of bias.

The Vagrancy Law of England and the USA dates back to 1349, the most significant forerunner of which was in 1274 where a law was passed to protect abbeys and religious houses from undue burden of providing food and shelter to whoever would seek their hospitality, reducing them to an impoverished state. The law provided:

> ... none shall come to eat or lodge in any house of religion unless he be required by the governor of the house before his coming hither.

The religious groups, then in the Middle Ages as now, were one of the elite groups equal in prestige and power to nobles and princes. One wonders why a law has to be enacted to ease them of a burden which they voluntarily take on themselves when they enter religious life and take the vow of poverty. On the contrary, we may ask -- why not enact a law ensuring a shelter for everyone possibly through redistribution of wealth so that nobody may prevail on the charity of another?

The first vagrancy statute in 1349 made it a crime to give alms to anyone who is unemployed while being in good health. To wit:

> ... Because many valiant beggars as long as they may live on begging do refuse to labor, giving themselves to idleness and vice and sometimes to theft,... none upon pain of imprisonment shall under the color of pity or alms give anything to such which may labor... so that thereby they may be compelled to labor for their necessary living...

Further provision of the statute says:

> ... every man or woman of what condition, be he free or bond, able in body and within the age of threescore years, not living in merchandise nor exercising any craft nor having of his own whereon to live, nor proper land whereon to occupy himself and not serving any other, if he in convenient service be required to serve, shall be bounded to serve him which shall him require... and if any refuse he shall on conviction by two or three men... be committed to goal till he find surety to serve.

On the length of service, the following was enforced:

> If any workman or servant... do depart from the said service without reasonable cause or license before the term agreed on, he shall have pain of imprisonment.

Two years after in 1351 this statute was amended:

> ... none shall go out of town where he dwelled in winter, to serve the summer, if he may serve in the same town.

Here is a clear-cut example of law on forced labor and confinement to a specific area of work which is the direct result of the economic concerns of the elite groups: the religious and landowners.

Chambliss pointed out that the drastic changes in the provisions of the vagrancy law were done not out of whim. These were resorted to expedite, in fact to ensure that the landowners be adequately supplied with cheap labor in spite of its scarcity owing to the decimation of the English population by the Black Death and the pull to towns and cities of both the freemen and the serfs in the declining period of feudalism.

Caleb Roote (1956 quoted by Chambliss) concurs with the interpretation and avers further "that this was an attempt to make vagrancy statutes a substitute for serfdom."

Following the demise of feudalism with the inevitable rise of industry, commerce and trade, there was hardly any need for the law of vagrancy. This became dormant for a time but later shifted to an emergent concern given the new economic picture.

Whereas at the inception of the vagrancy law the focus was on the idle - those who refused to labor - in the 16th century, the statutes focused on the bandits, the rogues and vagabonds who preyed on merchants transporting goods from one place to another. England's economy at this time was increasingly dependent on this type of enterprise: the roving merchants. The lawmakers sought to protect therefore those engaged in business. The Vagrancy law provided one source for that protection.

In sum, what Chambliss provided for us here, is the strengthening of our thesis by showing conclusively the twist and turn of jural law to suit the interests and needs of the groups who control the institutions of society.

The Philippine National Legal System

While the English nation takes pride in their "Common Law as having its roots sunk deep into the soil of the nation's history; a product of the slow evolution of the nation's life," the same English nation deprived their colonies of that precious right and privilege of developing their laws from the wellspring of their equally rich nation's history.

In his essay "The Philippine Constitution 1935 Revisited" Perfecto V. Fernandez (1985) bravely unearthed the rotten core, the very foundation of our nationhood -- the 1935 Constitution. This daring exposé of the instrument of subjugation enshrined, hallowed and even defended by the very same people it subjugated is one of the ultimate ironies of a nation recolonized (Barrameda et al, 1985).

Fernandez' opening salvo was:

> ... from the juristic viewpoint, the overriding norms of U.S. federal laws governing U.S.-Philippine relations had so curtailed and disabled Philippine sovereignty at the time of the proclamation of independence and thereafter as to create a status of continuing political tutelage.

or stated in another way:

> The Republic of the Philippines was the creation of its fundamental law, the Constitution of 1935 but the said Constitution was so impregnated with overriding norms of the U.S. federal laws as to be more expressive of continuing American sovereignty than Philippine. In blunt language, because of the paramount constraints imposed by U.S. federal law the Philippine sovereignty was impaled and enfeebled in the very instrument of its expression, which was the Philippine Constitution.

Prior to this essay, nationalistic scholars and students of Philippine society touched on a myriad of issues about the continued U.S. dominance in the Philippine Republic but none so far has dealt squarely with the very instrument of subjugation, the national legal system.

Glaringly arrogant and straightforward in their mandates, the American government asserted their dominance in spite of the avowed claims to being guardians of libertarian principles. Fernandez sarcastically remarked that no profound scholarship is needed to understand their intentions for the mandates are there in black and white in the Bell Trade Act replaced later by the Laurel-Langley Agreement, Military Bases Agreement, etc. and a host of similar treaties.

Legal scholars, historical as they are, need social scientists to get the complete profile of the legal machinations of our erstwhile colonizers. Schirmer and Shalom (1987) provide us the concise backgrounder of those U.S. federal laws that curtail Philippine sovereignty.

They explained that the depths of the Depression in the 1930s taught U.S. policymakers in Washington to be more aggressive in their foreign economic policy. Specifically imperative was the need to provide foreign markets for U.S. exports if a new depression is to be averted.

The Second World War provided the impetus for U.S. global dominance in the economic and military sphere, having been left unscathed by the war. Europe and Japan suffered enormous loss -- razed and destroyed literally, leaving the U.S. as the only source of private investment in the world.

To achieve world dominance necessitates the twin tasks of maintaining an elaborate network of military bases worldwide and securing their economy through a steady supply of raw materials with built-in markets for their finished products.

The tiny colony in the Pacific rim called the Philippines happened to fall strategically into their scheme of things with only one drawback. The U.S.

government had promised independence to the Filipinos in concession to the pressures set by the American constituents possessed with varying motives. Among them were the anti-imperialists, the farm lobby groups who were afraid of competition with farm products, the racists who were afraid of eventual intermarriage with the Filipino migrants in the U.S., the labor federation for fear of competition with the cheap labor provided by the Filipinos.

The only way out therefore for the "champions of democracy," as they dubbed themselves to be, was to grant the independence while tightening their hold at the same time, indirectly though, and honorably at that, through the legal system.

Well-thought out, orchestrated and executed leaving no stone unturned, this instrument of neocolonialism operating in the guise of "special relations" or RP-US Friendship was enshrined in the 1935 Constitution. The specific provisions that directly bear on the political economy as well as the educational aspects of the Philippine society are treated lengthily, as these are the touchstones of a fake independence, in a separate work.

