

PANLIPI

HORIZONS

A publication of Tanggapang Panligal ng Katutubong Pilipino (PANLIPI)

VOL. I No. 2

January 1989



**COMMISSION ON
ANCESTRAL DOMAIN:
THE LEGISLATIVE AGENDA**



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On Legislative Inaction

The tribal Filipinos century-old quest for justice has yet to see light under a government that takes pride in being a child of a people-powered revolution against injustice.

When the Cory government was swept into power by the EDSA revolution almost three years ago, new found hopes were kindled for an end to the injustice long-inflicted on the country's marginalized tribal Filipinos.

The hope quickly gained strength with the incorporation in the 1986 Constitution of a landmark provision which calls on the State to recognize the rights of indigenous cultural communities to their ancestral domain.

The expressed constitutional mandate fueled a vigorous campaign among tribals and their advocates for the creation of legal mechanism that shall give life to the long-standing demand for recognition of ancestral land rights. The demand was vigorously echoed in various government agencies, the hall of Congress and in Malacañang itself.

The campaign initially yielded positive results as the demand for ancestral land recognition found expression in the drafting of House Bill 428 and Senate Bill 152. Both bills seek to implement the constitutional mandate for the State to recognize the rights of tribal Filipinos to ancestral domain by the creation of a Commission on Ancestral Domain. The proposed body is charged with the historic role of administering justice to the country's long-neglected indigenous cultural communities by identifying, delineating and declaring the boundaries of their ancestral domain and assure their legal protection from encroachment and usurpation.

Yet, despite the vigorous campaign and lobbying outside and inside the halls of Congress, the tribal Filipinos quest for justice remain saddled in the dark tunnel of official inaction and neglect.

House Bill 428, which was forged with the support and at the initiative of tribal groups and advocates, was ambushed before it can be presented for second reading in the Congressional floor. While the bill managed to pass the Committee level and even reached the floor on first reading, it was unceremoniously struck down by the Committee on Government Reorganization as it was about to be presented for second reading.

According to its legal assassins in the lower House, the bill cannot be given life because the government can ill-afford the creation of another bureaucratic organization. The justification smacks of a shameful ignorance of the proposed bill's profound meaning to the plight of the country's five million tribals and their century-old fight for justice.

To the tribal Filipinos, the justification for shelving the bill is completely untenable and unacceptable. The government, in the guise of promoting welfare of tribal Filipinos, has been creating a litany of alleged tribal-oriented service agencies like the CNI, PANAMIN, OMACC and more recently, the ONCC and OSCC. Yet these offices — despite the millions of pesos backrolled to finance their programs — have failed to create any significant change on the plight of the country's five million tribals.

The defect is congenital as it lies deep in the government's failure to come to grips with the all-too important reality that what the tribals need most is not support service mechanisms but the full recognition and protection of the basis of their existence as a distinct community of people. Their ancestral land, in short.

Since land is life to tribal communities, any policy which claims to promote tribal welfare can only proceed from a commitment to declare, uphold and defend vested rights of indigenous cultural communities to their lands they call their ancestral domain. What the tribals need is justice, not token charity in the form of welfare programs.

(Cont. on p. 27)



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EDITORIAL

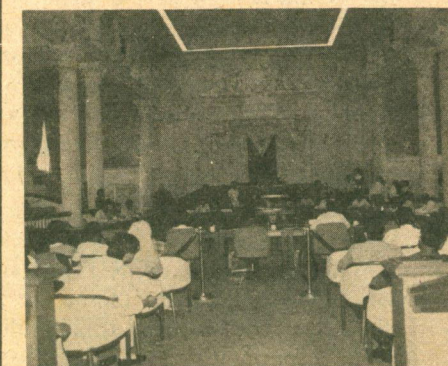
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CONTENTS

- 2 Editorial: On Legislative Inaction
- 4 FORUM: On the Need for a Commission on Ancestral Domain
- 8 Senate Bill No. 909
- 12 Ang Pagkait ng Katarungan sa mga Katutubong Pilipino
— Sen. Joseph E. Estrada
- 15 Modes of Defense of Ancestral Land:
Case Studies from the Field
- 21 The Narmada and Chico: A Comparison
— Atty. Donna Z. Gasgonia
- 23 On Addressing Tribal Issues Retrospect on the
International Festival and Conference on Indigenous and
Traditional Culture
— Bernardo V. Lopez
- 25 A Capsular Overview: On Pending Bills Affecting
Indigenous Cultural Communities



OUR COVER

The Senate in session

PHOTO: JPS

Forum: On the need for a Commission on Ancestral Domain

No other legislative measure in the Senate has gained much acceptance among the tribal communities than the bill seeking the creation of a Commission on Ancestral Domain.

The bill, originally authored by Senator Santanina Rasul, was previously known as Senate Bill 152 otherwise called as "An Act Providing for Safeguards to the Fundamental Right of Ancestral Domain of Different National Cultural Communities and for the Different Modes of Enjoyment thereof, and for other purposes."

Various tribal groups and their advocates have registered their reactions on the bill in numerous position papers as well as in Senate Committee Hearings. While there remain differences of perceptions on some points, almost everyone, however, agree that the bill is a positive legislative measure. The merit of the bill lies in its recognition of the historic rights of indigenous cultural communities to their ancestral domain. To give flesh to this commitment, the bill seeks to create a Commission on Ancestral Domain which shall have exclusive jurisdiction to determine the location, extent and boundaries of the ancestral domain of each cultural community.

Since its drafting, the bill has undergone vital changes to accommodate the reactions from some sectors.

The bill, in what appears as an attempt to sharply capture the present agenda in the tribal struggle, has been renamed as an "Act To Protect the Right of Indigenous Cultural Communities to their Ancestral Domain, Creating a Commission on Ancestral Domain."

The bill is now reportedly being considered for second reading, the most crucial stage in the legislative process. It is significant to note that its version in



the Lower House known as House Bill 428 was unceremoniously struck down when it was also about to be reported out for second reading at the floor.

With this issue, HORIZONS is presenting the pending Senate bill on the Protection of Ancestral Domain and the creation of the Commission on Ancestral Domain, with all the latest amendments, for analysis and examination.

And consistent with its policy of serving as channel for legal advocacy of urgent tribal issues, HORIZONS is likewise dishing out some of the initial reactions on the bill from tribal and non-tribal advocates belonging to the government as well as to the various in-

digenuous cultural communities and non-government organizations (NGOs).

