PANLIPI

HORIZONS

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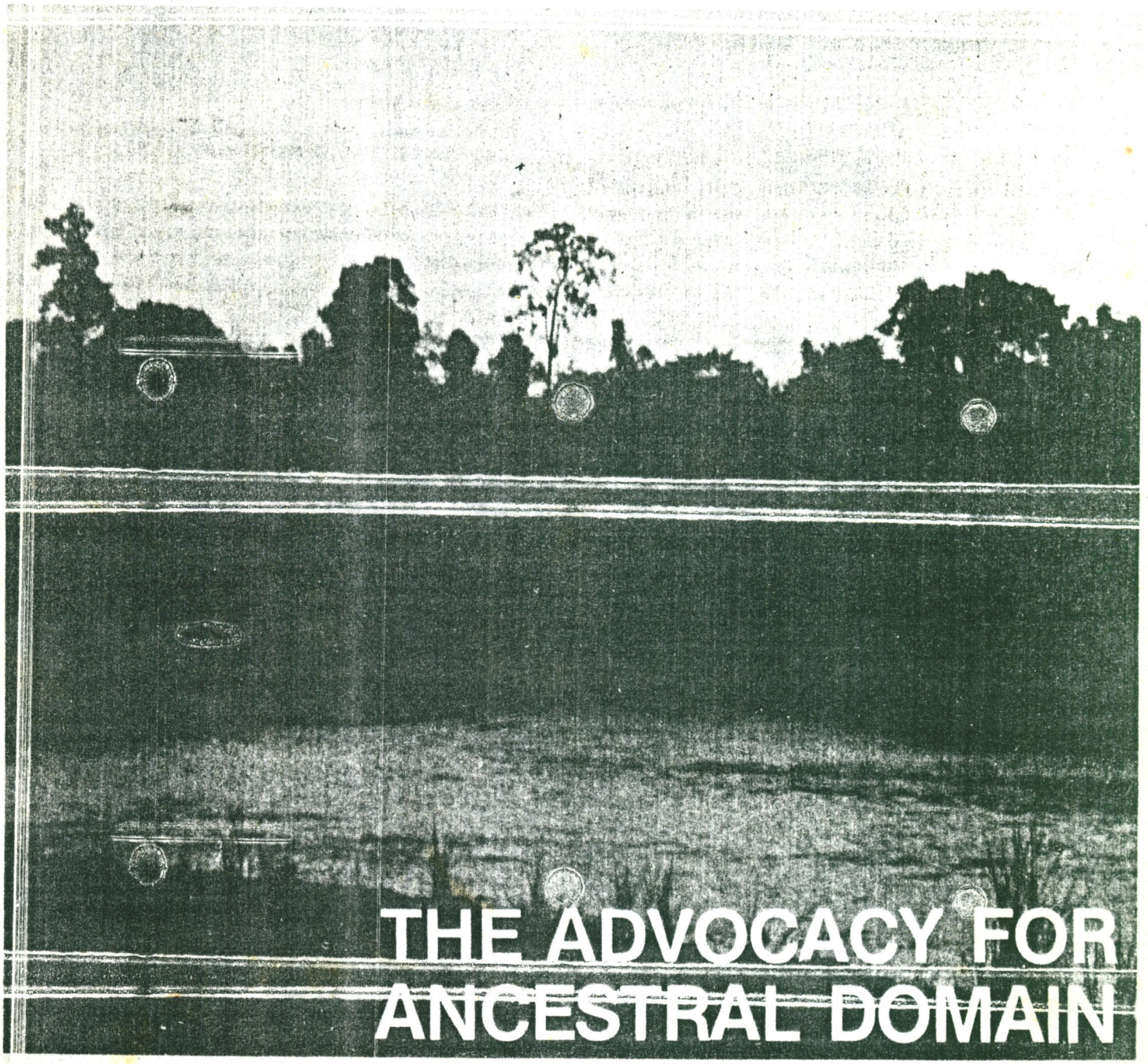

THE ADVOCACY FOR ANCESTRAL DOMAIN

EDITORIAL

Building New Horizons

With this issue, a new paper joins the growing tribe of publications on tribal Filipinos and their continuing quest for justice.

It is inspiring to note that in the country today a number of publications have sprouted to fill the need for a channel through which the pains, the struggles and hopes of the largely inarticulate members of the country's cultural communities can be articulated and harnessed into the national mainstream. Most of the publications, it may be pointed out, have done remarkable feat in monitoring and documenting the problems of tribal Filipinos as well as the forms and levels of their struggles.

The vigorous advances however, in the human rights monitoring work on tribal Filipinos have not been duplicated in the field of legal advocacy of indigenous peoples rights. This weakness has led to the emergence of a need which is increasingly becoming more felt — for a channel that can give full play to the various, if not contending, horizons of legal problems and issues affecting tribal Filipinos as well as the approaches to their redress.

In recognition of such emerging need, HORIZONS is born, HORIZONS, whose birth is in itself a testimony to the overall growth of tribal Filipino advocacy in the country, seeks to contribute its share to the continuing task of advancing the frontiers of struggle of indigenous cultural communities. More particularly, it intends to help define and refine the contours and the terrain of the legal advocacy component of the overall tribal Filipino struggles.

As a channel, HORIZONS hopes to serve as a harbinger for a more mature understanding and a sharper formulation of the political and human rights agenda for tribal Filipinos. In particular, its seeks provide perspectives to the three levels of advocacy on tribal Filipino rights which appear to have taken shapes in the country namely:

- recognition and protection of their ancestral land rights;
- respect and recognition of their customary law and indigenous legal processes;
- recognition and promotions of their right to shape their destiny as a people in accordance with the universally — accepted principle of self-determination of indigenous peoples.

While seeking to serve as a channel for legal advocacy; HORIZONS, however, harbors no illusion that the present national legal system provides adequate remedies for genuine redress of the long-standing injustices inflicted on tribal Filipinos. With this recognition, HORIZONS intends to actively participate in the creation of a national ferment that is conducive to the quest for justice of the indigenous cultural communities.

True to its name, HORIZONS therefore shares in the task of building new horizons for a better tomorrow under a society that is hospitable to the just and full development of the human potentials not only of the marginalized tribal Filipinos but of the majority hispanized Filipinos as well. RIL

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Our Cover:

Dawn in the ancestral domain of the Banwaon tribe in Agusan del Sur.

Cover Photo by:
BOYET MEDINA
Paralegal Volunteer

Ancestral Domain and the Crisis of Justice of the National Legal System

by Atty. Roan I. Libarios

There is no cause more worthy and more paramount to the country's indigenous cultural communities than the fight for the recognition of their right to their ancestral land.

To tribal Filipinos, land is the greatest cause of all. For land carries a special meaning to them which is not shared by so-called Christianized Filipinos. Land to indigenous communities is sacred and precious. It is sacred because it is a gift of the *Magbabaya* as well as the birthplace of their ancestors. It is precious because land is the source of their economic life and the wellspring of their culture. Their entire eco-system and way of life is tied up to their hunting and grazing fields, pasture and fishing grounds, worshipping and burial places. In short, their Ancestral Domain.

Deny them their ancestral domain and you threaten their identity as a distinct people. Without land, there is no life for indigenous cultural communities. In fact, no sector of our society can claim to place more respect and value to land than the country's indigenous tribal communities.

Yet, in one of the most profound ironies of our history, those who value land most have received the least protection from the law. Throughout the centuries, the national legal system has failed to provide adequate legal protection and recognition to ancestral land claims. This has resulted in a crisis of justice for the country's over 6 million tribal Filipinos many of whom continue to be treated as squatters of land they have occupied since time immemorial as their ancestral domain. And today, despite the birth of a so-called People Power Republic, the crisis of justice has yet to come to an end.

The demand of tribal Filipinos is just and simple — the full recognition of their right to their ancestral domain. This demand is just because tribal Filipinos have occupied their ancestral domain since time immemorial, even before the advent of the Philippine Republic, or its predecessor the Spanish government. They therefore deserve to claim their ancestral land on the basis of original pre-conquest vested rights.

"No sector of our society can claim to place more respect and value to land than the country's indigenous communities. Yet in one of the most profound ironies of our history, those who value the land most have received the least protection from the law."

Unjust treatment to a just demand

The national legal system, however, has been largely unkind to the just demand of indigenous communities. To a large extent, the colonial legacy of disregarding tribal Filipinos' claim of vested ownership to ancestral land is still markedly present in the three major areas of the national legal system — the existing laws and policies, jurisprudence and the 1986 Constitution itself.

Existing laws and policies

Existing laws and policies continue to subscribe to the colonial legal doctrine which holds that all lands of the archipelago, except those acquired from the state either by purchase or sale, belong to the State, including ancestral domain. This doctrine, a product of the universal feudal conquest theory, was originally introduced by the Spanish conquistadores. By virtue of conquest of the Philippines, the Spanish colonizers asserted that all lands of the archipelago belong to the Spanish Regalia (Crown). This legal fiction — which was used to justify wholesale landgrabbing of ancestral land — is known as the Regalian Doctrine.

Under the said doctrine, all lands occupied by indigenous communities, including those which never come under effective colonial control, were automatically considered as being held from the Crown. By propagating this doctrine, the colonizers sought to justify their act of wholesale landgrabbing of ancestral land. As a result of the Regalian doctrine, the claim of indigenous cultural communities to their ancestral domain became contingent on the generosity of the colonial sovereign as expressed through a Royal grant.

A continuing expression of this Spanish Royal land grant system — which was used to exact colonial patronage among the natives — is the Public Land Act. This law, which was first enacted during the American colonial period, perpetuates the deception of the Spanish Royal Grant system.

The Public Land Act, like the Spanish Royal Grant system, operates under the anomalous presumption that ancestral domain occupied since time immemorial by indigenous occupants belong the State, unless the occupant apply for recognition of his right thereto through a grant.