While Fernandez critically analyzed the form and contents of the national legal system, Diokno (1946 in Schirmer and Shalom op. cit) provided the scenario where the grand design of Pentagon was carried out by the local cohorts. These were the Filipino statesmen and elites who were willing to place their fellow Filipinos in virtual slavery again.

One such process was the manner with which then Senate President Roxas, prior to the declaration of Independence ousted the nationalist senators and congressmen so that the treaties, e.g. Philippine Trade Act could be passed unhampered.

The National Legal System and the Tribal Filipinos

Just when things seemed hopeless and in disarray, the very contradictions obtaining in Philippine society occasioned solutions undreamed of. What apparently were desperate moves from certain groups turned to be the lever that would break the chains shackling the nation-state for so long. The Philippine indigenous movement is one such promising experience.

One of the facts not given emphasis or even overlooked by Filipino historians is that a considerable number of inhabitants in the archipelago who did not accept foreign domination, were not Christianized and were not absorbed into the tribute-paying society that was the lot of most lowlanders (Scott, 1982). These were the population groups who were living in the highlands, or were driven into and who were living in the vast fastnesses of the mountainous terrain. They are now popularly known as Tribal Filipinos.

Appropriateness, fairness, and equity for the ethnic groups are the compelling reasons for the indigenization of the Philippine legal system.

While not losing their freedom, these Tribal Filipinos however, had to pay highly for it. Discriminated against even by their own fellow Filipinos, the lowlanders who by then had imbibed the ways and airs of the colonizers, they were pauperized with every pillage of their villages along with burning of crops and stealing of livestock, heirloom and other treasures. They were not accorded any political status and had no access whatsoever to the services of the state apparatus. Thus marginalized and minoritized, they nevertheless stayed put and held their ground to this day.

The Spaniards floundered miserably in their attempts at containing the highlanders. Trade route blockades, raids, plunder and pillage, and proselytizing failed to tame the "savages". Understandably, the Spaniards both hated and feared them.

The Americans, knowing the richly endowed domains which these Tribal groups occupy, sought by all means to bring them to subjection. The "carrot and stick" treatment proved to be more effective. They used military force where the people were "recalcitrant", persuasion and cooptation where the people were accommodating. Moreover, they saw it fit to institutionalize their prejudice against the Tribals maintaining that they are inherently incapable of participating in the political life of the new Republic. Hence a bureau was created to represent the interest of Tribals (Lynch, 1984) with the aim of eventually integrating them into the mainstream. The Bureau of the Non-Christian Tribes, replicates the Bureau of Indian Tribes which the U.S. government installed for the North American Indians.

The "carrot" treatment which the Tribal groups shared with the lowlanders was the establishment of the public school system throughout the country. The remote areas inhabited by the "unhispanized" tribals were made accessible through the construction of the public highways using free labor of the people in the area and/or tax system (Fry, 1983; Jenista, 1987).

As the Americans increasingly gained control, they sought to make legal their claims over the vast resources particularly the rich mining and forest lands in the Cordillera and in almost all the provinces of Mindanao. They invoked among others, the Regalian Doctrine -- a legal fiction originally espoused by the Spaniards, which proclaims that "all conqured lands belong to the crown" (Free Press, 1934, in Fry, 1983, Lynch, 1984). Then there was the Land Registration Act of 1902 (Act No. 496) requiring the registration and titling

of all lands for individual ownership. This was later amended by Presidential Decree No. 1529 promulgated in 1978 otherwise known as Property Registration Decree. Act No. 496 is said to be almost a verbatim copy of the Massachusettes Land Registration Act of 1898 (Libarios and Sereno, 1983).

The following year the Mining Act of 1903 declared the opening of public lands for the purchase, occupation and exploitation by any Filipino or American who wished to invest in mining. This law is in accordance with the aforementioned Bell Trade Act, Laurel-Langley Agreement, and other treaties entered into by the U.S. and the Philippines. Many of these laws inimical to the Filipinos in general but more so to the Tribals, had been restated or upheld by the Philippine government up to the present. The source-book *Human Rights and Ancestral Domains* (1984), published by the Anthropological Association of the Philippines (UGAT, Inc.), contains a chapter which compiled all the laws numbering more than a hundred, affecting the Tribal Filipinos especially their ancestral lands.

Like the rest of the citizens of the Philippines, they suffered from the unjust laws that served only the foreign interests and the local elites. But while the lowlanders were helpless in the face of the Laws they willingly accepted these, but the Tribal People came to a head-on collision, insisting on the preeminence of their Indigenous Law over the western national legal system (Parpan, 1984; Free Press, 1934 in Fry 1983).

Self-Determination and Indigenous Law

The unrelenting struggle of the Tribal groups through the centuries may yet provide the impetus and direction for the ultimate liberation of the Philippines. Seemingly prosaic and naive a prognostication, initial research on the Philippine indigenous law by the UP College of Law from August 1987 to October 1988 showed promising results in this regard. The volume of cases gathered and authenticated attest to the fact that despite overwhelming westernization of the Philippine society, indigenous law thrives and is effectively keeping the tribal peoples alive and burgeoning. These cases may well serve as precedents for eventual indigenization of the Philippine legal system.

Moreover, the rationale for indigenization strongly argued in the meticulous historical and theoretical expositions in the preceding section of this paper, leaves us with no choice if we are to get out of the legal maze that the neo-colonizers conveniently ensnared us. Once this premise is accepted, the only problem left is the "how" of it.

An examination of the phenomenon of self-determination exemplified by the Tribal Filipinos is therefore logical and instructive if only to ground our thesis. Their experience is one concrete possibility offered for emulation because of the wealth of knowledge and thought embodied in it but which had hitherto escaped academic inquiry. Ignored, that is, partly because indigenous thought and/or tradition remained oral, unwritten and unpackaged which makes it hard to be subjected to critical analysis. The other plausible reason for academic neglect is the bias against the Tribals as backward and lacking in intelligence, and the preferential option for western thought by the academe. Be that as it may, this indigenous movement for self-determination is such a force to contend with that it merits a careful study.

A. Self-Determination: A Definitional Focus

The propensity for human beings to be free and to move unhampered towards fuller humanization marks and colors their existence since the dawn of time. For that matter, self determination is as old as human kind.

Mankind's story is one series of struggle, peaceful and at times bloody. Primordially with the physical forces of nature, with the wild and untamed animals, then progressively with human nature - among themselves and the institutions, structures and systems which they themselves have created. Thus throughout history whether in bands, tribes, chiefdoms, or nation-states, peoples enter into peace pacts, treaties; create laws and institutions by which they forge agreement within and among population groups to safeguard, defend, and uphold the basic human right to be free and self-determining even as they fight and shed blood to uphold that same right (Bennagen, 1985).