It is hoped that the forum will trigger further awareness and interest on the pending bill which may lead to the further enrichment and refinement of the legislative measure.

But more importantly, HORIZONS seeks, through this forum, to create the necessary ferment conducive to the growth of a vigorous people's legislative agenda in the field of tribal struggle.

As lessons of the past would show, the most effective strategy in scoring legislative concessions is through concerted people's action based on clear legislative agenda.

- The coverage of the ancestral domain must be exempted from the application of the comprehensive agrarian reform law. To hold otherwise, will foment riot in Muslim areas and other cultural communities. This will strengthen the provisions of the local autonomy of the autonomous regions embodied in the new charter.
- The proposed commission should remain independent, separate and distinct because of its recuperative nature, besides to shield it from political pressures, and to perform fully and effectively its duties, powers, and functions.
- A plebiscite is more conducive because the cultural communities are heterogenous whose divergent views and opinions on the matter are indispensable, and this measure to succeed requires full and adequate support, not to mention some problems legal or non-legal that may set in.
- Collective ownership cannot and should not be entertained because it is contrary to our customs and traditions. If 20 years limitation is reducible, then, it is more acceptable. The acquisition of the ancestral domain

must and should respect vested rights. Perhaps, 10 years limitation is more reasonable.

Submitted by:

ADJING J. AMBULLA
Director,
Bu. of Muslim Settlement
Office of Muslim Affairs

- Customary law must be the basis for a proper definition of ancestral domain. The delineation of what is ancestral land for each ICC will follow. That is why the very first task of a Commission on Ancestral Domain must be the codification of pertinent customary law for each and all ICCs and their sub-groups. (Constitution Art. XII, sec. 5)
- Private title to parcels of land within the ancestral domain must be limited to: a) bona fide members of a given ICC, b) family-size acreage in terms of personal cultivation, and c) other prescriptions of pertinent customary law.



- Legislation must ensure that ICCs control their ancestral domain in perpetuity and that land-alienation by the ICCs does not happen without the authorization of the Commission on Ancestral Domain.
- ICCs must be guaranteed their exercise of their right to grant or withhold consent to mining, commercial logging, and the construction of high dams on rivers within their ancestral domain. Same must be true for their right to negotiate the terms, including compensation and royalties, as a basis for their consent.
- In case of actual conflict between the national interests and ICC interests, there must be a Board of Inquiry presided over by a judge of the International Court of Justice to resolve the issue at hand. ICCs are subjects of International Law.

Submitted by:

Rev. Fr. Pat Guyguyon
Cordillera

- On the definition of ancestral domain, it is believed that areas not in actual but traditionally claimed by them should not be included. For to include these areas as part of ancestral domain would pave the way for land conflicts with Christians who have already established their ownership by actual, uninterrupted possession and occupation for more than thirty years or more. It is also believed that timber lands, fishing grounds, water resources and the likes should not be included in the definition of ancestral domain for these supposed to be inalienable and are not subject or private appropriation. The same area must be preserved and its use be regulated for the present as well as the future for the common benefit of all.
- We believe that the survey to be conducted on the ancestral domain should also include an occupancy census and listing of the members of the cultural communities who will be benefitted should these ancestral

domain be given.

- We do not agree that there should be individual or private ownership of separate portions of the ancestral domain by the members of the cultural communities. This would prevent conflicts or disputes on the use, possession and enjoyment of the ancestral domain among the members of cultural communities. Acquisition of individual ownership should be done in accordance with the procedure provided in the public land laws. We do not also endorse collective ownership of the ancestral domain for twenty years.

Submitted by:

JOSEFINA GARCIA SE
Commissioner
COSLAP-DOJ

domain, such as, creeks, forest, durable trees and plants, mountains, graves and other tribal markers.

- b) Uphold the communal system of tilling the land. This means the togetherness in working in certain piece of land, sharing the fruits including animals caught in hunting. The tiller is the owner of the land and those in order to survive.
- Recognize and respect the tribal leaders, council of elders, their territory, people within the territory and their rights and responsibilities;
- Uphold the tribal right to organize, to conduct past trials, judgment and to sentence anybody on any violation within and outside their tribal territory;
- The tribal Filipinos believe that land is a God-given gift to be shared by all members of the tribe. Hence, it is sacred and no individual could privately own it. Each one shares the fruits of the land, ownership being collective and communal. It is not a private nor alienable property. Rather, it is tribal property to be kept, protected, preserved and developed for the generations to come, in the same manner that the ancestors of present day tribal peoples had made it for them. Land, as tribal property, is meant to be handed from one generation to another.
- This tribal concept and practice of land ownership, although still practiced by majority at present, was deprived of legal recognition when

"The tribal Filipinos believe that land is a God-given gift to be shared by all members of the tribe."

- Our discussion zeroed at our genesis which is the LAND — the most sacred gift from 'Magbabaya' (the Almighty God) and the source of our LIFE. It is the venue of looking back to a common history of exploitation and oppression experienced by our people from the Spanish era to the coming of the Americans to the present dispensation.
- The land of the Lumads and its natural wealth within is a gift from God for the livelihood of our people and our prosperity;
- It is the right and privilege of the Lumad to live, to till, to manage, to develop, to dispose their ancestral lands and other natural wealth in accordance with their customary laws;
- It is the right and responsibility of the Lumad to defend it from the intruders who want to appropriate for their own selfish interest, as manifested in the deprivations by foreign business and their local partners, Lumad or non-Lumads;

Therefore, to uplift the economic situation of the Lumad, we want to uphold the honored traditions in managing our territories by the following:

- a) Respect for the coverage and boundary of the ancestral

Submitted by:
LUMAD MINDANAW

- Recognize and respect the tribal people's right to representation from local up to the national level of government so that their voice may properly be heard;
- Recognize and respect the tribal people's right to oppose and reject programs and projects that are harmful and do not fit their needs;
- Extend free education that accords with the customs and traditions, history and needs of the tribal people;
- It is our right to avail ourselves of health services free, such as hospitals, equipped with all necessary facilities.
- Encourage and preserve the tribal songs, dances, dialects, customs and the useful traditions; and
- Respect the tribal religious beliefs together with all the rituals and symbols.

the *Spanish Regalian Doctrine* was introduced, and later reinforced by the *American Torrens Title System*. The legacy of private titling which requires legal papers of land owners or claimants, and the land classification limiting only to private and public domain, constitute the historical beginning of the tribal problems of land ownership. From the perspective of our Spanish-American land laws, the tribal Filipinos are not legal owners of their ancestral domain. In short, they are squatters in their own ancestral domain.