In other words, the Public Land Act, like the Spanish grant system, seeks to give recognition of ancestral land claims of indigenous occupants not on the basis of original vested right but on legislative grace — i.e. compliance with the required period of occupancy as determined by law.

Even more unjust is the 1974 Ancestral Lands Decree. The said decree does not only adhere to the spirit of the Spanish Royal grant system but also to the infamous Maura Law of 1894 which embodies the doctrine of extinguishment of ancestral land rights. Like the oppressive Maura Law, the 1974 Ancestral Lands Decree also seeks to extinguish vested ancestral land rights if not registered within the period prescribed by law. This provision of the decree is an open assault on the due process clause of the Constitution which prohibits annihilation of vested rights by legislative enactment.

The Civil Code — the substantive law governing property rights — and the 1978 Property Registration Decree-the procedural law governing registration of property rights — both exhibit the general attitude of the national legal system to form upon indigenous claims and forms of property ownership. The tenurial arrangement of indigenous communal ownership on ancestral domain- which is distinct from the Civil Code concept of co-ownership — has yet to be given expressed recognition under existing property laws, including the Property Registration Decree.

The Revised Forestry Code further expresses the glaring disregard of ancestral land rights. Sec. 15 of the Code

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"The 1986 Constitution has likewise failed to resolve the issue of ancestral title in a cohesive and enlightened manner."

classifies lands with a slope of eighteen (18) percent or more as inalienable and non-disposable for agricultural and settlement purposes. By virtue of this provision, many indigenous cultural communities are being deprived of their vested rights to ancestral domain. Worse, this denial is sought to be made permanent through the advocacy of the legal viewpoint that lands classified as public forest cannot be owned or alienated, not even by the time immemorial occupants thereon.

The situation is made even more unjust by the tendency of the Executive Department of the government, particularly, the Department of Environment and Natural Resources, to expand its jurisdiction by unduly enlarging the areas classified as forest and mineral, thereby reducing a large number of indigenous cultural communities to the status of permanent squatters or lessees of inalienable public forest or mineral lands. Thus, even if tribal Filipinos seek to obtain title to their ancestral domain, they can not do so because, from the viewpoint of the DENR, ancestral lands within the forest and mineral zone are public in character and cannot be subject to private or ancestral ownership.

The Jurisprudence

Like the national law-makers and executive policy-makers, the Supreme Court has failed to accord full recognition and just protection to ancestral land claims.

The only exception perhaps was the statement in the 1909 case of Cariño vs. Insular Government which has spawned an advocacy for "native title." In a statement which clearly endorses the idea of pre-conquest vested ancestral land rights, the Court ruled:

> "Where, as far back as testimony or memory goes, the land has been held by individuals under a claim of private ownership, it will be presumed to have been held in the same way from before the Spanish conquest, and *never to have been public.*"

The quoted statement is significant because it clearly advances the presumption that ancestral domain or lands occupied since time immemorial under a claim of ownership is not, and was never, part of the public domain. In other words, indigenous cultural communities can claim ownership to their ancestral domain on the basis of original pre-conquest vested rights.

This view advanced in *Cariño* was reiterated in *Oh Cho v. Dir. of Lands.* In affirming the idea that ancestral domain does not form part of the public domain, the Oh Cho decision stated: "All lands that were not acquired from Government either by purchase or by grant, belong to the public domain. An exception to the rule would be any land that should have been in the possession of an occupant and of his predecessors in interest since time immemorial, for such possession would justify the presumption that the land had never been part of the public domain or that it had been private property even before the Spanish conquest."

The Oh Cho statement, which is a reiteration of the Cariño statement, clearly endorses the idea of ancestral title based on original pre-conquest vested rights.

Unfortunately, the said pronouncement in *Cariño* and *Oh Cho* decisions has failed to gain an undisputed doctrinal character. Its full significance has been grossly ignored by subsequent Supreme Court rulings. And ironically enough, the deviation from, or the repudiation, of the ancestral title concept laid down in Cariño has been carried out by the Supreme Court by invoking the Cariño decision itself.

In the 1972 case of Lee Hong Hok v. David, the Supreme Court cited the Cariño decision to support its pronouncement that the Spanish Regalian Doctrine continues to be in full force in the country with the Philippine State replacing the Spanish Crown in the legal fiction. And in a clear and unmistakable language, the Highest Tribunal of the land declared that the Philippine Constitution has adopted the universal feudal concept of the jura Regalia in the *dominium* sense, meaning — that the State's authority to exercise rights over the lands of the archipelago does not only spring from its possession of sovereign *(imperium)* powers but by its presumed ownership (dominium) of the entire Philippine territory. Hence, following the statement, the concept of ancestral title is practically reduced to limbo.

As in *Lee Hong Hok,* the Cariño case was also invoked in the 1986 case of *Director of Lands v. Acme.* And again the Cariño case was invoked in a manner that offends the concept of ancestral title which holds that lands occupied since time immemorial are presumed to have never been public.

The Acme decision, like the case of *Susi v. Razon* and *Herico v. Dar,* upheld the Cariño ruling only in so far as it asserts that longterm occupant of land vests qualified citizens with private rights or title and registration of such title is a mere formality, the failure to register does not affect the legal sufficiency of title.

The Acme ruling, however, deviated from *Cariño* in the most significant point — the basis of title of time immemorial occupants on ancestral land. Unlike in Cariño, the Acme case held that the basis of title of time immemorial occupants is not original or pre-conquest

vested rights but legislative grace, i.e. compliance with the required period of occupancy as set forth in the Public Land Act.

By applying — rather than by passing — the Public Land Act to a land conceded to have been occupied by indigenous tribal Filipinos even before the coming of Magellan, the Supreme Court practically ignored the significance of the just, legitimate and historic claim of indigenous cultural communities to ancestral title to their ancestral domain.

The 1986 Philippine Constitution

The 1986 Constitution has likewise failed to resolve the issue of ancestral title in a cohesive and enlightened manner. Like its predecessors, the 1986 Constitution continues to exhibit adherence to the legacy of the Spanish Regalian Doctrine through its provisions on national patrimony and national resource classification.

Sec. 3, Art. XII of the 1986 Constitution is a virtual reproduction of the national patrimony provision found in the 1935 Constitution, the same provision which, according to a noted constitutionalist, "transplanted" the Regalian doctrine into the fiber of the Philippine Constitutional Law. This provision has traditionally been invoked to support the legal view that all lands of the archipelago, except only those acquired by purchase or grant from the State, belong to the public domain. Hence, following this prevailing interpretation, ancestral domain is treated as part, and not separate from, public domain.

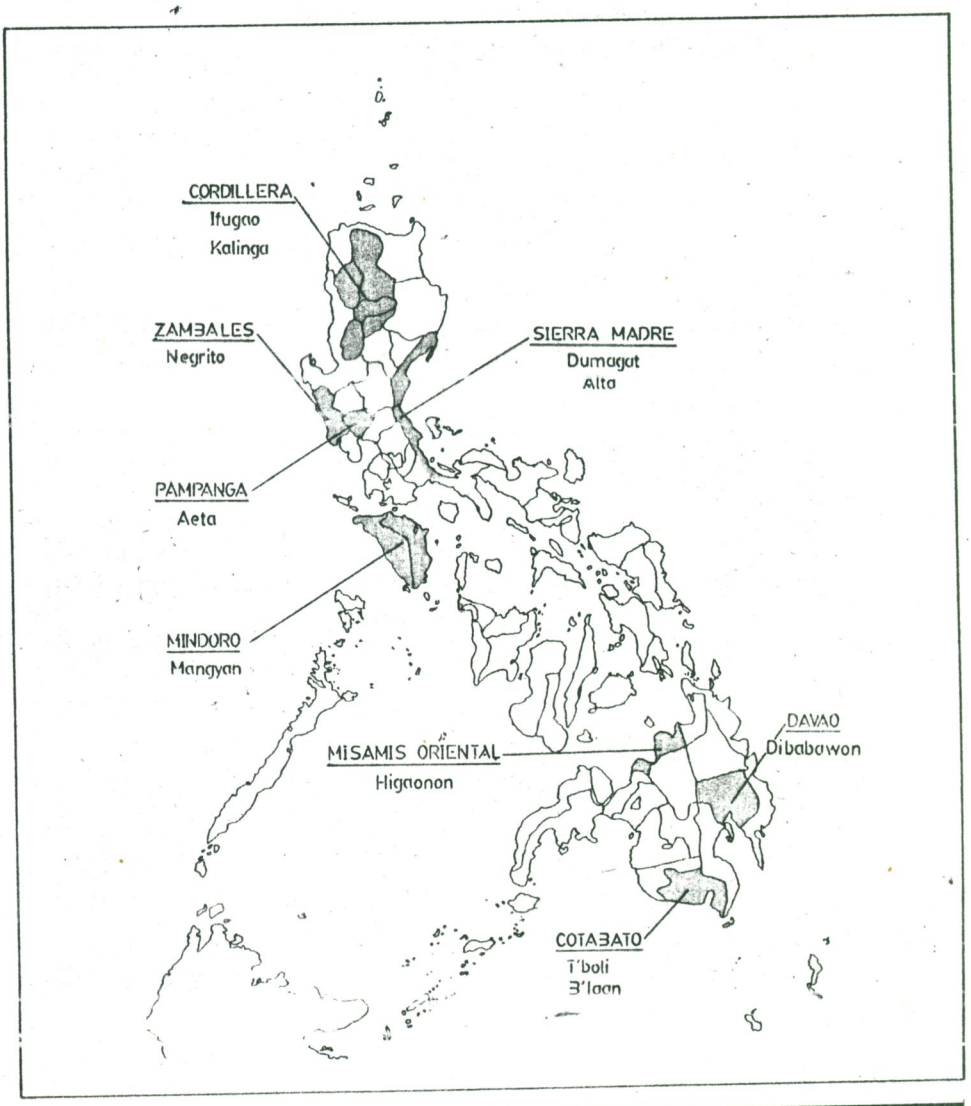
In addition, the new provision on natural resources classification, in so far as it ignores the past controversy on the power of the State to classify land as forestal, mineral or agricultural, is another roadblock to the claim of ancestral title. It must be noted that historically the classification of forest and mineral land as inalienable and non-disposable was a grand legal maneuver used by the American colonial government to consolidate their imperialist economic designs. By declaring that forest and mineral lands cannot be alienated for private ownership, the US colonial government thereby sought to ensure complete control of the country's natural resources. This power of the State to classify lands, which was originally embodied in the US-made Philippine Bill of 1902, is anchored on the application of the Regalian doctrine and has been used to deny any claim of ancestral title on lands classified as public forest or mineral area. By opting to ignore the implication on ancestral title of this power of the state to classify lands, the new Constitution has virtually shown a continuing adherence to the colonial and unjust Regalian legacy which consigns ancestral title to legal limbo.