In the twentieth century after World War II, self-determination once again became the rallying cry forcing its adoption as a basic doctrine and moral foundation by the United Nations. It is not without reason that the president of the International Court of Justice boasts of the court's reaffirmation of the principle of self-determination as its "greatest jurisprudential accomplishment."

As defined by the United Nations Charter, self-determination is the right of a people to shape their own political, economic, and cultural destinies (Alexander and Friedlander, 1980). Scholars of the political and jurisprudential fields advocate the idea that a "homogenous people has the right to determine its own destiny as a distinct sovereign nation" or, "a homogenous people has the right to maintain its own national tradition within a larger political entity" (Cline in Alexander and Friedlander, 1980).

It appears that self-determination operates on two levels. The first definition very well applies to the Philippine nation-state in its bid for independence vis-a-vis the imperial powers and other independent states. But this same definition is biased against the Philippines as an independent nation vis-a-vis the secessionist groups for it allows fragmentation. The second definition is biased against tribal peoples for while it permits "the right to maintain its national traditions", it undermines that same "right" which is rooted not just in traditions. In legal and political parlance these traditions referred to are their myths, folklore, rituals, dances, music and other esoteric practices.

The core of the struggle for self-determination of the tribal peoples is their fight for the possession, use and control of their ancestral domain which material base is the source of life and the wellspring of their traditions. Unless this is recognized and guaranteed for by the government, this provision of the United Nations Charter is not only misleading but downright unjust. Yet the opposite is true, Nietschmann (1987) sarcastically remarked,

"according to the U.N. and almost all individual states, Tribal Peoples may keep their folklore while the state will take their land and resource and erase the "national!"

Since colonial days the plunder and pillage of the birthright of the indigenous peoples is the bone of contention. In the contemporary neocolonial times, the usurpation is perpetuated in a manner that is more systematic and intensive as to reach genocidal proportions.

Some scrutiny into the definitional focus has been done by Jordan F. Paust (1980) which answers the questions posed by the ambiguity of the definition occasioning various interpretations. The following are the high points of his study:

First, the use by the United Nations Charter of the term self-determination is in the context of the purposes of the United Nations, Article 1 (2):

> ... to develop friendly relations based on respect for the principle of equal rights and self-determination of peoples.

Second, in Article 55:

> The United Nations shall promote universal respect for and observance of human rights and fundamental freedoms for all so as to assure the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self determination.

Second, basic questions are raised: how are equal rights, self-determination, and fundamental freedom related? How will member-states take joint and separate actions to observe these rights in the context of "stable" governmental control of a people seriously deprived of human rights?

These contradictory ideas lay at the root of the UN formulations necessitating a closer attention to the politico-legal expressions of the U.N. General Assembly during its discussions on the provisions of the Charter.

Among others, there was a unanimous declaration in 1970 of the idea that self-determination is a "right" with correlative "duties." Stated by the 1970 Declaration of Principles on International Law concerning Friendly Relations and Co-operation:

> ... a people have the right freely to determine and pursue without external interference, their political status, their economic, social and cultural development and
>
> ... every State has the duty to *respect this right* in accordance with the provision of the Charter.

It is important to note that "right" belongs to the people and "duty" to the State. Pursuing the General Assembly's line of thinking, the right - duty passages give evidences of the international community's expectations that the self determining processes relates most closely to a free and consensual determination of a given people of their own political, economic, social and cultural development. The authority clearly rests on the "peoples" and not on the "State" -

> ... by virtue of the principle of the equal rights and self-determination, all peoples have the right to freely determine ...

Two elements are crucial to the understanding of the definition of self-determination - "peoples" and the "state". Just who are the peoples entitled to self-determination? What are the considerations implied in the duty of the State toward the right of the people?

Nietschmann (1980) might be correct in his cynicism that the roots of most wars and tensions in the contemporary world are the obscured analysis and preponderance of state-sided interpretations and explanations by journalists and academica.

Media and academia are anchored in the state. He nevertheless offers insightful questions taking the side of the oppressed Fourth World Peoples. He asked: "What do the people asserting their rights of self-determination call themselves? What are they fighting for? What form of self-determination are they engaged in?"

Answers to these questions would shed light on a number of confusing terminologies highly charged and sensitive and therefore skillfully manipulated by journalists, academics, friends and foes alike. Clarifications on the term "nation", "tribe", "ethnic group", "cultural minority", and the "state is of utmost importance then." Nietschmann is even more empathic in warning us that

> this is no mere semantic matter, this shell game with words hides opposing sides that shoot each other.

"Nations" are geographically bounded territories of a common people. A nation is made up of communities of people who see themselves as "one people" on the basis of common ancestry, history, society, institutions, ideology, language, territory and often religion (Nietschmann, op. cit). The consciousness of being "one people" distinct from the neighboring and distant peoples is usually pronounced and the basis for self-ascription.

The existence of nations dates back to antiquity. Much, much older than the "State."

"Tribe" is used to identify specific cultural and political groups in much the same way as "nation" is defined. However, the colonizers taught the Western notion of tribe as a primitive social political system to be abandoned with civilization. Today, with few exceptions notably in South Africa, "tribe" is avoided. In practical terms, tribe has come to imply groups that are affected by the policies and programs of central states that have little or no involvement in their design (Clay, 1985).

"Nationalities" is another term which is used derogatively to imply that such

groups have narrow, cultural interest which must one day, give way to allegiance to a central state. Because "tribe" and "nationalities" acquired a perjorative connotation during the colonial period, most tribal groups would rather call themselves "nations."

There are about 3,000 to 5,000 nations. Some nations are very small in population and in area; others huge with population in millions. Some states recognized some nations, while very few received international recognition e.g., Sahwari Republic. Unlike a state, a nation does not require a central military-political bureaucracy to create nationality, nationalism or national territory (Nietschmann, op. cit.)

A "state is a centralized political system recognized by other states, that uses a civilian and military bureaucracy to enforce one set of institutions, laws and sometimes language or religion within its claimed boundaries." This is done regardless of the presence of nations that may have been pre-existing with different laws and institutions. Many states commonly claim many nations that may not consent to being governed and absorbed by an imposed central government in the hands of different people (Nietschmann op. cit.)

Certain MNLF radical groups in Mindanao refuse to be called "Filipinos", the term given by the Spaniards and Americans to the inhabitants who accepted colonization. Many Irish in the same manner, do not consider themselves part of Britain, Catalans of Spain, Palestinians of Israel, Mayans of Guatemala, Oromo of Ethiopia, Peoples of South Moluccas, East Timor and West Papua of Indonesia, to name only a few. These are examples pointing to the geopolitical fact that almost all distinct peoples in the world live in nations that do not consent to a state government.