- In order to restore and protect the rights of tribal Filipinos to their ancestral domain as provided for in the 1986 Constitution, we, participants to this convention (Bishops, priests, religious brothers and nuns, church workers and tribal representatives), hereby present our position with regard to several Senate Bills that concern the affairs of our tribal



brethren.

- Senate Bill 152 and House Bill 428 serve as the main bases for the Convention's proposed bill entitled "An Act Creating the Commission on Ancestral Domain" (Title of House Bill 428 retained).

Submitted by:

FR. RAYMUNDO HILOT
National Executive
Secretary
Episcopal Commission
on Tribal Filipinos

- Note should be taken of the fact that the Negritos, the Aetas or Dumagats do not have an indigenous concept of land being individually owned, or of the fact that they do not live a sedentary life but lay claim to some specified tracts of forest lands as their hunting and foraging grounds. Also, among the upland tribes of the North and South, there are still several who cling to the swidden (Kaingin) system of agriculture, where they clear and cultivate portions of hillsides and mountain slopes for one crop-season, then leave the same untended for some three or four years to remain fallow for cultivation later by themselves or by other members of the community.

Given these considerations, how should the words "actual possession

used in defining the term "ancestral domain" in Sec. 2 of S.B. No. 152 be construed: The restriction of ancestral domain to that in actual possession would dispossess the cultural community and rightfully should be included in their ancestral domain. The general rule that possession and cultivation of a portion of a tract of land under a bonafide claim of ownership of all is a constructive possession of all, if the remainder is not in the adverse possession of another (Ramos vs. Director of Lands, 39 Phil. 175) should apply. A pronouncement to this effect should clear up any doubt as to the extent of the ancestral domain.

- For purposes of economy and to avoid duplication of functions, it is herein respectfully suggested that Sec. 3 of the proposed Bill be amended to the effect that, instead of a commission being created, a composite team be formed to be composed of respective Offices from the following department/agencies: Natural Resources, Justice, Agriculture, Local Government and the respective Offices for National Cultural Communities (Office for Muslim Affairs, Office for Northern Cultural Communities and Office for Southern Cultural Communities) with a provision for additional honorarium. These offices can readily avail of their existing personnel as

- At the moment, there is no clear picture of the extent of land applied for by the members of the Northern Cultural Communities. For one thing, the natives generally do not see any need to apply for title, grants or patents over lands which to them were theirs and that of their ancestors since time immemorial. For another, the process outlined in P.D. No. 410 for acquisition of title is cumbersome and prohibitive to the native inhabitants. Besides, as already mentioned, the Cordilleras is a virtual forest or watershed reservation, and not subject to disposition, until and unless the Bureau of Forest Development reclassify the lands therein and declare portions thereof as alienable and disposable. If ever there is such re-classification and declaration of alienability, the same is unknown to the inhabitants.

Submitted by:

ATTY. RONALD M. COSALAN
Executive Director
Office of Northern
Cultural Communities

- To attain consistent national laws and policies viz-a-viz indigenous land laws, analysis of the basic concepts underlying the national system of land ownership and government policies on ancestral lands is imperative. The indigenous system of land ownership, the modes of land use and classification, forms of land acquisition and means of settling disputes on land should be the national concern.
- Recovery of ancestral domain should be the concern of the national leadership in order to give meaning to the resistance offered by our ancestors against the Spanish colonizers.

Submitted by:

RODOLFO D. RIMANDO
Regional Director
Office of Southern
Cultural Communities
Regional Office No. 4
(OSCC)

Republic of the Philippines
Congress of the Philippines

SENATE
Manila
Second Regular Session
Committee Report No. 467

MR. PRESIDENT:

The Committee on Cultural Communities to which was referred Senate Bill No. 152, entitled:

"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"

has considered the same and has the honor to report it back to the Senate with the recommendation that the substitute bill, S. No. 909, entitled:

"AN ACT TO PROTECT THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES TO THEIR ANCESTRAL DOMAIN CREATING A COMMISSION ON ANCESTRAL DOMAIN APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES"

be approved.

SENATE S. NO. 909

Introduced by Senators Rasul, Estrada and Romulo

AN ACT TO PROTECT THE RIGHT OF INDIGENOUS CULTURAL COMMUNITIES TO THEIR ANCESTRAL DOMAIN, CREATING A COMMISSION ON ANCESTRAL DOMAIN, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives in Congress assembled:

Section 1. **Title.** — This Act shall be known as the "Ancestral Domain Act of 1988."

Section 2. **Declaration of Policy.** — It shall be the policy of the State:

a) To recognize and protect the fundamental right of indigenous cultural communities to their ancestral domain to ensure their economic, social, and cultural well-being;

b) To affirm the right of indigenous cultural communities to participate in the delineation of their ancestral domains as well as in the substantive formulation of government policies which affect them.

Section 3. **Definitions.** — As used in this Act:

a) "Indigenous Cultural Community" refers to a group of people sharing common bonds of language, customs, tradition, and other distinctive cultural traits, and who have, since time immemorial, occupied, possessed, and utilized a territory.

b) The "Ancestral Domain" of an indigenous cultural community embraces all lands and natural resources which are in the actual and/or traditional possession of an indigenous cultural community and its members, including all adjacent areas necessary to ensure their economic, social and cultural welfare.

c) Ancestral domain in the "Traditional Possession" of indigenous cultural communities refers to areas habitually referred to by the indigenous cultural communities as part of their ancestral domain in accordance with their customary laws, including areas previously occupied and utilized but which may

no longer be in their possession due to reasons beyond their control, such as war, forced displacement, usurpation and the like.

Section 4. **Commission on Ancestral Domain.** — A Commission on Ancestral Domain, hereinafter referred to as the "Commission", is hereby created under the Office of the President. It shall be vested with the primary authority to enforce and implement the intents and purposes of this Act.