The legal and Constitutional dilemma

Considering that the colonial Regalian doctrine appears to be well-entrenched in existing laws and jurisprudence and traces of the doctrine continue to bear their imprint even in the 1986 Constitution, a serious legal question now comes to force: Can the present demand of tribal Filipinos for recognition of ancestral title on the basis of original vested right and not on legislative grace be accomodated without provoking a serious constitutional crisis?

My answer is arguably NO and arguably YES. It is NO because as earlier discussed the colonial Regalian legacy which treats ancestral domain as part of the public domain is well-entrenched in the national legal system and traces of said doctrine continue to bear their imprint in the 1986 Constitution itself. Hence, ancestral lands, which are classified as part of public domain particularly as public forest or mineral, can never be claimed by the indigenous occupants thereon on the basis of ancestral title.

Such argument, however, is not



unassailable. To hold otherwise is to render the entire discussion on the legal recognition of ancestral title as an exercise in futility.

It can be argued — with far more telling urgency and impact — that there is sufficient legal and constitutional basis for the recognition of ancestral title. The strongest authority for this view is the 1986 Constitution itself. The 1973 Constitution contains a new provision which could be invoked to justify the claim for ancestral title and deny the sweeping application of the Regalian doctrine. Sec. 6, Art. XII of the 1986 Constitution expressly mandates the State to protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being.

In addition, there is a new provision in the Constitution which can also be used to strengthen the view that the State recognizes ancestral title. Under Sec. 6, Art. XII of the 1986 Constitution, the State is mandated to apply the principles of agrarian reform in the disposition of natural resources subject to "the rights of indigenous communities to their ancestral land."

The said provision, along with the earlier provision which mandates the State to protect ancestral land rights, can be interpreted as a qualification to the national patrimony provisions, particularly on the coverage or scope of public domain. Following the implication created by the cited constitutional provisions, it may be argued that ancestral domain does not form part of public domain.

This view is further bolstered by the second paragraph of Art. 5, Sec. XII of the 1986 Constitution which states that "Congress may provide for the applicability of customary law governing property rights or relation in determining the ownership extent of ancestral domain."

The wording of the cited provision is profoundly significant. Implicit in the provision is the assumption that indigenous occupants own their ancestral lands. As such, it is the duty of Congress to determine the "ownership extent of ancestral domain" and in the determination of ownership extent, Congress is mandated "to apply customary laws governing property rights and relations."

Under said provision, it is correctly implied that the function of Congress is not to grant ancestral title to indigenous occupants because that is apparently presumed already. The function of Congress is to recognize the extent of ancestral title or to define, in the language of the Constitution, "the ownership extent of ancestral domain" through the application of customary property laws.

The cited provision, insofar as it endorses the idea of ancestral title, may be interpreted to have constitutionalized the much-ignored Cariño statement that "lands occupied since time immemorial under a claim of ownership is presumed to have never been part of the public domain." By raising the Cariño doctrine to constitutional status, the Constitution, therefore, serves notice that it is rejecting all decisions of the Supreme Court which may be inconsistent to the doctrine recognizing pre-conquest vested ancestral rights.

If the Cariño doctrine recognizing pre-conquest ancestral title has been validated by the 1986 Constitution, how then should we reconcile the adherence of the same Constitution to the colonial legacy of the Regalian doctrine as embodied in its provisions on national patrimony and natural resources classification.

If law is an instrument of justice, then the contradiction should be resolved in favor of justice. It may be asserted that by the numerical superiority of Constitutional provisions, the 1986 Constitution recognizes ancestral title to lands occupied since time immemorial by indigenous communities. Thus, the power of the State to classify lands of the public domain should now be interpreted to exclude ancestral domain or lands occupied since time immemorial by indigenous cultural communities.

This legal viewpoint is perfectly consistent with justice. For one thing, indigenous communities have occupied their ancestral land since time immemorial, even before the advent of the Philippine Republic, or its predecessors the Spanish colonial government from which all claim to land are supposed to have originated. Ownership, therefore, of indigenous occupants to their ancestral domain has long been vested and, in many cases, has never been interrupted.

Tribal Filipinos, the living symbol of the country's anti-colonial tradition, certainly deserve to claim their ancestral domain on the basis of ancestral title and irrespective of legislative grace.

It is simply unjust if those who defied colonial authority by refusing or failing to avail of the colonial land grant system be permanently consigned as mere squatters, lessees or grantees of the same land which they have occupied since time immemorial, through their predecessors, as their ancestral domain.

To hold otherwise is to perpetuate the continuing injustice long inflicted on the country's marginalized tribal communities. An in a much deeper sense, it would validate the enduring perception that this crisis of justice is permanent state of affairs of the Philippine national legal system.

"It is simply unjust of those who defied colonial authority by refusing or failing to avail of the colonial land grant system be consigned to the status of squatters, lessees or grantee of the same land which they have occupied, through their ancestors since time immemorial as their ancestral domain."

Modes of Defense and Advocacy of Tribal Filipino Rights

By: Atty. Donna Z. Gasgona

Through the years, Tribal Filipino rights have been violated, if not totally ignored. Time and again the Regalian Doctrine has been invoked by the rich and powerful to end all arguments of ancestral land rights. Development projects are implemented without prior consultation of affected tribes. Tribal laws and customs are unheard of. Yet, the indigenous cultural communities have asserted their rights and pursued their struggle for the recognition of their ancestral domain, their right to self-determination and indigenous laws and customs.

In recognition of these basic human rights, lawyers have provided legal assistance as requested by the cultural communities. Being primarily reactive, each lawyer responded to the problem at hand with the end in view of protecting or defending whatever tribal rights have been or are threatened to be violated. This paper shall present the different modes by which lawyers have assisted the cultural communities to serve as base data for a lawyers' orientation in dealing with these rights. It is hoped that as these modes are discussed, an overview can be achieved for a total approach to these interrelated problems. It is however, made clear that a lawyers' orientation should not compromise the rights of the cultural communities to their ANCESTRAL DOMAIN, their right to SELF-DETERMINATION, and the recognition of their INDIGENOUS LAWS AND CUSTOMS.

Discussion of the modes shall be procedural and therefore divided into three main categories: 1) Executive; 2) Legislative; and 3) Judicial.

I. EXECUTIVE

Of the various departments of the Executive Branch, the Department of Environment and Natural Resources

plays the most important role. Land classification is entrusted to the Forest Management Bureau (formerly the Bureau of Forest Development) while land titling is done by the Lands Management Bureau (formerly the Bureau of Lands). As it is widely known, the Executive Branch adheres to the Regalian Doctrine. Basic legal constraints are therefore imposed when the cultural communities, forced by circumstances, decide to avail of these administrative remedies. The most significant issue raised is the question of ancestral domain as against land title/ownership.

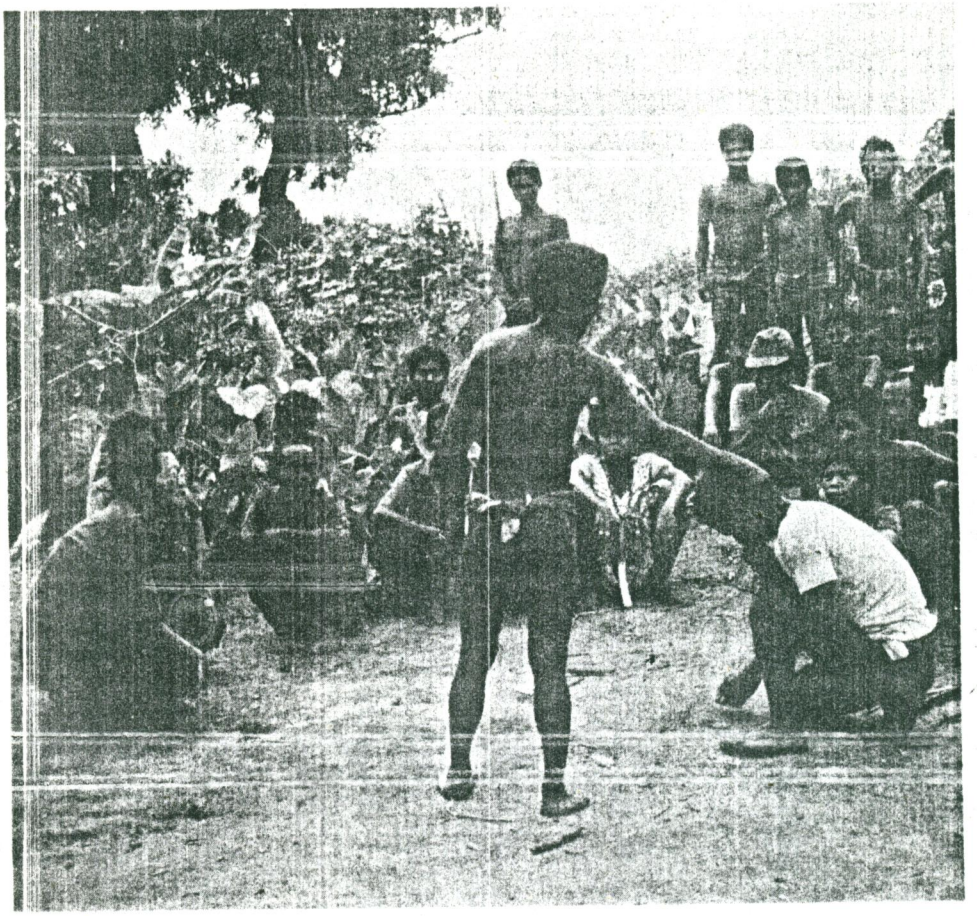
The 1986 Constitution provides for the classification of public lands:

> "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 land, all other natural resources shall not be alienated." (sec. 2, Art. XII — National Economy & Patrimony).