Interestingly, history is replete with accounts of colonizers who have attempted and did succeed for a time to create "a nation" in their own image. The Philippines is one such nation where one language (English) is imposed, where American values are the basis of the legal political and educational system. Indigenous values, institutions and traditions are supposed to be eliminated under the rubric of "national integration."

The emergence of "States" in an unprecedented manner from the original 72 to 156 to 168 in 1987 is one of the unexpected results of World War II where the war shattered the seemingly invincible colonial powers; only to be changed to the neocolonial rule of the same colonizers with the indigenous elites as the surrogates.

States, therefore, were formed from artificial colonial territories. Artificial "peoples" or artificial nations were thus formed. Many of the distinct peoples of Ethiopia for instance, insist they were conquered and never allowed to choose to join the country and that unless they have equal representation in the central government and freedom to choose their political affiliation, they might as well call their country "an empire" (Clay, ibid.).

Here is where the shell game is played globally. The concept of *"a people"* or *"a nation"* was fast switched with that of "ethnic" group and "a state". Peoples were recategorized as ethnic groups and ethnic groups as peoples.

An "Ethnic group" is a substate of a population that maintains its own cultural identity. An individual or even a majority of a people may leave their nation by force or by choice to live in a new country. They have no historical land and resource base or a national territory. They may be one of the many ethnic groups, minorities within the outlines of a multinational state. Thus the Jewish, Polish, Puerto Ricans, Filipinos, Japanese, Italians and others who migrate to the United States are ethnic groups there. The Chinese, Americans, Germans who choose to take up residence here in the Philippines are ethnic groups. It is inaccurate to say that Kalingas, or the Banwaons, Maranaos, Mangyans, and all those groups listed under the Bureau of Non-Christian Tribes now OSCC, ONCC and OMA as "ethnic groups" or "minorities". The Kalingas, Bontocs, may be ethnic groups when they migrate to Canada but not in the Cordilleras; similarly, Tausugs are not ethnics but are a people or a nation in Jolo; and likewise Banwaons small as they are, is a nation/tribe in Maasam region in Agusan Sur.

Nietschmann elaborates further by pointing out that states define "nation people" as "ethnic groups" or "minorities" as a tactic to annex their identities in order to incorporate their lands and resources. Whereas "a people", "a nation", or "a tribe" has internationally recognized rights to self-determination, subsistence, resources, and ancestral territory, an "ethnic group" or "minority" does not. The U.N. Human Rights Sub-Commission defines minority as a group numerically smaller than the rest of the population of a State, in a non-dominant position whose members -- being citizens of the State -- possess ethnic, religious or linguistic characteristics differing from those others of the population and show, if only implicitly, a sense of solidarity directed towards preserving their culture, tradition, religion, and livelihood.

It is surprising that nothing is mentioned in this definition, of people's histories, of independence, self-government, tradition of nationhood and a desire to preserve, control their own territories, resources and affairs. For this reason it is plausible to conclude that the U.N. together with governments of states are one in their machinations, proclaiming that minorities and ethnic groups (who are actually peoples or nations) may keep their traditions and folklore (exotic as they are and good for tourist and ethnic freaks) while the states or governments take their lands, resources and erase their nationhood.

Almost none of the world's more than 3,000 distinct peoples are recognized internationally. Their existence, territories, nationalities, defensive struggles are largely invisible. Worst these peoples are made to fight each other and used as pawns by the higher powers in their bid for control over their resources (Tribal Forum, 1981).

Ironically, it is the multinational artificially created states that are recognized as "peoples" and "nations" even if they have none of the characteristics. Be that as it may, with the foregoing elucidations it is clearer now as to who "the peoples" are referred to in the U.N. Charter definition who possess the right to self-determination and the "state" who has the duty to respect and uphold that right.

B. Modes, Levels and Processes of Self-Determination

A people/nation is a self-defined group. It considers itself to be different from other peoples who are neighbors, adjacent or distant who in turn may recognize the distinctiveness.

It is these distinct peoples who have the right to freely determine their own political, economic, social and cultural development the manner or mode of which is stipulated by the U.N. General Assembly:

> the establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right to self-determination by that peoples

Paust (op. cit.) avers that what is most relevant in this declaration is the free determination of the political status, not the particular form of that status. Thus self determination may result in the formation of a new state, a new bloc of states, or any "other political status." This may implicitly mean the change of state, regional and substate territorial boundaries.

In view of this, it is incorrect therefore to define self-determination as the right of the state to maintain its present political status and thus its territorial integrity. Nowhere in the Charter or in subsequent U.N. declarations is self-determination posed as the right of the states. It has always been considered in connection with "peoples" who may compose part of the population within a given state or even part or all of the populations of several states.

There is an apparent contradiction in the U.N. Charter provision in 1945 and the 1960 U.N. Resolution 1514 - "Declaration in the Granting of Independence to Colonial Countries and People"

> ... all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and integrity of their national territory.

and

> ... any attempt aimed at partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purpose and principles of the Charter of the United Nations.

Although it is a sad fact that wars on "decolonization" became wars of "recolonization" this time not by the whites but the brown or black elites of the indigenous peoples, nonetheless, it is ludicrous to argue that adherence to self-determination allows a given political elite to do whatever it wishes to its fellow citizens. It is equally ludicrous if the same elite groups, hiding behind the facade of the constitution or some legal norms of the country, in the name of the state, insist on the maintenance of the present territorial boundaries.

Paust (Ibid.) insists that the phrase on territorial dismemberment or impairment is qualified in the General Assembly declaration. It does not recognize a right of present states to a territorial status quo, to territorial integrity "uber alles." The prohibition applies only where the state concerned complies with the principle of equal rights and self-determination and is "thus possessed of a government representing the whole constituency belonging to the territory without distinction as to race, color or creed." In other words a truly democratic state is the only one that should not be dismembered and yet, paradoxically it has to allow itself to be dismembered if called for, if it is truly one.

On a deeper analysis, the U.N. Charter and the Declaration of the General Assembly are consistent. In a genuine democracy, the ethnic groups e.g., Jews, Puerto Ricans, Japanese, Chinese, Armenians, Polish, Italians, etc. living in the United States or elsewhere are guaranteed the pursuit of political, economic, social, and religious self-determination even without a territorial base. At the same time, they freely participate on another level of self-determination as citizens and participants in the political, economic, social and cultural processes under the banner of the country they are living in.

By the same token, the Ilocanos, Tagalogs, Pangasinenses, Pampangeños, Bicolanos, Cebuanos, Warays, Hiligaynons, Tausugs, Maranaos, other Muslim groups, Kalingas, Bontocs, Ifugaos, Manobos, Subanons, Tibolis, etc. have the right to pursue their political, economic, and social rights as nations or tribals in their respective territories and as ethnic groups while exercising their rights as citizens of the multinationals/multi-ethnic state, the Philippine Republic.