Section 5. **Powers and Functions of the Commission.** — The Commission shall have the following powers and functions:

a) Protect ancestral domain rights, whether delineated or not;

b) Investigate and determine the location and metes and bounds of the ancestral domain of every indigenous cultural community;

c) Certify the extent of the ancestral domains through the issuance of certificates of recognition;

d) Notify all indigenous communities of the Commission's power and duty to delineate ancestral domain boundaries;

e) Exercise exclusive jurisdiction over all claims and disputes which are not intracommunal and involve ancestral domain rights;

f) Establish procedures, and promulgate rules and regulations pursuant to and consistent with the provisions of this Act, for the exploration, development, extraction, disposition or use of natural resources within an ancestral domain;

g) Temporarily requisition survey teams from the Department of Environment and Natural Resources, in order to delineate the exact technical boundaries of ancestral domains;

h) Request for and engage the services and support of technical experts from other agencies and/or employ private technical experts as may be required in the pursuit of its objectives;

i) Advise the President and Congress on the formulation of policies relative to ancestral domain rights;

j) Appoint its officers and employees in accordance with civil service law and procedures;

k) Promulgate the necessary rules and regulations to implement the provisions of this Act;

l) Perform such other functions as may be necessary to achieve the purposes and fulfill the policy objectives of this Act.

Section 6. **Structure.** — The Commission shall consist of the Office of the Commissioner, the Offices of the Associate Commissioners, the Staff Officers, and the Field Offices.

Section 7. **Commissioner of Ancestral Domain.** — The primary authority and responsibility for the accomplishment of the Commission's objectives and the discharge of its powers and functions shall be vested in the Commissioner of Ancestral Domain, hereinafter referred to as the Commissioner.

The Commissioner shall be a member of an indigenous cultural community and shall be known for his work in advancing the interests of indigenous cultural communities. He shall be appointed by the President from a list of nominees submitted by indigenous cultural communities. Such list shall be published in two newspapers of general circulation, indicating the names of the nominating communities.

The Commissioner shall serve for a term of five years without reappointment, and shall receive an annual compensation equal to that of a member of a Constitutional Commission.

Section 8. **Powers and Functions of the Commissioner.** — The Commissioner shall exercise the following powers and functions:

a) Take steps to ensure that ancestral domain rights are protected pursuant to the constitutional provisions on due process and just compensation;

b) Advise the President, the Cabinet, and the Congress on the promulgation of laws and other issuances relative to the protection of ancestral domain rights;

c) Establish policies and standards for the effective operation of the Commission;

d) Exercise supervision over all officers, functions and activities of the Commission;

e) Delegate authority to perform administrative functions to subordinate officials of the Commission; and

f) Perform such other functions as may be provided by law.

Section 9. **Associate Commissioners.** — The Commissioner shall be assisted by four (4) Associate Commissioners, who shall be in charge of the Commission's operations in one of the following four regions:

a) Cordillera

b) Muslim Mindanao

c) Lumad Mindanao; and

d) the rest of Luzon and Visayas, including Mindoro and Palawan

An Associate Commissioner must be a respected member of his cultural community and shall hold office in his respective region of responsibility. He shall be appointed by the President from a list of nominees submitted by the indigenous cultural communities of the region which he shall represent.

The Associate Commissioner shall serve for a term of five years without reappointment. He shall receive an annual compensation equal to that of a Bureau Director of a department. His salary shall not be decreased during his term of office.

Section 10. **Powers and Functions of Associate Commissioners.** — The Associate Commissioners shall have the following powers and functions:

a) Take steps to ensure that ancestral domain rights are protected pursuant to constitutional provisions on due process and just compensation;

b) Advise the Commissioner on the rules and regulations, and other issuances to be promulgated by the Commission;

c) Exercise supervision over the field officers and operating units within his region of responsibility;

d) Promulgate rules and regulations which shall promote efficient operations under his region of responsibility;

e) Prepare a comprehensive inventory of each and every ancestral domain in his region of responsibility, including a census of all those residing in each and every ancestral domain;

f) Formulate short-term and long-term plans for the recognition and delineation of all ancestral domains in his region of responsibility;

g) Report periodically to the Commissioner the developments, progress and accomplishments in his region of responsibility.

h) Perform such other functions as may be designated by the Commissioner.

Section 11. **Staff Offices.** — The Staff Offices of the Commission shall be as follows:

a) Administrative and Personnel Office;

b) Legal Affairs Office; and

c) Domain Delineation and Certification Office.

Section 12. **Administrative and Personnel Office.** — The Administration and Personnel Office shall be responsible for the recruitment of qualified personnel. It shall also provide the Commission with economical, efficient and effective services relating to finance, records, equipment, security, supplies and the like.

Section 13. **Legal Affairs Office.** — The Legal Affairs Office shall advise the Commission on all legal matters. It shall initiate legal action against any individual, corporation, or government entity believed to have violated ancestral domain rights or any provisions of this Act.

Section 14. **Domain Delineation and Certification Office.** — The Domain Delineation and Certification Office shall be responsible for surveying and mapping the exact perimeter of each and every ancestral domain. It shall conduct a census of the populations of the cultural communications and other inhabitants of ancestral domains. It shall be responsible for issuing Certificates of Recognition to qualified cultural communities and their official representatives, over areas finally determined by the Commission to be the ancestral domain of a particular cultural community. The office shall likewise compile records of the location and size of each ancestral domain and the number of inhabitants therein.

Section 15. **Field Offices.** — Provincial Field Offices shall be set up in every province where undelineated ancestral domains exist. It shall be headed by a Provincial Field Officer who shall be under the direct supervision of the Associate Commissioner in charge of that region.

Section 16. **Duties and Responsibilities of Provincial Field Officers.** — The Provincial Field Officers shall be responsible for protecting ancestral domain rights, whether delineated or not. He shall gather data and other evidence and information pertaining to ancestral domain delineation. It shall be his duty to disseminate information about ancestral domain rights to indigenous communities. He shall notify the cultural community concerned of the Commission's intention to delineate and document ancestral domain rights. It shall also be his duty to assist and coordinate with staff offices and field offices in the task of delineating ancestral domains. He shall verify, in coordination with members of the cultural community, the accuracy of the survey plan prepared by the Domain Delineation and Certification Office.