Though indigenous cultural communities consider their ancestral lands as PRIVATE LANDS, the State, following the Regalian Doctrine considers these lands as part of the public domain. Thus the above classification is important. As lands of the public domain, most ancestral lands have been classified by the Forest Management Bureau as FORESTS. Not being agricultural, said lands cannot be alienated, and cannot be titled in the name of the cultural communities. If and when said lands have been classified as AGRICULTURAL, titles are issued in the name of individuals or in co-ownership. No communal titles have been issued in the past sixty years*. Co-ownership on the other hand can be dissolved anytime by a co-owner thus negating the indigenous tradition of communal ownership.

In practice, the administrative registration of land ownership is long and tedious which entails expenses. The process is however, simple. Once the FMB declares the area as alienable and disposable, landless farmers or settlers can apply for patents. Homelots of 2 to 3 hectares are then awarded after a survey has been completed and an official map has been approved by the LMB. There must also be a finding that there are no adverse claimants or other occupants in the area claimed.

Still there remains the question of non-recognition of communal ownership and the probability of exposing the cultural community to the risk of being broken up and divided. Besides, almost all applicants of areas encroaching on ancestral lands are landgrabbers. Thus, the more positive approach is to check if the area already declared as alienable and disposable has been applied for by non-occupants to the detriment of the cultural community. Proper objections may then be filed in the registration pro-



ceedings to prevent the landgrabber from securing title to these ancestral lands.

If the land remains classified as forest or timber land, then the more favorable land tenure program offered by the government is the stewardship contract. There are two types of stewardship agreements. One type is the Individual Stewardship Contract which is more suitable to landless farmers from the lowlands who have migrated to the uplands by December 1981. It is very similar to patents in that two or three hectare lots are awarded to individuals. A husband, his wife and a child of legal age can each be awarded a lot. The other type is the Community Stewardship Agreement which is more suitable to the cultural communities. The contract covers as much area as may be approved by the DENR which includes not only the cultivated area but the forest, hunting grounds, as well as burial grounds. Moreover, the contract is not awarded to an individual but is issued in the name of the cultural community, for example — the Ati Tribe. But, as the name implies, the land tenure is a mere STEWARDSHIP not ownership, and its term is for twenty-five (25) years, extendable for another twenty-five (25) years.

In order to protect the tribes, PANLIPI lawyers have petitioned that when stewardship contracts are offered by the government, the Community type should be given to tribes and only when they insist on the Individual type, should the latter be given to them. Furthermore, the tribes are advised to include non-waiver provisions:

[1] that the members of the cultural communities (or grantee) in signing the agreement shall not be deemed to have waived their ancestral land rights;

[2] that in the event that a law is passed in the future giving full recognition to ancestral land rights, or giving more benefits than this agreement, (stewardship contract) the members of the cultural communities (or grantee) shall have the option to cancel the agreement in favor of the more beneficial law;

[3] that this agreement (stewardship contract) shall be conclusive proof of the actual occupation of the cultural community over the subject area.

The local Forestry offices accept and process applications for stewardship contracts. An official survey is necessary to determine the boundaries of the area, which will be technically described in an official map.

Another type of land tenure is offered by the Office of the President itself, the CIVIL RESERVATION. It is a presidential proclamation declaring a certain portion of the public land for the exclusive use of a cultural community. Applications for civil reservations are filed with the Office of the President, Malacañang, Manila. To facilitate processing, it is important that the applicant furnish the technical description of the proposed civil reservation area. The local forestry offices have such data available. If no survey has been conducted, then a survey will first be ordered to determine the boundaries. However, the standard form of a presidential proclamation for a civil reservation includes a provision that the community must avail of the Integrated Social Forestry Program of the DENR. This ISF program offers the Stewardship Contracts.

"Time and again the Regalian Doctrine has been invoked by the rich and the powerful to end all arguments of ancestral land rights."

Thus, a Civil Reservation may give the added prestige that it is signed by the President, but the land tenure program given is actually the Stewardship contract. In addition, the community is obligated to develop the area within a certain period of time otherwise the reservation will be revoked. There is also a catch-all provision that if national interest dictates, the reservation shall also be cancelled.

There are other contracts offered by the Executive Branch such as re-forestation, re-plantation of timber and other minor forest products such as rattan and fruit crops, agricultural livelihood programs, cattle raising (thru the Department of Agriculture), etc. Although these other programs do not focus on land tenure, an area is secured for the beneficiaries for as long as the projects are in operation.

II. LEGISLATIVE

For the more united and stable tribes, most if not all the land tenure programs offered by the Executive branch are not acceptable. Having the ability to secure the area for themselves and the strength to ward off encroachment, the stewardship concept, based on the Regalian doctrine is totally dismissed. With land security in their hands, these tribes can well afford to concentrate their efforts in demanding State recognition of their ancestral domain. Petitions are addressed to the Legislative branch — the Senate and the Congress. At present, Senate Bill No. 152 approximates their desire for the establishment of a Commission on Ancestral Domain which shall have the authority to delineate and determine the national extent of the ancestral domain of the cultural communities. A similar bill is pending in Congress, House Bill No. 428.

Aside from generating mobilized support for these bills, the communities should also be made aware of other bills in both Houses which purport to be for their benefit but the provisions of which are actually detrimental to them and are more beneficial to landgrabbers, and "development" corporations.

Public hearings are scheduled by both Houses and position papers are accepted. Sen. Joseph Estrada is the Chairman of the Senate Committee on Cultural Communities with offices at the Campos Rueda Bldg., Tindalo St. Makati, Metro Manila; while Cong. William Claver is the Chairman of the House Committee on Cultural Communities with offices at the Batasang Pambansa Bldg., Commonwealth Ave., Fairview, Quezon City. It is noteworthy to mention that Sen. Rasul is sponsoring Senate Bill No. 152, while House Bill No. 428 is sponsored by Cong. Gregorio Andolana, a member of the House Committee on Cultural Communities.

"A lawyers' orientation is necessary to prevent confusion not only among advocate lawyers but among tribes as well."

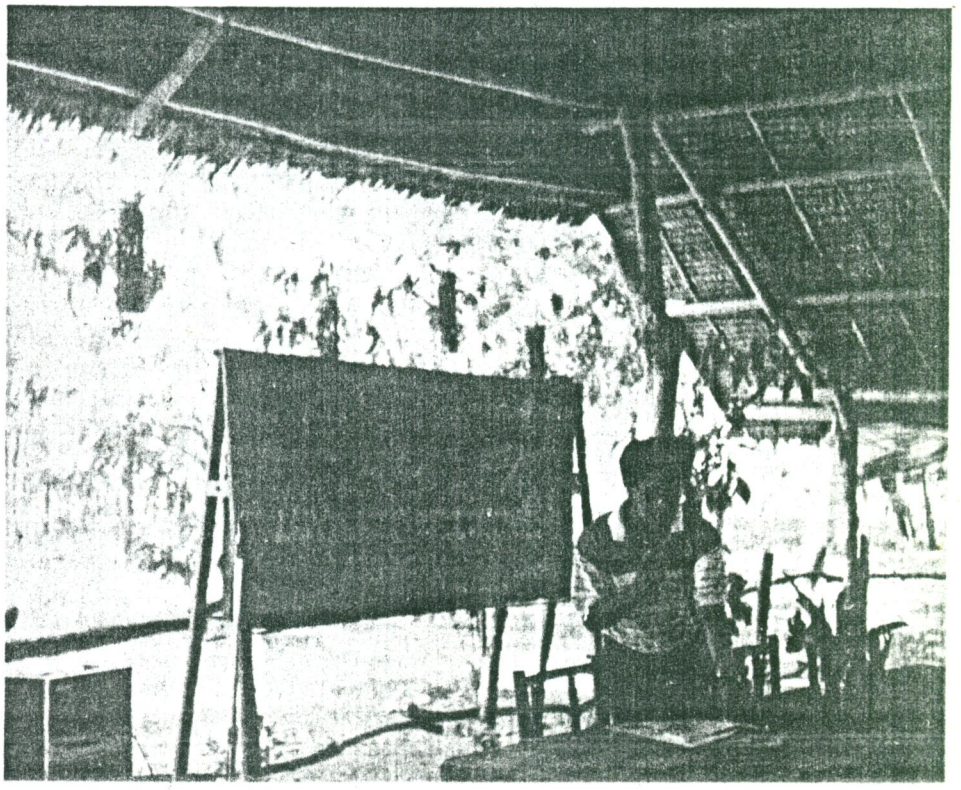
Position papers are filed in reaction/support/objection of bills already pending in either House. However, should a community wish to submit its own bill, a final draft thereof should be submitted to the Committee for its consideration. A particular Senator or Congressman should be selected by the community to sponsor the bill. Efforts should be made to convince him/her to sponsor the bill. Otherwise, the bill is merely recorded in the minutes.