The problem lies in the fact that all over the world and even in such a small "multinational" state as the Philippines, the conditions are varied and at times oppressive so that the process of asserting the right of self-determination is not completely free and self-"determined". The peoples actively engaged in the struggle for self-determination are the first to recognize and admit this fact. They realize that their struggle is functionally inter-dependent and that inter-determination and inter-stimulation are two sides of the coin of liberation and freedom. The Banwaons and the Manobos for instance in one of the Lumad conferences held in Mindanao assured the migrants/settlers from the Visayans islands that their claim and control to their ancestral domain does not mean ejection of these poor migrant farmers who like the Lumads depend on the land for survival. But they were emphatic in the prohibition of the sale by the migrants of the areas they occupy if they so decide to leave the place.

The forms therefore vary according to the manner and intensity of exploitation and oppression by the state and

other forces. It varies according to the felt frustrations, desperations and deprivations of the disadvantaged groups, relative to others. The majority ethnic groups in the provinces around Manila cannot hide the fact that they are well ahead of the rest of the constituencies in the economic, political, social, educational, recreational amenities provided for by the state. For this reason they do not feel the need to assert their rights as much as those tribal groups who are doubly discriminated against by reason of their identity and more importantly, by reason of the deprivation of their highly valued domains.

Depending on the breadth and depth of discrimination and deprivation, the forms of self-determination ranges tactically from the legal to the meta/extra-legal, including armed struggle. Demands may take the form of outright secession, to autonomy and regionalization within and under the umbrella of the state government.

Civil wars, rebellion, transnational conflicts are commonly resorted to for which reason Nietschmann calls the militarization of the indigenous people as the Third World War. This is fought in every continent except Antartica, on different fronts, on different levels with different goals and most of all, this is hidden from view because the fighting is against peoples and countries that are often not in the map. It is known by names coined by the state: "terrorism" for the resistance against perceived discrimination; "isolationism" for enforced national integration; and "development" for occupation and grabbing of ancestral domains.

Nietschmann claimed in his indepth study of militarization of Tribals that majority of wars worldwide are between nations and states. Of the 120 in 1987, odd wars of Tribals 72% (86) are nation-state conflicts; wars between states account for less than 3% and the 10% nation against nation and insurgencies fighting against nations. The present global war is fought largely in the Third World. Of the 120 conflicts 98% (118) are in the Third World and 75% (90) are between Third World and Fourth World nations or indigenous peoples. Most of these wars are three-sided. This is a geopolitical triangle which includes a right- or left-wing insurgency that seeks to overthrow and replace a state government and a nation defending itself from state invasion and aggression against the state. The nation may be in an uneasy marriage of convenience with insurgent force only because they share a common enemy but most often not a common goal.

At this height of the armed struggle for self-determination however, legal methods are not abandoned. Recent events in Southeast Asia, Southwest Africa, and the Middle East have once again inspired third party appeals. For that matter the United Nation has been the scene of the most appeals and is busier than ever in its endeavor to achieve the world public order. Although the claim of self-determination often gives way to the cult of force, nonetheless it retains its viability in legitimizing the revolutionary process within the context of the legal system of the state as well as international law. This brings us full circle to the original intent of this paper which at this juncture has become evidently clear - the role of indigenous law.

Legal Struggle: Indigenous Law

The compelling reason for the indigenization of the Philippine legal system is one of appropriateness, fairness, and equity for the ethnic groups; of persistence and effectiveness for the nation-peoples or the tribal groups.

At the risk of belaboring the now obvious thesis, we argue once more, this time with vehemence and alacrity our earlier stand that the laws imposed by the Spaniards and subsequently by the American colonial powers have formed a cohesive whole which blankets and permeates the Philippine legal order and consequently the whole societal life of the people (Benedito, 1984). The political structures, particularly the law-making body have all the trimmings of western constitutional democracy. The Filipinos were made to feel proud then that after some years of tutelage we finally learned the art of governing ourselves the American way. Whether parliamentary or bicameral equipped with separation of powers to guarantee the checks and balances, the aberration and derangement of that same structure is often built-in so that it was never right from the beginning.

This is elucidated and told like it is by various historians and legal scholars notably by Fernandez in his expose' of the 1935 Constitution referred to in the preceding section of this paper.

Moreover, the multiethnic/multinational character of Philippine culture and society more than argues for indigenization. The natural law process which European laws have undergone at its own good time, reaching final form of expression after years of experiential usage, finally adopted as forming part of the national law when the functional need was existent, was denied the Philippines. Instead we were made to swallow the full-grown Western laws, something very alien which are incompatible to our national life.

Benedito (1984), convinced of the dire need for indigenization, articulated even more bluntly and urgently than did his mentors Fernandez (1980) and Lynch (1984) who opted for mere recognition of indigenous law. Indigenization is *sine qua non* if the Philippines is to be culturally integrated (politically, economically and socially that is) and evolved into a truly democratic society.

The challenge is therefore not so much the rationalization of indigenization as in carrying out its methods and processes. Formidable obstacles lie in waiting at every turn. Yet the forces of history are on our side paving the way for this development. It behooves for us to discern and define these obstacles and identify corresponding emergent processes discernable in various nation-peoples' movement across the country.

Among the forces that run counter to our vision of indigenization is the

pernicious and pervasive colonial mindset of the Philippine constituency. This is where the Americans were most successful in their imperialistic endeavor. This has continued to this day under the rubric of LIC (Low Intensity Conflict).

Neatly done, the introduction of the school system and the English language has accomplished more than the barrel of the gun, in making the Filipinos kiss the hands that crack the whip in eternal gratitude. It is not surprising thefore that the loudest ridicule and cynicism over the indigenization movement comes from the lawyers themselves, soaked as they are through and through with western jurisprudence.

The whole idea is absurd because it is atavistic, a sliding back to primitivism with all its connotation of barbarism and savagery. They would rather uphold and argue their cases based on precedents taken from Anglo-American cultures even if this defies logic and rationality not to consider the values of equity and justice of which they call themselves the guardians. The hundreds of years of moorings in western jurisprudence is indeed insurmountable only to the unimaginative, uninvolved, unexposed and inexperienced in the indigenous movements taking place in the Philippines and the world over.

Our tribal or nation-peoples who are the object of ridicule and discrimination in all the years of colonization and neocolonization do a great favor to the Philippine state and to the whole humanity for that matter; to have asserted dynamically their uniqueness and distinctiveness. By foresight or by instinctive wisdom inherent in humans (Homo sapiens) they resisted and continue to do so adamantly -- the homogenizing effect of modernization brought about by western cultures.