Section 17. **Delineation Process.** — The procedure for delineation shall be in accordance with the following:

a) In the determination of the extent of the territorial boundaries of an ancestral domain, the customary law and indigenous processes of the concerned cultural community or communities shall be applied, whenever feasible.

b) Evidence to be considered in determining the existence and scope of a specific ancestral domain shall include, but shall not be limited to, the following:

- 1). Burial grounds;
- 2). Testimony of elder occupants;
- 3). Customary laws governing property rights and relations, including local land use patterns;
- 4). Rice terraces and other signs of long-established permanent improvements and features such as boulders, hills, trees, rivers, streams, and other physical markers or signs establishing the traditional boundaries known to the community.
- 5). Old clearings, grazing grounds, secondary forest and other signs of long term cultivation and usage;
- 6). Places of worship and other sacred areas; and
- 7). Any other reliable evidence of long term occupancy and utilization.

c) The process of delineating a specific perimeter may be initiated motu proprio by the Commission or by a petition for delineation filed by a majority of the members of an indigenous cultural community, its customary leader/s, or its duly authorized representatives for and in behalf of the community.

d) The official delineation of an ancestral domain-perimeter, including the census of all community members therein, shall be based on the field investigations and shall involve genuine participation by the members of the community concerned. The delineation shall as far as practicable be made through indigenous processes.

e) On the basis of the findings of fact made in the above-mentioned investigation, the Commission shall prepare a survey plan, complete with technical description and a description of the natural features and landmarks embraced therein.

f) This survey plan, together with the census and the investigation report, shall be then submitted to the Associate Commissioner for the region concerned.

g) Upon his receipt of the survey plan and the accompanying documents, the Associate Commissioner shall order that copies of the documents, including a translation into the native language of the community, be delivered to the community affected. A copy of the plan and the other documents shall also be ordered to be posted at a prominent place in the municipal and provincial buildings of the towns and provinces where the ancestral domain is believed to be located.

h) Thereafter, a consultation to be attended by an authorized official of the Commission shall take place within the perimeter of the ancestral domain. This meeting shall afford the members of the cultural community the opportunity to raise objections or otherwise react to the delineation and census. Other communities and parties affected by such delineation may likewise make known their objections to the Commission.

i) In the event the documents are acceptable to the community and such other communities that may be affected by the delineation, the Commission shall officially certify the area covered by the survey plan as the ancestral domain of the cultural community concerned. He shall subsequently notify the Secretaries of Agrarian Reform, of Environment and Natural Resources, of Local Governments, of Justice and all other government agencies claiming jurisdiction over the area.

Section 18. **Adjudication.** — In case of a conflict of interests, where there are adverse claims within the ancestral domain as delineated by the survey plan, and which cannot be

resolved during the consultation meeting mentioned in paragraph (h) of the preceding section, the Commission shall hear and decide, after notice to the proper parties, the disputes arising from the delineation of such ancestral domain. In case of a dispute between and/or among indigenous cultural communities regarding the territorial boundaries of their ancestral domains, customary processes shall be followed. The Commission shall promulgate the necessary rules and regulations to carry out its adjudicatory functions.

Section 19. **Judicial Review.** — Any decision, order, award or ruling of the Commission on any ancestral domain dispute or on any matter pertaining to the application, implementation, enforcement, or interpretation of this Act, may be brought to the Court of Appeals by petition for review on certiorari within fifteen (15) days from receipt of a copy thereof.

Section 20. **Certificates of Recognition.** — Cultural communities whose ancestral domains have been officially delineated and determined by the Commission shall be issued certificates of recognition in the name of the community concerned, containing a list of all those identified in the census: *Provided*, That such certificates do not grant the community any better title than they actually possess, but merely recognize and confirm existing rights.

Section 21. **Communal Rights.** — Areas within the ancestral domains, whether delineated or not, shall be presumed to be communally held; *Provided*, That communal rights under this Act shall not be construed as co-ownership as provided in RA 386, otherwise known as the New Civil Code.

Section 22. **Exemption from Taxes.** — All lands certified by the Commission as ancestral domain shall be exempted from real property taxes, special levies, and other forms of exaction, *until the domain is registered under the Torrens System: Provided*, That only lands actually used for agricultural and residential purposes within an ancestral domain shall be assessed.

Section 23. **Utilization of Natural Resources within an Ancestral Domain.** — Indigenous cultural communities shall have priority in the exploitation and/or utilization of natural resources within their ancestral domains. No utilization of lands and natural resources, nor transfer of rights, shall be made without the consent of the cultural community. Such consent must be duly certified by the Office of Muslim Affairs (OMA), Office for Northern Cultural Communities (ONCC), or Office for Southern Cultural Communities (OSCC), as having been freely and knowingly given by the cultural community, in accordance with their customary laws and/or tradition.

In case mineral, timber, or other resources suitable for large-scale exploitation and development are found within an ancestral domain, and a concession thereat is applied for with the proper national agency, consultation shall be had with the community concerned, and only in case of a favorable decision of the community as expressed through its customary processes, may the application for concession be considered and given due course.

Should the cultural community consent to the utilization of the ancestral domain, such utilization shall be limited to Filipino citizens or associations/corporations wholly owned by

Filipino citizens: *Provided*, that, in case of utilization, the cultural community shall be guaranteed and shall receive an equitable share of the revenues generated thereby.

Section 24. **Prior Certification for Licenses, Concessions, et. al.** — All government agencies shall henceforth be strictly enjoined from issuing, renewing or granting any concession, license, lease, stewardship, or from entering into any agreement under section 23 hereof, without first securing a clearance from the Commission that the area affected does not overlap or encroach upon an ancestral domain. Such clearance shall be issued only after a field-based investigation of the area has been conducted by the Commission.

Section 25. **Amendment of Existing Concession.** — If all or any portion of an existing concession, license, lease, stewardship, or other agreement entered into by the government, is reported to the Commission as overlapping with or otherwise encompassing any portion of an officially delineated ancestral domain, the Commission shall, by way of a field-based investigation determine the veracity of such report. If it is determined that all or any portion of the area affected encompasses or overlaps with any portion of an ancestral domain, the agreement/contract shall be deemed amended to exclude the areas comprising the ancestral domain. The Commission shall refer the matter to the proper authorities for investigation as to whether any crime was committed in the issuance of the permit or license or in entering into the agreement.

Section 26. **Review of Existing Titles.** — The Commission shall promulgate and implement procedures for the cancellation of officially documented titles which were acquired through the illegal usurpation of ancestral-domain rights. Such procedures shall ensure that all concerned parties shall be accorded due process and that bona fide third party purchasers of lands within ancestral domains, or any portion thereof, shall be given just compensation.