III. JUDICIARY

Regional Trial Courts function as Land Registration Courts with exclusive jurisdiction over their local areas. There are two types of judicial land registration proceedings depending on the applicable law:

LAND REGISTRATION ACT

— there is a title but the court has to confirm it;



PUBLIC LAND ACT

—there is an imperfect title and the land belongs to the State;

The famous Cariño** doctrine, penned in 1920, declared that members of the indigenous cultural communities have a native title, because of possession of the land since time immemorial. Through the years, however, the Supreme Court of the Philippines has interpreted this pronouncement in different ways.

Lawyers for cultural communities have argued that when cultural communities apply for land titles through the courts of law, the Land Registration Act should be applied. Therefore, the courts only have to CONFIRM an already existing NATIVE TITLE, which of course is not evidenced by a document entitled "native title". But the court's decision will be sufficient to order the Register of Deeds to issue a Title in the name of the applicant.

On the other hand, the latest Supreme Court decision*** on the matter applied the Public Land Act. Thus implying that native titles are imperfect titles and until the same are registered, the lands remain PUBLIC LAND. Yet this latest case declared that although classified as PUBLIC LAND, native titles need not be registered in order to be transferred or conveyed to private persons or, more importantly, corporations.

Thus, at first glance, the decision seems to uphold the view that native titles are perfect titles. But a careful analysis of the political background of this case showed that the indigenous cultural community actually "lost" the case. Although still living, the Dumagat was not presented in court to confirm the "sale" of their ancestral land to the corporation, owned by a rich and powerful political figure. Previous jurisprudence that such sales are considered null and void unless the native titles have previously been registered, was reversed. PANLIPI was fortunate in having the opportunity to personally confer with this Dumagat who admitted having affixed his thumbmark because he was told that the document was a request for community development.

Perhaps another case should be filed in order to assert that native titles are PERFECT TITLES and that courts only have to confirm so that the Register of Deeds can issue the paper titles recognized by the non-tribal majority. But only if the community decides to do and the members thereof and aware of all the issues. There should be no false hopes.

With this summary discussion, it is hoped that lawyers will be able to get an overview of the legal conditions in the Philippines which confront the indigenous cultural communities. A lawyers' orientation will prevent confusion not only among advocate lawyers but among tribes as well.

*In the 1920s Communal titles have been issued to the Kalinga Tribes of Cagayan but the Register of Deeds of Isabela was burned in the late 70s, erasing any authentic trace of these titles. Only xerox copies are in the possession of the tribal leaders passed on to them by their ancestors, who were imprisoned on false charges and their houses burned to force them to abandon their ancestral lands.

**Cariño vs. Insular Government, Phil. Reports Vol. 41 (1909)

***Director of Lands vs. Intermediate Appellate Court ans Acme Plywood and Venner Co., Inc., 146 SCRA 509

"OUR DEMAND IS JUST AND SIMPLE"

— Lubasan

In the four provinces of Agusan and Surigao, we, tribal Filipinos, number about 285,000 divided into five major tribes, namely: the Manobo, Mamanwa, Talaandig, Higaonon and Banwaon.

We live on lands we call our ancestral domain. To many of us, our ancestral domain is sacred and precious. It is the source of our life and the wellspring of our culture. Because of our indigenous and communal way of life our ancestral domain covers not only our residential area but also our forests, hunting grounds, worshipping places, fishing and burial grounds.

Our history is characterized by pattern of dislocation and displacement from our ancestral domain. Starting with the advent of the Spanish colonial era, life for us has become a struggle to defend our lands. Through the years, we have to contend with powerful forces representing big commercial interest. Dislocation worsened as logging concessions and agro-forest industries prospered. Agusan and Surigao became a virtual haven of logging tycoons and millionaires. While tribal Filipinos grew more impoverished, a few logging concessions amassed tremendous wealth, at the expense of our ancestral forests and natural resources.

As a result, many of our indigenous cultural communities have disintegrated. Some, like the Mamanwas, have not only lost their territories and cultural life. They have been practically reduced into urban mendicants, roaming and begging around town and urban centers. But some of us, like the Banwaons and Higa-onons, have been lucky enough. Through sheer courage and determination, we have managed to defend our territorial integrity and our indigenous culture.

But the pressure of dislocation became even more unbearable to many tribal Filipinos during the previous regime. Influx of new commercial interest combining with militarization resulted in the displacement of cultural communities. With the advent of a new government fathered by a people's power revolution, new hopes have been

raised for an end to the history of injustice inflicted on us. Our hopes gained further strength with the incorporation of a new provision in the 1986 Constitution which mandates that the State shall recognize the rights of indigenous cultural communities to their ancestral lands.

But up to now, the said Constitutional mandate has yet to become a living reality for us. Our demand is simple and just. The full recognition of our rights to our ancestral domain. We understand that the substance of our demand is now being embodied in House Bill No. 428 and Senate Bill No. 152. Both bills call for the creation of a Commission on Ancestral Domain which will declare and define lands occupied by tribal Filipinos since time immemorial as not part of public domain but of ancestral domain.

We understand, however, that until the said bill is approved, we cannot claim communal ownership to our ancestral land which happens to be classified under prevailing law as public domain. In most cases, our land falls under forestal area classification which makes it inalienable and non-disposable. In short, our chance of gaining absolute ownership to our ancestral land is practically foreclosed.

To us, this legal viewpoint is most unjust. We have been occupying and cultivating our ancestral domain, through our ancestors, since time immemorial, even before the advent of the Philippine Government, or its predecessor the Spanish Government. In short, our ownership to our land has long been vested. And yet, we are considered up to this day as squatters of our own land.

In our dialogue with the local DENR officials last October, 1987 at the Barangay hall, Butuan City, we are informed that the DENR is also operating within the limitations of prevailing legal system which considers ancestral domain as part of public land. But we were nonetheless elated by the show of refreshing concern and sympathy expressed by the DENR officials on our plight.

We appreciate the recent policies of the DENR designed to give more protection to our occupancy such as the Stewardship and the Integrated Social

Forestry Program. But some of us are reluctant to enter into land tenure arrangements with the government, particularly with the DENR, that make us mere lessee or steward of the land we have considered since time immemorial as our own. They feel it is inconsistent for them to ask for stewardship or civil reservation when they firmly believe that they are the actual owners of their ancestral domain. To enter into stewardship or lease agreement might mean that they have learned to doubt their ownership to their ancestral land.

But we also realize the peril of not entering into land tenure agreements with the DENR. Our occupancy of the land is in perpetual danger. How many of us have the capacity to defend our remaining territories from further encroachment of outsiders representing commercial interests? In Agusan and Surigao, a number of logging concessions continue to encroach on ancestral territories. The threat of dislocation has not subsided.

As a result, some of us have realized the wisdom of entering into lease or stewardship agreements with the government in the meantime that our ultimate demand for recognition of ancestral domain is not yet granted. This option has become attractive since we have been informed that the present DENR has shown stronger commitment to the principle of social justice. And social justice call for greater respect to the rights of indigenous cultural communities over and above the economic interest of few but powerful groups.

With this idea in mind, we have been immensely encouraged to seek a dialogue with the Honorable Secretary and prsent the following demands, from different tribal communities in Agusan and Surigao.

From the Mamanwa and Manobo communities in Cabadbaran, RTR and Tubay, Agusan del Norte:

1) Investigation of concession granted to Crestamonte and Oloy Roa and Cancellation of portion which encroach on the Mamanwa ancestral domain.

2) Investigation of concession granted to Butuan Logs, Inc. and cancellation of portion which encroach on tribal territory in Dugyaman, Anticala, Butuan City.

3) Release of the following area as civil reservation for Manobo and Mamanwa:

3.1) 5,140 has. in Cabadbaran

3.2) 2,000 has. in RTR

3.3) 1,500 has. in Tubay

4.) Declaration of a civil reservation for the occupancy of the displaced Mamanwas in Kitcharao and Jabonga, Agusan del Norte.

From the Higa-onon community in Buenavista, Agusan del Norte.

1) A stop to encroachment of the operations of NALCO Logging Company in Higa-onon territory.

2) Declaration of Higa-onon territory as ancestral domain.

From the Manobo Community of Agusan del Sur:

1) Review of the concession granted in Loreto to a certain Mahanong Perez, a non-resident of the area where his concession is located.

2) Investigation of the concession granted to the ITC, Sta. Ines, AMAPCO, and PTFI companies and cancellation of portion which encroach in ancestral territory in Loreto, La Paz and Talacogon.

3) Release of 1,000 has. civil reservation for Manobo community in Causwagan Talacogon, Agusan del Sur and another 1,000 has. in sitio Maymayan, Trento, Agusan del Sur.

"To many of us, our ancestral domain is sacred and precious. It is the source of our life and the well spring of our culture."

From the Banwaon and Talaandig community in San Luis, Agusan del Sur:

1) Investigation of concession granted to Kalilid Wood Industries, Agsur, and ITC companies and cancellation of portion which encroach on Banwaon territory.

2) Declaration of 9,000 has. of Banwaon territory as ancestral domain.

From Manobo and Mamanwa communities in Surigao del Sur:

1) Investigation of portion of concessions granted to Puyat and Lianga Bay

2) Declaration of the following areas as ancestral domain.