Now we learn by hindsight that the unbridled science and technology propelled by the ethos of profit maximization, the ultimate western aspiration, are not only dehumanizing but most importantly, destructive of the whole planet earth. What we looked down on with derision and dubbed as superstitions and irrational man-nature concepts are after all replete with wisdom and rationality. We had, at our own peril, left these thoughts and traditions unexamined because we allowed ourselves to be preyed on by the discriminating and arrogant behaviour of the colonizers.

In the Philippines, significant gains were attained in terms of empowerment of the nation-peoples – the Cordillerans, Lumads and the Muslims -- for self-determination these past decades. Since Martial Law days when it was most difficult to do so, the Cordillerans, among the nation-peoples did an exceedingly rare feat by defying and putting a stop to a World Bank priority project -- the Chico dam.

With skill, dexterity, ingenuity and endurance -- product of centuries-old self-determining struggle, they dramatized before the Filipino constituency and to the whole world what genuinely organized people power, long before the EDSA people power, can do (Cariño, 1987). From this experience of popular resistance and opposition, their struggle has taken on a larger and higher dimension, forging a wider unity not only with the other exploited and oppressed sectors of the Philippine society but also internationally with other indigenous peoples movements across the globe (ISCC, 1987).

The Lumads of Mindanao, and some 17 other nation-peoples have banded themselves in an alliance which now continues to flourish despite all the forces within and without to curtail the growing self-determining movements.

The Muslims of Mindanao, seemingly muddled in their attempts at self-determination ranging from autonomy to secession, have been an exemplar in their tenacity and vehemence at asserting their distinctiveness by vocally refusing to be called "Filipinos."

We have about 50 of these nation-peoples who have relatively maintained their traditions and culture by their continue and persistent struggle for self-determination, armed rebellion included.

Their indigenous law backed by living traditions and indigenous structures that continue to endure, is our starting point for serious study and research. We find the use of Fernandez's concept (1980) of ethnic law which includes all the indigenous legal orders evolved by all tribal/nation-peoples as well as other ethnoliguistic groups in the Philippines. This will include the Muslims (13 linguistic groups), Cordillerans (7), Lumads of Mindanao and other scattered tribes (19) and the Christianized lowland groups: Ilocanos, Pangasinenses, Pampanganos, Tagalogs, Bicolanos, Cebuanos, Warays, Hiligaynons (8).

An inventory of the indigenous legal order of these more or less 50 Filipino "peoples" would evolve legal concepts that would make inroads towards the establishment of an indigenous Philippine-wide national order. This is on top of the requirements of the autonomy of the Muslims and the Cordillerans which if genuinely and truly implemented would have need of the inventory of their laws.

For the requirements of the indigenization of the Philippine state legal system, Benedito (op. cit.) envisions that instead of the civil code of the Philippines, the tribal or ethnic law on family relations for instance, of the Bontocs, or Pampangenos, the laws on property relations of the Ifugaos and Cebuanos, the civil code of Metro Manila, be made to operate similarly but more effectively as it was done with the Muslim code of the Philippines.

The territorial application of these laws are the respective "cultural communities", this time properly so-called with the elimination of the majority-minority dichotomy.

Thus we can truly speak, with the indigenization of the state legal system, of a plural/multinational Philippines which while transcending socio-cultural differences and complexities, recognizes the distinctiveness of each nation/ethnic peoples by taking them as self-determining partners or members of the Philippine nation-state.

Conclusion

The much-acclaimed 1987 Philippine Constitution, the most pro-Filipino Constitution, made a breakthrough by making provisions for granting autonomy to the Cordilleran and the Muslim Peoples. Yet, precisely because the same Constitution of the Philippine state continues to be the legacy and creation of the Spanish and American regimes, it falls short of its duty to respect the right to self-determination of these peoples.

The twin Organic Acts for all the pretensions to project a democratic image cannot and never will grant the demands central to autonomy namely: ancestral domains, natural resources and fiscal autonomy (CPA, 1989). These are the very same substances for which neocolonization is perpetrated to this day.

Genuine autonomy for that matter, is never given in a silver platter. Self-determination rests after all in the "self," not on anybody else. It has to be struggled for continually in all fronts and at all times.

The indigenization of the Philippine legal system is one such front and probably the main lever that would bring about genuine autonomy of the nation-peoples and the sovereignty of the pan Philippines nation-state.

BIBLIOGRAPHY

Alexander, Y & R. Friedlander, eds.
1980 *Self-determination: National, Regional, and Global Dimension.* Colorado: Westmen Press.

Barrameda, M.C.
1985 *Philippine Cultural Society, a Sourcebook.* Q.C.: Department of Anthropology, University of the Philippines.

Benedito, Roberto
1984 "Law and Nationhood: Transcending the Cracks in the Parchment Curtain." *Philippine Law Journal* Vol. LIX Dec. 1984.

Bryce, James D.
1901 *Studies in History and Jurisprudence.* London: Oxford University Press.

Cariño, Joanna
1987 *Orientation of the I.S.C.C. The International Solidarity Conference in the Cordillera.* Hongkong: CCA-URM DAGA.

Chambliss, William
1973 *Sociological Readings in Conflict Perspective.* New York: Addison-Wesley.

Clay, Jason W.
1985 "Nation Tribe and Ethnic Group in Africa" *Cultural Survival Quarterly* Vol. 9, No. 3, 1985.

Cordillera Peoples Alliance
1989 *Genuine Regional Autonomy and the Proposed Cordillera Autonomy Law.* Baguio City: - CPA.

Davis, James et. al.
1962 *Society and the Law: New Meanings for an Old Profession.* New York: Free Press.

Diokno, Ramon
1946 "Roxas, Violates the Constitution" *Ameresia* Vol. 10 No. 6, December 1946 p. 75-78 In Schirmer, Daniel and Stephen Shalom, *The Philippines Reader* Q.C.: Ken Inc.

Durkheim, Emile
1960 *Montesquieu and Rosseau: Forerunners of Sociology.* Ann Arbor: Michigan Press.

Engels, Frederick
1972 *The Origin of the Family, Private Property and the State.* New York, International Publisher.

Fernandez, Perfecto V.
1985 *The Philippine Constitution of 1935 Revisited.* (mimeographed) U.P. College of Law.

Fernandez, Perfecto V.
1980 "Toward a Definition of National Policy in the Recognition of Ethnic Law within the Philippine Legal Order" *Philippine Law Journal* Vol. 55.

Hoebel, Adamson
1972 *The Law of Primitive Man.* New York: Atheneum.

Holmes, Oliver Wendell
1946 *The Common Law.* Boston: Little Brown.

Jenista, Frank L.
1987 *The White Apos.* Quezon City: New Day Publisher.