Section 28. **Temporary Requisition Powers.** — Prior to the establishment of an institutional surveying capacity whereby it can effectively fulfill its mandate, but in no case beyond five years after its creation, the Commission is authorized to requisition survey teams of the Department of Environment and Natural Resources (DENR), whenever they are needed to delineate ancestral domain-perimeters. The DENR Secretary shall fully accommodate any request within two months of its issuance.

Section 28. **Penal Clause.** — Any person, association found guilty of violating Section 23 and Section 24 of this Act shall be punished by imprisonment of not less than six years but not more than twelve years and/or a fine of not less than Fifty Thousand Pesos (P50,000) but not more than One Hundred Thousand Pesos (P100,000); *Provided*, That if the offender is a juridical person, the penalty of imprisonment shall be imposed on its president and the members of its Board of Directors who approved the acts constituting the violation, shall be held liable. *Provided, further*, That if the offender is a public official, the penalty shall include permanent disqualification to hold public office.

Section 29. **Transfer of Functions.** — The functions of the

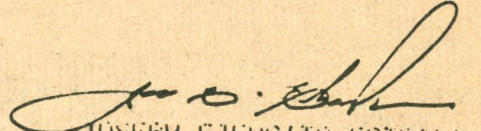
DENR, the OMA, the ONCC and the OSCC relating to ancestral domains are hereby transferred to the Commission on Ancestral Domains.

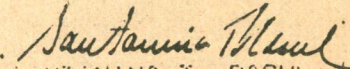
Section 30. **Funds Appropriated.** — The sum of three hundred million pesos per year for ten years, starting with fiscal year 1988 is hereby authorized to be appropriated out of the sums in the National Treasury not otherwise appropriated, for the purpose of implementing the provisions of this Act to meet the expenses of the Commission.


Section 31. **Separability Clause.** — If any part, section or provision of this Act shall be held invalid or unconstitutional, no other part, section or provision thereof shall be affected thereby.

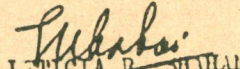
Section 32. **Repealing Clause.** — Presidential Decree No. 410 and all other statutes, decrees, or orders inconsistent with this Act are repealed or modified accordingly.

Approved.

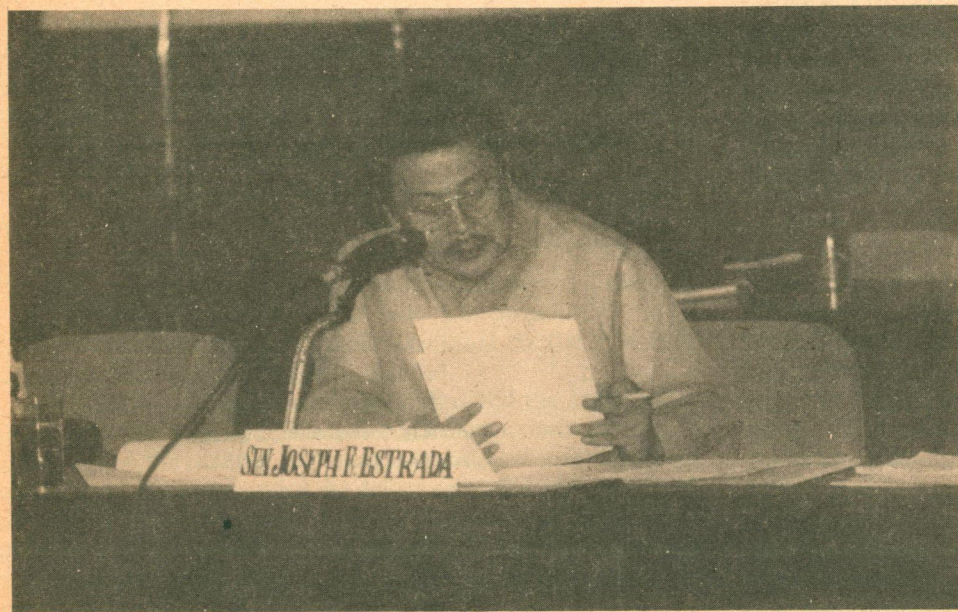

JOSEPH EJERCITO ESTRADA
Chairman
Committee on Cultural Communities


SANTANINA T. RASUL


RAMON A. DELA CRUZ


LETICIA R. SULANI

Ang Pagkakait ng Katarungan sa Mga Katutubong Pilipino



Ang aking panunungkulan bilang taga-Pangulo ng Komite ng Cultural Communities ay nagbukas ng aking mga mata sa isang laganap at sinasadyang pagkakait ng katarungan sa mga katutubong Pilipino. At ang kawalan ng katarungan na iyan an mababakas sa mahabang kasaysayan ng kanilang pakikibaka sa kanilang walang bahid na karapatan sa lupaing ninuno.

Ang lupa sa isang katutubong Pilipino ang ugat ng kanyang mga dakilang layunin. Ito ay nagtataglay ng mga kahulugan na lingid sa pang-unawa natin na mga anak ng pagbabago at Kristiyanismo. Ang lupa sa isang katutubo ay hindi lamang dakila, ito ay bukal ng kanyang buhay at ng kanyang mga

anak. Ipagkait mo sa kanya ang lupa at ipinagkait mo sa kanya ang karapatang mabuhay. At sa ngayon, walang Pilipino ang may labis na pagmamahal sa lupa ng Inang Bayan maliban sa kanyang mga tunay na anak, ang ugat ng ating lahi, ang katutubo Pilipino.

Subalit kahit sa kabila ng kanilang pagmamalasakit sa bayan ay pasan pa rin nila ngayon ang mahabang dalit ng panggigipit at kawalan ng karapatan sa lupaing ninuno.

Sa aking pakikipag-usap sa ating mga katutubong pamayanan, naging malinaw sa akin na hindi lamang kasaysayan ang naging malupit sa kanilang kapakanan. Sa ating mga batas at pamalakad ng pamahalaan ay nakaukit

ang kawalan ng kalinga at hindi makataong pagtrato sa mga katutubo.

Nang sakupin tayo ng España, iginiit ng mga Kastila ang kanilang karapatan upang magmay-ari ng buong kapuluan sa ilalim ng Regalya ng España, o Crown of Spain. Ang paniniwalang ito ay kinilalang "Regalian Doctrine," isang doktrinang namayani sa loob ng tatlong daang taon, at lumagas sa di mabilang na mga karapatan ng ating mga katutubo sa kanilang mga lupain. Sa pamamagitan ng pinagsanib na dahas at maka-dayuhang pamamalakad, hinati ng dayuhan ang buong kapuluan sa ilan lamang mga opisyal at prayle.