2.1) 5,000 has. in San Miguel

2.2) 4,000 has in Lanuza as ancestral domain of the Manobo

2.3) 2,000 has. in Carmen as ancestral domain of the Manobos

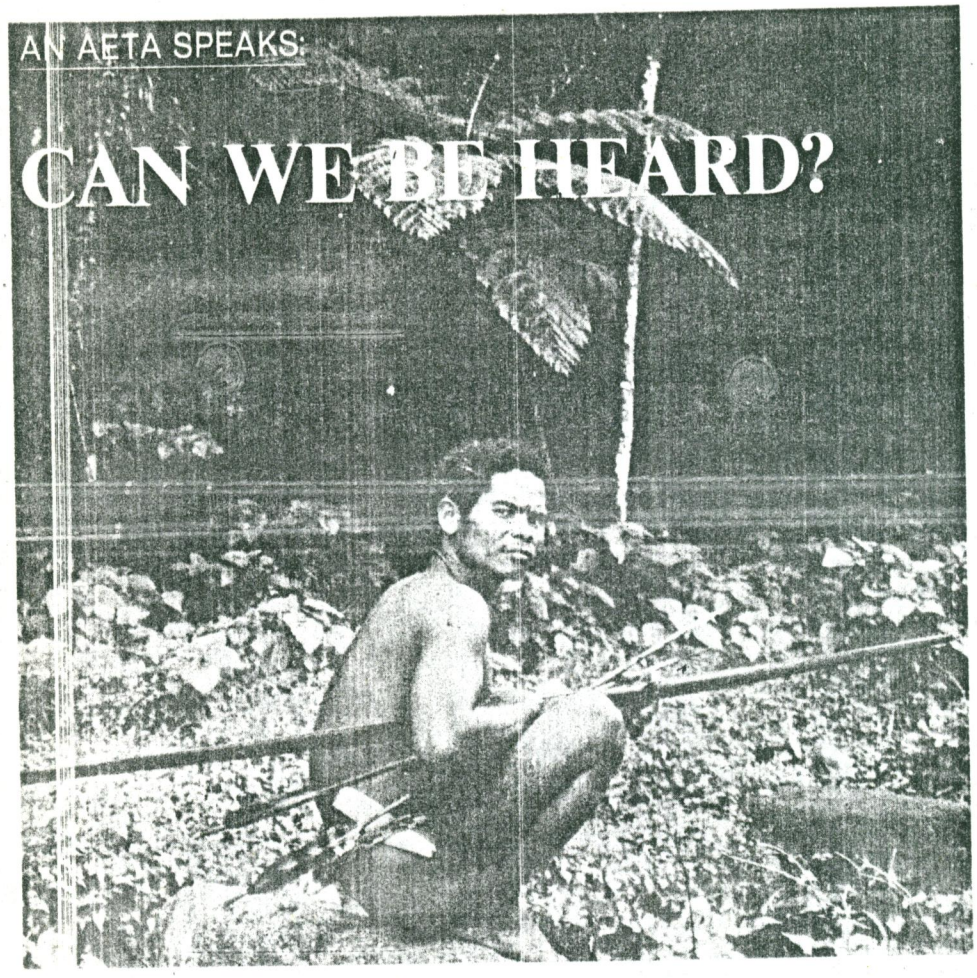
2.4) 3,000 has. in Lianga as ancestral domain to Malayan Unit 2 and cancellation of portion which encroach on ancestral territory.

In closing, we would like to add that while we are asking for civil reservations and stewardship, this does not mean that we are waiving our rights as actual owners — and not mere lessee — to our lands considered by us since time immemorial as our ancestral domain.

(LUBASAN is a federation of 24 local and provincial Tribal Filipino organization in Agusan and Surigao).

AN AETA SPEAKS:

CAN WE BE HEARD?



Please accept my apology for butting in, but you see, I can't keep myself silent over the issue you are discussing since it affects the life of my family and my people. I am a lowly man, you ordinarily call the Aeta or the Negrito. We belong to the so-called "cultural minority" as distinguished from the "civilized majority". I'm not schooled so I don't have any idea of the high-sounding words you use, the future scenario you envision and the other things that speak of the expanse that affects our life as a people — the American bases.

Much has been said about the bases, how it keeps "peace" in this part of the world. But little has been said about the short, kinky-haired people that live within and around it except for a few lines in some history books which state that the Negritos or the Aetas are the aborigines of the Philippines.

Let me therefore, tell you the story of my people and the bases. Our ancestors roamed in this land long before the coming of the white people. They thrived on the forest and the blessings that it provided. They lived peacefully — gathering fruits, hunting wild animals and fish in the rivers and lakes, sharing whatever they have with others . . . (the place was a virtual paradise) until the white man and his little brown brother came. These people claimed the land as their own. Our ancestors were amazed, for how can you own the land? Land is for everybody. Nobody can appropriate if for himself. Only the trees that grow on it and the animals that roam around can be owned, but not the land.

Since land is plenty, and surely there is land for everyone, our ancestors moved to the mountains leaving behind the plains to the white man and his little brown brother. But time flew fast.

Our forefathers became mute witnesses to the changes that took place. The land — the home of our ancestors — was reserved for the "kano" or white man. They started building the bases for their planes and their ships. The hunting grounds of our ancestors became the target range for their planes. The fishing grounds became their shipyards. Our people watched in silence. This land is our home, our life. But the "kano" and the government officials decided that the bases will be built here as if our people never existed.

At first, our children enjoyed the loud roaring sound and the sight of big planes flying overhead. But as time went by, the sound of the planes seemed to have a strange effect on the children. They were easily frightened, even by the slightest sound. Some have developed a sickness called "luga" or pus in the ear. This may be the reason why other people called us "baluga".

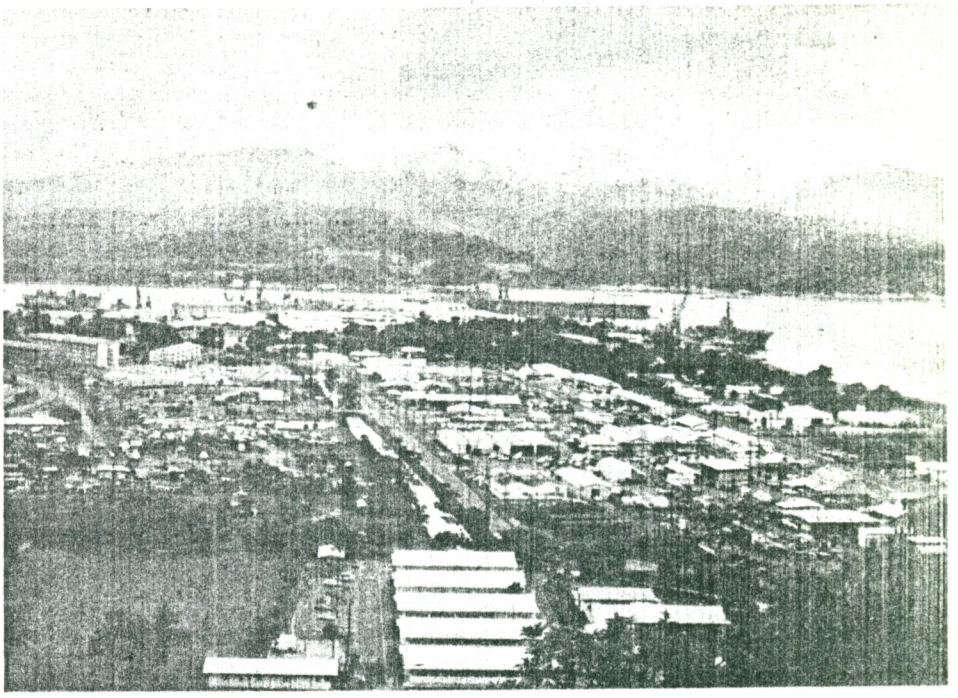
Today, we live by scavenging on the refuse and garbage of the "kano." We gather anything that can be sold in the second-hand stores. Some of us construct the dummy trucks and tanks that serve as targets of the pilots.Others risk their lives in retrieving spent bombshells during trainings to be sold "por kilo".

True to our tradition, we never parted with our knowledge of nature that helped us survive to this day. Some of us even teach the "kano" how to survive in the jungle as part of their training — how to distinguish an edible from a poisonous plant, how to make fire without matches, how to track animals and humans as well, and other skills.

"Our ancestors were amazed, for how can you own the land? Land is for everybody. Nobody can appropriate it for himself."

Many of us who chose to stay away from the vicinity of the American bases are still affected. During war games and target practice of planes, wayward bombs often missed their targets and hit the villages and farms, destroying crops and other properties. Some of us were even used as live targets while working in the fields. No compensation was received from the "kano," because according to them, the compensation was already given to the government.

Now, we hear people talking about the bases, that the "kano" and government officials will decide on whether they should be removed or not. Our ancestors were previously ignored, but we will not let this happen to us. As a matter of right, we demand to be heard. Because what is involved is not only our LAND. We are a gentle people but we must fight for our existence, for our children, for our AETA LIFE.



INTERNATIONAL LAW AND THE INDIGENOUS POPULATIONS

By: Atty. Ed R. Abaya

Perhaps, one of the most neglected, if not the most neglected sector of our society are our brothers who belong to the so-called "Cultural Communities" or now known and referred to by the international communities as the "INDIGENOUS PEOPLES". While the Philippine government, past and present, has established offices and programs that look into their needs, such programs have failed to reflect the true aspirations of our brothers.

With the incorporation of a constitutional provision in the 1986 Constitution calling for the respect and recognition of the right of indigenous cultural communities to ancestral domain and the pending bills before the Congress (House Bill No. 428 and Senate Bill No. 152), although these bills can still accomodate improvements, the realization of the dreams and aspirations of our indigenous brothers for the recognition of their ancestral domain may now become a reality.

The Philippine government, as a member of the international community, is obliged to give due respect to the rights of indienous cultural communities based on existing international standards, particularly those established by the Working Group on Indigenous Populations.

When the Sub-Commission on Prevention and Protection of Minorities examined the study entitled "Racial Discrimination" in 1970, many of its members endorsed the recommendation put forward by the study's author that the United Nations should make further studies on the question of the treatment of indigenous populations.