Jenks, Edward
1913 *Laws and Politics in the Middle Ages.* London: John Murray.

Jenks, Edward
1912 *A Short History of English Law.* Boston: Little Brown.

Leacock, Ebaner and Richard Lee
1982 *Politics and History in Bank Society.* New York: New York Press Syndicate.

Libarios, Roan and Ma. Lourdes Sereno
1983 "The Interface Between the National Land Law and the Kalinga Land Law" *Philippine Law Journal* Vol. 58, Dec. 1983.

Lynch, Owen
1983 "Native Title: Its Potential for Social Forestry" *4 Likas-Yaman 10.*

Maine, Henry
1983 *Ancient Law.* Cambridge: Cambridge University Press.

Nietschmann, Bernard
1987 "Militarization and Indigenous People: The Third World War" *Cultural Survival Quarterly* Vol. 11 No. 3.

Paust, Jordan J.
1980 "Self-Determination: A Definitional Focus" In Alexander, Y. and R. Friedlander, eds. *Self-Determination: National, Regional and Global Dimensions.* Colorado: Westview Press.

Post, Gordon C.
1963 *An Introduction to Law.* N. J.: Prentice-Hall.

Reich, Charles
1970 *The Greening of America.* N.Y.: Random House.

Russel, Franklin
1930 *Outline of Legal History.* N.Y.: Brooklyn Law School.

Schirmer, Daniel and Shalom, Stephen
1987 *The Philippines Reader.* Quezon City: Ken Inc.

Shalom, Stephen
1946 "Philippine Acceptance of Bell Trade Act of 1946: A Study of Manipulative Democracy" *Pacific Historical Review* Vol. 49 No.3, Aug. 1980.

Sibby, Mulford
1970 *Political Ideas and Ideologies.* New York: Harper and Row.

Stark, W.
1960 *Montesquieu: Pioneer of Sociology of Knowledge.* London: Routledge and Kegan.

Tribal Forum
"Derby in Paquibato" April-May 1981.

NEWSBRIEFS

Seminar-Workshop for the Cagayan Valley Social Research Consortium

The PSSC Institutional Development Committee (IDC) conducted a seminar-workshop on research agenda formulation and proposal writing for the member-institutions of the Cagayan Valley Social Research Consortium (CVSRC) last June 28-30,1990 at the Concepcion Seminar Room of the PSSCenter. This seminar workshop was one of the initial activities of the CVSRC in preparation for a possible project in the future. The 3-day workshop, funded by UNESCO Philippines, was attended by representatives from all members of the Consortium: St. Paul, Cagayan State, Isabela State, and St. Mary's College.

Research Consortium revived

The Bicol Research Consortium (BRC) has been revived for the school year 1990-91. The Consortium will identify research priorities relevant to the socio-economic development of the Bicol region. It will also serve as a clearing-house for all researches conducted by different colleges and universities in the region. The BRC is hoped to direct integrated and coordinated researches among schools toward one common end.

The membership of the original consortium has been expanded to include all colleges and universities as well as government and private organizations deeply engaged in researches in the Bicol region. Presently the total membership stands at 25.

ENVIRONTECH '90

Environtech '90, a joint exhibition on Philippine International Environmental Protection Equipment and Technology and Conference on the Philippine Environment. Opportunities in Conservation and Rehabilitation, was held at the Philippine International Convention Center (PICC) on June 14-18,1990. There were exhibits on air and soil pollution control and solid waste disposal, and conference on reforestation, renewable energy systems, organic farming, and integrated pest management.

Environtech '90 was made possible by the United Nations Environment Programme; the International Rice Research Institute; the Departments of Environment and Natural Resources, Science and Technology, Public Works and Highways ,and Health; the Board of Investments; the Office of the Mayor of Manila; the Philippine Futuristics Society, Inc.; and the Senate Committee on Natural Resources and Ecology, with the special support of the Commission of European Communities.

Professorial Chair lecture held

Dean Pacifico Agabin of the UP College of Law delivered the Third Vicente G. Sinco Chair lecture on "The Politics of Judicial Review of Executive Action" last June 29,1990 at the Malcolm Theater of the UP College of Law.

The Vicente G. Sinco Professorial Chair in Administrative Law was established in honor of the late UP President Vicente G. Sinco, through an endowment by the V.G. Sinco Educational Foundation, Inc. Dean Agabin is the first holder of the Chair.

PPSA-IPSA roundtable discussion held

The Philippine Political Science Association (PPSA) and the study group on executive structures and processes of the International Political Science Association (IPSA) sponsored a roundtable discussion on "Government and Politics: Structure and Processes" last May 3-4, 1990 at the Concepcion Seminar Room of the PSSCenter.

Papers on the Philippine Political System, Comparative Government and Politics, and Models of Executive Structures and Processes were presented by several political scientists, including Dr. Dag Anckar of the Abo Academy in Finland and Dr. Magnus Gunther of Trent University in Canada.

The roundtable discussion was made possible through the assistance of the Asia Foundation.

NSO conducts the 1990 Census Evaluation Survey

The National Statistics Office has commenced the 1990 Census and Evaluation Survey (CES) a month after the completion of the 1990 Census of Population and Housing (CPH). The CES is designed to estimate the extent of coverage and content errors in the CPH.

For this purpose the NSO has engaged the services of the PSSC to implement the field operations plan of the CES. The PSSC has hired the services of enumerators, who will collect the necessary data, and supervisors,who will review accomplished CES forms and oversee the daily activities of the enumerators.

Roundtable Discussion on the German Unification

The implications of the German unification to the Third World was the subject of a roundtable discussion held at the Faculty Lounge of the UP College of Law last June 7, 1990.

Sponsored by the School of Labor and Industrial Relations and the Institute of International Legal Studies of the University of the Philippines, the roundtable discussion had a participant from the German Social Democratic Party, Gunthram Von Schenk.

NEW PUBLICATIONS

LIBERALISM AND THE QUEST FOR ISLAMIC IDENTITY IN THE PHILIPPINES.
Kenneth E. Bauzon.
The Acorn Press, 1990.

LIBERALISM offers a fresh method of inquiry into the relationship between knowledge and political order. The author presents a Philippines with a landscape of conflicting value-systems: The community of Islam unified by a common faith, transcending territorial boundaries inclusive of religious social and cultural aspects of human life, as opposed to the Western-trained ideologues who are centered in the pragmatics of nation-building which are purely political. The latter community, called by the author as the "liberals," developed research, textbooks and pronouncements which defined and divided Filipino society, which proved disastrous to Filipino Muslims and their way of life.

THE POETIC CONVENTIONS OF TINA SAMBAL.
Hella Elenore Goschnick.
The Linguistic Society of the Philippines, 1989.