Sa paglikas ng mga Kastila nuong 1898, ay hindi naman nawala ang Regalian Doctrine. Sa pagdating ng mga Kano, kanilang inangkin ang sistemang pagmamay-ari ng Regalya. At sa pamamagitan ng Philippine Commission Act Bilang 718, na ipinatupad nuong 1903, ay muling itinapal ng bagong dayuhan sa mga mata ng bawat Pilipino ang pagmamay-ari ng estado sa lupa ng Pilipinas at kabilang dito ang mga lupaing ninuno.

Upang tuluyang pakinabangan ng dayuhang Kano ang mga likas na yaman ng ating bayan, agad nilang binuo ang mga Bureau of Lands, Bureau of Forestry at Bureau of Mines. At ito naman ay mabilis na sinundan ng Public

Land Act na batay rin sa paniniwalang Regalian Doctrine. — At muli na namang hinati ng mga dayuhan ang buong bansa sa iilan sa pamamagitan ng "Torrens Titling System." Isang sistemang nagbigay ng ganap na kapangyarihan sa U.S. colonial government ng disposisyon ng mga lupain sa buong Pilipinas. Mula nuong 1902, hanggang ngayon, kulang sa 'diyos porsiyento' lamang ng buong kapuluan ang nakarehistro sa Torrens System at ang mga nalalabi namang lupa ay pawang nasa kategoriyang "imperfect titles," "un-issued patents," at ilan pang mga abstraktong kategoriyang lalong nagpapagulo at nagpapawalang bisa sa karapatan ng mga katutubong pamayanan sa lupaing ninuno.

Tunay nga yatang ganito na lamang ang kapalaran ng ating mga katutubong pamayanan. Pangkaraniwan na marahil sa mata natin na mga makabagong Pilipino na makita silang pinagtatabuyan, binabastos at nilalait ng lipunan. Ang pagtratong ito ay mababakas din sa Revised Forestry Code na gumagamit ng tinatawag na "Eighteen Per Cent Slope Rule" upang kilalanin kung ang isang lupa ay agricultural at dapat ipamahagi o pag-aari ng estado. — Ang Eighteen Per Cent Slope Rule ay isang mababaw na pagsasangkalan ng batas upang palawakin ang kapangyarihan ng Executive Branch sa mga likas na yaman ng Pilipinas.

Nandiyan din ang 1974 Ancestral Lands Decree na nagpapawalang bisa sa karapatan ng mga katutubo sa kanilang lupaing ninuno kung ito'y hindi marehistro sa taning na panahon.

Subalit hindi lamang dito nagwakas ang mahabang litanya ng paghihirap ng mga katutubo. May mga probisyon din ang ating 1987 Constitution na nagkait ng karapatan sa mga katutubong pamayanan. Nakasaad sa mga probisyon ng artikulo sa ekonomiya at pambansang patrimoniya ang karapatan ng estado na magmay-ari ng lupa ng buong Pilipinas. Tulad ng Public Land Act, inangkin ng bagong Saligang Batas ang paniniwalang Regalian Doctrine. Maki-kita rin natin sa artikulong ito ang paguri ng lupa bilang "agricultural, forest lands o mineral lands," na pawang mga balakid na ginamit ng Estados Unidos upang pagsamantalahan ang likas na yaman ng Pilipinas.

Ang Section 3 ng Article XII ng 1987 Constitution ay pawang hinango lamang sa 1935 Constitution nang walang pasubali sa tunay na katayuan ng ating mga likas na yaman. Ginagamit ng probisyong ito ang maling paniniwala na mayroon pang napakalawak na lupain at mga likas na yaman para sa dayuhan dito sa Pilipinas. Maliwanag din na hindi na maiiwasan ang tuluyang pagpapataboy sa mga katutubo sa kanilang mga lupain na nahagip ng "public domain."

Kung babalikan natin ang katwiran ng Regalian Doctrine, na pawang bataan ng umiiral na sistemang pagmamay-ari ng lupa sa ilang mga probisyon ng Saligang Batas, Public Land Act at Revised Forestry Code, ating matutung-hayan na ito ay nabuo sa maling paniniwala na ang ating bayan bago dumating ang mga Kastila ay mistulang dahop sa

pagkabansa, walang kultura at walang sistema ng karapatan sa pagmamay-ari ng lupa.

At habang tinatangkilik natin ang baluktot na katwiran ng Regalian Doctrine sa ating mga batas, kasabay nito ay atin namang ibinabasura ang kabayanihan ng isang Lapu-Lapu, ang kagitingan ni Bonifacio, ang rebolusyon ng bayan laban sa pananakop ng Amerikano at lahat ng kabayanihan. Sapagkat kailanman ay hindi tayo naging matatag sa tunay na mithiin ng ating lahi.

Panahon na upang itanong natin sa ating sarili kung karapat-dapat nating angkinin ang kanilang kabayanihan. Tayo ba ay naging tapat sa mga simula-in ng ating mga ninuno? — Nasaan ang katapatang iyan kung sa sarili nating batas ay walang puwang ang karapatan ng mga katutubong pamayanan sa lupaing ninuno? Ito ba ang ipinaglaban ng ating mga bayani?

Mga kababayan, marahil ay hindi ko na kailangan pang ulitin ang ating kasaysayan upang maging malinaw sa lahat na tayo ay pinagsasamantalahan ng mga dayuhan. Ang sugat na iniwan ng mga dayuhan ay hindi lamang mababakas sa base militar, sa ating mga kalibong gubat at minahan kung hindi pati na rin sa matandang usapin ukol sa lupa. Isang mahalagang usapin na nagsisilbing ugat ng lahat ng kaguluhan ng ating bayan. Sa pamamagitan ng lupa, nabuwag ng mga dayuhan ang ating pagkakaisa bilang isang bansa. Kanilang ginamit ang lupa at binigyan ng kapangyarihan ang iilan upang pagsamantalahan ang sariling bayan at magsilbi sa interes ng mga dayuhan.