In 1974, the Economic and Social Council authorized the Sub-Commission to undertake, in co-operation with other United Nations organs and bodies with international organizations, a complete and comprehensive study of the problem of discrimination against indigenous populations, and to suggest the necessary national and international measures for eliminating such discrimination.

"The Philippine government, as a member of the international community, is obliged to give due respect to the rights of indigenous communities based on existing international standards . . ."

From 1973 to 1980, the Sub-Commission, through its appointed Special Rapporteur, received and examined progress reports, and the following three years it considered parts of the final report. The conclusions, proposals and recommendations of the Special Rapporteur were considered at the Sub-Commission's session in 1984.

In 1982, the Sub-Commission established a Working Group on Indigenous Populations to review developments pertaining to the promotion and protection of the human rights of the indigenous populations and to give special attention to the evolution of international standards concerning those rights. At its first session, the Group recognized the need to deal urgently with cases of physical destruction of indigenous communities (genocide) and cases of destruction of indigenous cultures (ethnocide). The Group decided that it would be open and accessible to representatives of indigenous populations, non-governmental and intergovernmental organizations and governments. It called for the establishment of a fund to enable representatives of indigenous populations to participate in its work.

The working group agreed upon an open and flexible method of work which permitted representatives of various indigenous populations, as well as of government, to hold a meaningful dialogue. At its 1983 session, it reviewed developments concerning the situation of indigenous populations, discussed the evolution of standards with regard to those populations, and adapted a Plan of Action subsequently approved by the Sub-Commission — listing particular areas to be considered at future sessions.

In the Programme of Action adopted by the Second World Conference to Combat Racism and Racial Discrimination in August 1983 at Geneva, which was endorsed by the General Assembly later that year, it was proposed that governments should recognize and respect the basic rights of indigenous populations:

- to call themselves by their proper name and to express freely their own identity;
- to have official status and to form their own representative organizations;
- to maintain within the area where they live their traditional economic structure and way of life; this should in no way affect their right to participate freely on an equal basis in the economic, social and political development of the country;
- to enjoy freedom of religion or belief;
- to have access to land and natural resources, particular in the light of the fundamental importance of rights to land and natural resources to their traditions and aspirations; and
- to structure, conduct and control their own educational systems.

It is therefore, suggested that the pending bills in Congress be re-examined and analyzed in the light of the afore-mentioned standards laid down by the international community and in accordance with the process of democratic consultation with the indigenous cultural communities.

UPDATE:

ILO CONVENTION 107 Revision

By: Atty. Donna Z. Gasgonia

On the 75th session of the International Labour Organization this year, the revision of Convention 107 — the Indigenous and Tribal Populations Convention, 1957 — was discussed. Prior to the scheduled session in Geneva, the Philippines, as a member-state, held a series of consultations with non-government organizations (NGOs) about the specific provisions of the convention, a procedural requirement set by the ILO itself.

From June 4-6, a tri-partite consultation was held by the International Labour Affairs Service of the Department of Labor and Employment. Each provision of the convention was discussed and deliberated on, with the government, the labor sector, and the non-government organizations entitled to one vote each.

Under the Convention, the governing principle on the treatment of indigenous peoples was integration in the mainstream of the society through "assimilation". This underlying principle was rejected by the participants to the consultation in favor of the principle of self-determination. Points of contention, especially between the government sector and the non-government organizations, centered on LAND.

As expected, the government insisted on the Regalian doctrine, which reduces ancestral domain as part of public domain. The non-government organizations took the opposite stance. Since there was only one government agency, the Office of Northern Cultural Communities, which voted in favor of the Regalian Doctrine, a deadlock ensued between Government and the non-government organizations on the issue of recognition of the ancestral domain, including property rights. Labor broke the deadlock by voting with the NGOs.

Another debating point was the utilization of natural resources. The NGOs insisted on the right of the indigenous cultural communities to determine and decide how such natural resources should be utilized and developed. In cases where the natural resource development was of significant importance to the nation as a whole, the consent of the indigenous cultural community must first be obtained through genuine consultation. The government on the other hand adopted the opposite opinion. Labor again settled the dispute

"For one, the process failed to consult the indigenous cultural communities about the revision and only member states of the International Labour Organization participated."

by offering to a compromise between the two positions. The compromise was for genuine consultation to be conducted before any natural resources are utilized or developed within the ancestral domain.

Following the issue of genuine consultation came the question of relocation or resettlement or removal of the indigenous cultural communities from their traditional habitat. The convention contained three conditions by which the communities may be removed: national security, economic development, and health risks. The government was amenable to dropping the condition of economic development. Labor was for dropping all conditions or retain them all. The non-government organizations pushed for no exceptions for the reason that genuine consultation is a constitutional requirement for due process in case of deprivation of life, liberty or property. Besides, to impose the three conditions means that the indigenous cultural communities are considered inferior and unable to decide for themselves if there are good reasons for their relocation. Labor was convinced, and the representative from the Dept. of Health argued that tribal communities should not be removed even for health reasons unless the government can provide them with better facilities. With that, a consensus was reached that all the conditions have to be stricken out.

Other issues were resolved without difficulty. In the end, the non-government organizations reiterated their observation that the process of consultation for the revision of the convention need to be improved. For one, the process failed to consult the indigenous cultural communities about the revision and only member states of the International Labour Organization participated. There was a possibility, that as in the Philippines, only NGOs based in Metro Manila; were notified and were able to participate in the discussions. The indigenous cultural communities were shut out. However, the efforts of the Dept. of Labor and Employment, International Labour Affairs Service to reach the authentic non-government organizations and their sincere desire to make a meaningful discussion of the issues were appreciated. The government representatives, especially from the Commission on the Settlement of Land Problems, were lauded for their openness to new ideas.

The participants were assured that the deliberations will form part of the position paper of the Philippine Government to be presented in Geneva but the exact content of the position paper remained the prerogative of the Secretary of the Dept. of Labor and Employment.

COMMENTARY:

PROCLAMATION NO. 250

A CULTURAL EXPLOITATION

By: Jay P. Supetran

Last April 20, President Aquino signed Proclamation No. 250, declaring the period from July 3-9 and thereafter the second week of July of every year as "Cultural Communities Week". This is despite the fact that the Church and the various indigenous groups and non-government support groups throughout the country celebrate the Tribal Filipino Week every second week of October. One wonders whether the President was not aware of this, or if she were ill-advised in signing the proclamation.

The traditional Tribal Filipino Week in October started in 1978 in relation to the World Mission Sunday which was celebrated every third Sunday of October, the Catholic church in the Philippines declared the second Sunday as Tribal Filipino Sunday. The reason for this move was to recognize the mission field of the Catholic church in the country is among the indigenous Filipinos. Of the total eighty-one dioceses, only forty-four have indigenous communities in their areas. The celebration, however, is observed in all dioceses even those with no indigenous communities.

The celebration of the Tribal Filipino Sunday is anchored on the objective that the Church must consider the plight of the indigenous peoples. It is the duty of the church to look after the op-

pressed and the marginalized sectors of the society, one of them the indigenous Filipinos. During Tribal Filipino Sundays, Catholic pulpits nationwide exhort the people to sympathize with the indigenous peoples and do something to alleviate their condition.

Various non-government organizations working with indigenous communities, realizing the necessity of a more organized advocacy campaign followed suit in observing the Tribal Filipino Week. The month of October became the culminating period of the year-round campaign for the struggle of the indigenous people. Activities of the celebration range from portraying the situation of the indigenous communities to directly denouncing the groups exploiting them and the government neglect to protect the rights of the indigenous communities.

The signing of Proclamation No. 250 therefore came as a big surprise to the indigenous peoples and the non-government support group. First, the different indigenous groups and non-government support groups were not consulted on the subject of declaring a Cultural Communities Week, the idea of highlighting the indigenous peoples' culture and observing it in the month of July. The proclamation was signed as if to compete with the traditionally observed Tribal Filipino Week in October.

"They want us to dance and sing in the streets. Our ancient, sacred customs become a laughing stock for tourists. Besides taking away our land, must they take our self-respect?"

— Lumad

Secondly, the proclamation states, ". . . it is imperative to focus the attention on the colorful ethnic culture of the tribal Filipinos . . .". The basis of the celebration is PAGEANTRY. Some of the activities lined up are a cultural parade, sports festival, and a display of the different ethnic dances and rituals. The irony lies in the show-off of the indigenous peoples' "colorful ethnic culture" amidst the troubles they are facing. Continued logging operations displacing the Isnegs of Cagayan, the Dumagats of Quezon, the Aetas of Zambales; the relocation of the Aetas in Clark Air Base; the displacement of the Remontados of Rizal to make way for the Kaliwa-Kanan Dam and the Lungsod Silangan Project; the militarization of the Mangyan communities in Mindoro; and in Mindanao, the continued usurpation of multi-national corporations of the Lumad ancestral domain and the forced recruitment of vigilantes are but some of the problems nagging the indigenous peoples.

The list is long, but suffice it to say that the government has done nothing substantial to alleviate the indigenous peoples' sorry state. The government paid lip service to their predicament by establishing the Office of Northern Cultural Communities (ONCC) and the Office of Southern Cultural Communities (OSCC) which more often than not justified the existence of infrastructure projects and concessions awarded by the government than to protect the rights of the indigenous communities in the affected areas.

Proclamation No. 250 is a rehash of the Marcos administration's policy using ethnic culture to promote tourism against the wishes of the indigenous peoples. It tends to institutionalize the bastardization of their culture, masking the real situation of the indigenous communities.

July or October observation of the Tribal Filipino Week may not matter after all. What matters is the motive or the objective of the celebration. If only the government agencies concerned will review it policies towards the indigenous communities, they will find out that they are the ones destroying the "colorful ethnic culture" they are trying to preserve.