THE POETIC CONVENTIONS is the Linguistic Society's Special Monograph Issue no. 27. It discusses the characteristic of the different poetic genres of Tina Sambal, a language spoken by inhabitants of 5 northern towns of Zambales. It also identifies the poetic conventions followed by writing song and poems in Tina Sambal.

PHILIPPINE-CHINA RELATIONS 1975-1988: AN ASSESSMENT.
Bernardita R. Churchill, editor.
De La Salle University Press, 1990.

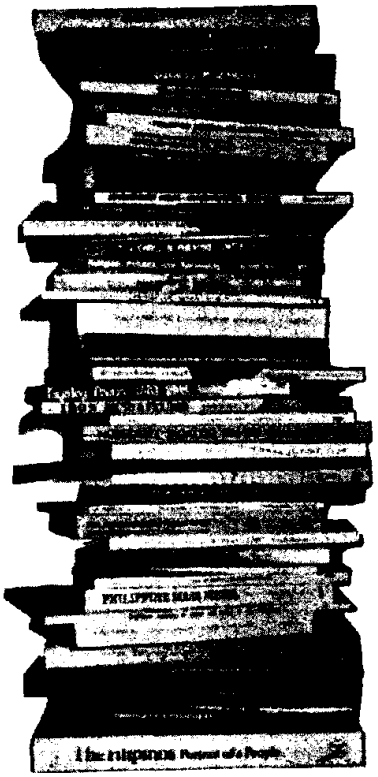
This book contains the proceedings of a symposium on "Philippines-China Relations, 1975-1988: An Assessment" held on April 5, 1988. The symposium examined Philippine-Chinese Relations on several areas: economic and commercial, science and technology, and cultural.

PUBLIC ADMINISTRATION IN A CHANGING NATIONAL AND INTERNATIONAL ENVIRONMENT.
Raul P. de Guzman, Mila R. Reforma, Danilo R. Reyes, editors.
Eastern Regional Organization for Public Administration (EROPA), 1989.

EROPA held a regional conference in Manila with the topic "Public Administration in a Changing National and International Environment" on November 1987. Selected papers from the conference comprise this publication.

A PERSONAL CHRONICLE.
Alfrredo Navarro Salanga.
De La Salle University Press, 1990.

A PERSONAL CHRONICLE is a collection of Alfredo Navarro Salanga's selected writings as they appeared on The Asia Philippines Leader, The Davao Sun Express, The Philippine Panorama, The Manila Times, and The Observer-Independent. Salanga was a TOYM (Ten Outstanding Young Men) awardee for literature and journalism in 1985.



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Editorial: Indigenous Peoples' Rights and Ancestral Domains

CONTINUED FROM INSIDE FRONT COVER

Territorial domains, the embodiments of a people's history, spirituality and life held sacred and in perpetuity for the descendants, has become a commodity -- fragmentized and desecrated. Paper title is all that is needed to own parcels or worse, vast tracts of land. Not the elaborate and time-tested rituals and ceremonies anymore that cull the memories of ancestors whose deeds, made fruitful because they were watered by their sweat and blood, can secure for the progeny an inheritance valuable and transcendent.

Along with the fragmentation of ancestral domain is the dissipation of the rightful occupants. The homogeneous people's nations bound by common ancestry, history, traditions, customs and language are rendered squatters in their own lands; unable to move about, till and care for their land like their ancestors did. Others are forcibly displaced to become migrants in other people's land.

Interestingly, the twin phenomena of ancestral domain usurpation and genocidal repression of Indigenous Peoples have reached global proportions not unrelated with the alarming ecological destructions. This nemesis threatens the whole planet earth and all living things, humans included. Forest denudation, dumping of mine tailings, industrial and nuclear wastes, oil spills, pesticides, acid rains, ozone layer depletion, and a lot more, all wreak havoc beyond the pale of human imagination. The subtle interrelatedness and interconnectedness of every living and non-living form, material and non-material realms elude science and technology. Human endeavor failed in these two fields and is unable to grapple with this too complex cosmic problem.

Fortunately enough for human beings, there are other fields that can better explain the problematic human existence, e.g. Philosophy, the Social Sciences: History, Anthropology, Political Science, etc. Under the guidance of these disciplines, movements are starting to catch fire the world over.

Certain sectors of society, touched one way or the other by the so-called ecological crisis of the 60s, spearheaded the campaigns on nature conservation more out of romantic concern for endangered flora and fauna. Paradoxically though, they are left untouched by human rights violation and outright decimation of Indigenous Peoples and their Ancestral Domains. Of late however, the sentimental but misplaced concerns have given way to movements that have found the correct venue for making waves not only in Parliaments of the First World countries like the Green Party of West Germany, but also in the very halls of the United Nations.

Indeed, unless this ecological destruction is seen as three features of human history namely: domination of Nature, domination of Humans and lastly as social conflict, all attempts at solving the crisis will only be ineffective and just palliate the situation. Hence the appropriateness of waging the campaigns in the political arena.

In the Third World countries, the Philippines in particular, the struggle for self-determination embodied initially in the defense of the ancestral domains against the encroachment of the Spanish and American colonizers continues to this day in the demands of the Indigenous Peoples for the recognition of their rights to these domains from the national government. This has been a long protracted struggle; very bloody at times.

Although a breakthrough has been reached with the inclusion of the provision in the 1987 Constitution for the Cordilleras and the Muslim Peoples, the tampering with of the Organic Act showed the insincerity of those in power. Here is in the concrete the two-pronged domination of Nature and of Humans with the third factor (social conflict) as the binding element.

The national government's vacillation in its stand on the issue as on other national issues of importance stems more from its lack of political will, shameful subservience to the erstwhile colonizers and dependence on the "crumbs" that fall from their table. Because of these, the state readily sacrifices sovereignty and human rights of its constituencies on the altar of extreme greed for profit and power by the U.S.

In spite of this state of affairs, not everything is bleak. The tenacity and persistence with which the Tribal Filipinos assert their rights and the militant support they get from their compatriots and from other Indigenous Peoples in other countries have gained momentum as to reach the halls of the United Nations in Geneva. The national federation of the Indigenous Peoples of the Philippines currently has about two hundred member organizations including those of the Cordilleras and the Muslims of Mindanao. They are definitely a significant force which have not remained outside the popular struggle for a true national democracy. In fact they constitute one of the decisive factors for the reconstruction of the Philippine nation-state. For they have kept the indigenous culture, its strength, its deep roots in what is ours - neither romanticizing nor underestimating it. It is an immense pool of human wealth which our modern Philippines can no longer disregard without denying its very essence.

That sense of the collective, the values of human solidarity, austerity, courage, industriousness, straightforwardness and frankness which come only from those who throughout centuries of oppression and exploitation have made these qualities and values part of their intimate nature.

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