*(**Mr. Marvin Artis** is an exposuree to the Philippines under the Human Rights Program of the Harvard Law School. This is an excerpt from his personal impressions on the country.)*

OVERCOMING BARRIERS

By: Marvin Artis

"I felt a strong sense of identification with these minorities, especially when educated Filipinos would speak of them with an element of shame or when seeing their isolation from nearby communities where even poor Filipinos would treat them like second-class citizens."

I was exposed to cultural minorities through the Tanggapang Panligal ng Katutubong Pilipino (PANLIPI), a lawyers' group working with indigenous peoples, and the Alternative Mangyan Program for Development (AMPFOD). Cultural communities are called as such because it is their culture, not their heritage, which distinguishes them from the rest of the Filipino population. With the exception of the Negritos who resemble native Australians, tribal Filipinos share physical traits with the Christianized Filipinos who are in charge of the Philippine government, industry and establishment. It is these minorities persistence in retaining their pre-colonial culture when sets them apart from other Filipinos.

Under the guidance of PANLIPI and AMPFOD, I spent several days each with the Mangyans of Mindoro and the negritos of Poonbato, Botolan and discovered that the human rights violations suffered by these minorities were pervasive and basic — Philippine colonizers, wealthy Filipinos, and the government have taken their ancestral lands and means of survival without compensation. As a result of their displacement, these minorities have been forced to wander uninhabitable areas and suffer rampant poverty and disease.

At first glance it seemed enigmatic that Filipino leaders would discriminate against these tribes — peoples to whom most Filipinos trace their roots. It was similarly odd that the group thought to be the most original of the country's current inhabitants, the Negritos, would suffer the highest degree of neglect, especially in a Third World country whose leaders often complain of discrimination and unfair treatment at the hands of members of the first and second worlds.

Reflecting upon the experience of Black Americans offered some possible explanations. Our history provides unfortunate examples of the self-hatred

"For us to discover that we shared experiences and insights provided the kind of validation that we all need in order to persevere."

that accompanies oppression as oppressed peoples internalize the standards of those in power. Like Filipino leaders, the political, community and cultural leadership in oppressed groups somtimes rejects or denies the elements in its communities which are most unlike their oppressors. Just as Black Americans internalize the standards of their dominant white culture, Filipinos have internalized the standards of their European and Asian colonizers. The unique plight of the Negritos then seemed explainable by their dark skin, broad noses and relatively kinky hair that give them features most distinct from the elite Filipinos with strong Chinese, Spanish, or American lineages that resulted from colonization.

The internalization of white American standards is exemplified in the current debate among Black Americans concerning negative media images which do not project our "better" qualities. Darker-skinned Black Americans still suffer from a higher degree of discrimination, and Americans, regardless of ethnicity, generally regard Blacks with more European features as more attractive. Coming from such a culture, I felt a strong sense of identification with these minorities, especially when educated Filipinos would speak of them with an element of shame or when seeing their isolation from nearby communities where even poor Filipinos would treat them like second-class citizens.

I wanted to see evidence that the tribal Filipinos love themselves in spite of a hostile society, that they maintain their sense of self even as they change from their traditional dress to shirts and pants when meeting with government officials. We minorities are forced to adopt a dual identity — society requiries that we employ the practices of the majority culture in order to gain legal, social and economic entitlements. As a result of my own experiences, recognizing and confronting this duality may have been more important to me than it was to them.

Despite my uncertainty, I made attempts to understand and accept the strategies followed by the Filipino human rights workers who are involved with these minorities, because they not only have a strong sense of their culture, but also possessed the requisite love and respect for these people while helping them master this duality. This kind of deference is especially necessary. For too long we Blacks have suffered from intrusions by groups who think they understand our oppression based on their experience but who do not have a clear understanding of the Black experience and, as a result, do not have a sense of the proper solutions.

Although solutions sought by Black Americans are not necessarily those which should be sought by tribal Filipinos, it is important that I recounted to them my experiences as a Black American. Many Filipinos were a bit incredulous when I told them about the conditions of the oppressed American minorities. Many of those with whom I spoke believed that life for Blacks has been on par with that of the whites since the Emancipation Proclamation. It may have saddened them to learn differently, but on another level I think it was inspirational. For us to discover that we shared experiences and insights provided the kind of validation that we all need in order to persevere.

SENATE BILLS
Committee on Cultural Communities

BILL NUMBER	SPONSOR	TITLE
28	Rasul	AN ACT REQUIRING ALL ELEMENTARY AND SECONDARY SCHOOLS, COLLEGES AND UNIVERSITIES TO INTEGRATE IN THEIR CURRICULUM THE TEACHING OF A COURSE IN ETHNIC COMMUNITIES.
32	Rasul	AN ACT ESTABLISHING ETHNIC STUDIES CENTER IN CULTURAL COMMUNITIES ESPECIALLY IN THE AUTONOMOUS REGIONS PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES.
73	Tamano	AN ACT GRANTING A NEW PERIOD TO PERFECT TITLE TO LANDS OCCUPIED BY THE MEMBERS OF THE NATIONAL CULTURAL COMMUNITIES, AMENDING FOR THE PURPOSE SECTION EIGHT OF PRESIDENTIAL DECREE NUMBERED FOUR HUNDRED TEN.
80	Tamano	AN ACT CREATING THE DEPARTMENT OF NATIONAL INTEGRATION TO SYNCHRONIZE AND ACCELERATE THE BALANCED GROWTH AND SUSTAINED DEVELOPMENT OF THE NATIONAL CULTURAL COMMUNITIES, AND FOR OTHER PURPOSES.
86	Guingona	AN ACT DECLARING ALL LANDS PRESENTLY OCCUPIED AND POSSESSED BY MEMBERS OF CULTURAL COMMUNITIES THROUGHOUT THE PHILIPPINES AS NATIONAL RESERVATION AREAS AND PROVIDING THEIR DISPOSITION THEREFOR.
152	Rasul	AN ACT PROVIDING FOR SAFEGUARDS TO THE FUNDAMENTAL RIGHT OF ANCESTRAL DOMAIN OF THE DIFFERENT NATIONAL CULTURAL COMMUNITIES AND FOR THE DIFFERENT MODES OF ENJOYMENT THEREOF, AND FOR OTHER PURPOSES.
153	Pimentel	AN ACT TO INSURE EQUAL EMPLOYMENT OPPORTUNITIES TO MUSLIMS AND TRIBAL FILIPINOS.
154	Tamano	AN ACT GRANTING EQUAL EMPLOYMENT OPPORTUNITIES IN ALL OFFICES, AGENCIES OR BRANCHES OF THE GOVERNMENT TO MEMBERS OF CULTURAL COMMUNITIES, ALLOTING AT LEAST FIFTEEN PER CENT (15%) OF ALL POSITIONS THEREIN FOR THIS PURPOSE, AND FOR OTHER PURPOSES.
315	Romulo Rasul	AN ACT EXTENDING THE PERIOD WITHIN MEMBERS OF CULTURAL COMMUNITIES CAN FILL APPLICATIONS TO PERFECT THEIR TITLES TO ANCESTRAL LANDS OCCUPIED BY THEM.
326	Rasul	AN ACT TRANSFERRING THE ADMINISTRATION OF THE SCHOLARSHIP PROGRAM FOR DESERVING MEMBERS OF THE NATIONAL CULTURAL COMMUNITIES, INCLUDING THE GRANTS, FUNDS AND THE PROPERTY THEREOF, WHICH ARE PRESENTLY UNDER THE ADMINISTRATION OF THE DEPARTMENT OF EDUCATION AND CULTURE, TO THE EXISTING OFFICES FOR CULTURAL COMMUNITIES.
465	Tamano	AN ACT PROVIDING THAT MEMBERSHIP IN THE BOARD OF DIRECTORS OF THE GOVERNMENT SERVICE INSURANCE SYSTEM, SOCIAL SECURITY SYSTEM, NATIONAL POWER CORPORATION, PHILIPPINE NATIONAL BANK, DEVELOPMENT BANK OF THE PHILIPPINES, PHILIPPINE COCONUT AUTHORITY, PHILIPPINES CHARITY SWEEPSTAKES, NATIONAL HOUSING AUTHORITY AND THE MOVIE AND TELEVISION BOARD SHALL EACH INCLUDE A QUALIFIED MEMBER TO REPRESENT THE NATIONAL CULTURAL COMMUNITIES.

HOUSE BILLS
(Committee on Cultural Communities)

BILL NUMBER	SPONSOR	TITLE
428	Claver, Andolana, Puzon, Dupaya, Aquino, Lumauig, Dominguez, Dangwa, Garduce, Rodriguez, Bandon	ACT CREATING THE COMMISSION ON ANCESTRAL DOMAIN.
912	Dangwa	AN ACT AMENDING SECTION TWO OF EXECUTIVE ORDER NUMBERED TWO HUNDRED TWENTY, WHICH CREATED THE CORDILLERA ADMINISTRATIVE REGION, EXCLUDING THE PROVINCE OF BENGUET FROM THE COVERAGE THEREOF AND FOR OTHER PURPOSES.
1057	Zubiri, Andolana, Bandon, Lingad, Carlato	AN ACT CREATING A CULTURAL MINORITY ADVISORY COUNCIL TO BE UNDER THE OFFICE OF THE PRESIDENT AND APPROPRIATING FUNDS THEREFOR.
1348	Claver, Aquino, Dangwa, Bernardez, Lumauig, Dominguez	AN ACT TO AMEND AND REPEAL CERTAIN SECTIONS OF EXECUTIVE ORDER 220.

LAW PASSED
(First Session)

Republic Act No. 6658

AN ACT CREATING THE CORDILLERA REGIONAL CONSULTATIVE COMMISSION PRESCRIBING ITS POWERS, FUNCTIONS AND DUTIES, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

Approved, June 10, 1988