Sa gitna ng kaguluhang ito, anim (6) na milyong katutubong Pilipino ang nawalan ng karapatan sa lupaing ninuno. Umaabot naman sa kabuuang labimpitong (17) milyong Pilipino ang naging 'squatter' sa sariling bayan. Sila ang kinikilalang mga "upland dwellers" na nakatira sa 'public domain.' Sila ang ikatlong bahagi ng kabuuang populasyon ng Pilipinas na biktima ng isang mapaniil na sistema na bumawi sa kanilang karapatang mabuhay sa sariling bayan. Isang kaguluhang lubhang malupit pa sa base militar sapagkat dito sa Pilipinas ang dayuhan ay may lupa at ang Pilipino'y wala.

"... ngayon, walang Pilipino ang may labis na pagmamahal sa lupa ng Inang Bayan maliban sa kanyang mga tunay na anak, ang ugat ng ating lahi, ang katutubong Pilipino."



Inyong magugunita na inihabilin ko sa pag-aaral ng Senado ang tatlong (3) panukalang batas na nagpapalawak ng karapatan ng katutubong Pilipino upang sila ay maging bahagi ng pagbabago at kalayaan ng ating bayan. Nais ko ring ipaabot sa lahat na batay sa kasalukuyang sistema ng pamamahala sa lupa, ang Bureau of Forest Development, ang Bureau of Lands, ang Department of Agrarian Reform, at ilan pang

Ang bilang ng mga Pilipinong appektado ng suliranin sa lupaing ninuno ay indikasyon lamang ng ating mababaw na pang-unawa sa tunay na aral ng ating kasaysayan. Isang kasaysayan na puno ng kabayanihan para sa bayan at paglaban sa dayuhan. Dahil dito, kailanman, ang diwang maglingkod sa bayan ay nakabatay lamang sa pagsulong ng mga diwang makabayan at hindi makadayuhan.

ahensiya ng pamahalaan, ay mayroong tinatawag na "overlapping jurisdictional claims" sa public domain na umaabot ng 1.27 million hectares. Sitenta (70) porsiyento naman ng lahat ng lupang pribado sa buong kapuluan ay hindi nakarehistro sa Torrens System. Maliban na lamang sa ilang nagkaroon ng titulo na magmay-ari ng lupa, ang buong sistema ng pamamahala sa lupa ay nababalot ng kamangmangan at kadiliman ng mga pansariling interes ng iilan.

Ako po ay hindi abugado upang lubusang unawain ang puno't dulo ng mga batas. Subalit kapag kapakanan ng maliit ang napabayaang, ang karapatan ng mga katutubong pamayanan ay inapakan, at ang batas at katarungan ay binali upang maglingkod sa interes ng iilan, — walang pamahalaan na katumbas pa lahat ng kagalingan sa daigdig ang makakapigil sa damdaming katutubo at anakpawis na matagal nang uhaw sa katarungan.

Huwag po sana nating pabayaang ang kapakanan ng mga maliit at mahihirap sa ating bayan.

"Sila ang ikatlong bahagi ng kabuuang populasyon ng Pilipinas na biktima ng isang mapaniil na sistema na bumawi sa kanilang karapatang mabuhay sa sariling bayan."

MODES OF DEFENSE OF ANCESTRAL LAND:

CASE STUDIES FROM THE FIELD

As a service-oriented non-governmental organization, PANLIPI is founded on the need for a legal assistance center for indigenous tribal Filipinos. Since embarking on its legal assistance program, PANLIPI through its lawyers and paralegal volunteers, has managed to perform its share in rendering assistance to tribal communities, particularly in defending cases of encroachment and dispossession of ancestral land.

Through this section, HORIZONS aims to share lessons gathered from actual cases involving the defense of tribal communities against encroachment and harassment by powerful forces, most of them representing big commercial interests.

Case Study 1: The NAGTAGBO Petition

Background:

The remaining 35 families of Tagbanua tribe, an indigenous Filipino cultural community of barangay (local village-political unit) Domangueña in Narra, Palawan has organized themselves and formed the NAGTAGBO. It stands for "*Nag-uyo uyonon i Tagbanua kat Boong*" — unity of Tagbanuas in Boong. Their main objective is to secure the Tagbanuas' ancestral domain in this southwestern island of the Philippines.

According to their ancestors, Tagbanuas roamed all areas of Aborlan near the boundary of what is now called Brooke's Point. They lived in scattered settlements practicing farming suited for flatlands.

In the 1950's, the Commission on National Integration of the Philippine government approached them. They were promised better living and government services if they regrouped in an identified resettlement area, which will be called a Tagbanua Reservation. Heeding this call, more than 100 Tagbanua families, headed by Luis Danges, together with nomadic tribes of Ati (another indigenous Filipino cultural community) who came from Antique, island of Panay, settled in the area between the Malatgao and Manaili rivers, in the municipality of Aborlan.

After about ten years, a group of christian migrant farmers also from Panay, approached Luis Danges and sought his permission to clear and develop some portions of the area, not yet occupied by the tribes. Seeing that the land and resources were abundant, he agreed on the condition that the migrant farmers will not claim the land as their own. Since then, the tribal people and the christians peacefully coexisted in the area now called Boong.

The problem:

Trouble began when a provincial fiscal (government prosecutor) and a

former provincial military commander fenced off a portion of the Tagbanua occupied areas sometime in July 1971. The land was given to them by the lowlander by the name of Felimon Grande. Records show that Grande was issued a permit by the government to cut and harvest almaciga trees in the area.

The basis for the government permit is the feudal theory of Regalian Doctrine — that all lands and natural resources belong to the State, unless it has previously granted the same to private entities. Thus, not only did the government fail to make good its promise of declaring a Tagbanua reservation, but it unjustly and maliciously awarded the area to a non-occupant to the grave prejudice of the tribal peoples.

The fenced-off area included occupations and improvements of 20 Tagbanua families and 40 Ati families, out of 72 Tagbanua families and 50 Ati families then existing. The provincial fiscal proceeded to parcel out lots to detainees under his custody. Taking advantage of the meekness of the tribal peoples, the former migrant christian settlers broke off their agreement with Luis Danges and proclaimed their occupations as their own, in repudiation of the tribal people's vested rights.

Luis Danges died, still pursuing the tribal people's right to their ancestral lands. Panilla Panias replaced him and continued the struggle; a very able Tagbanua leader until he too, passed away. Eduardo Bungcas replaced him and remains their Panglima (leader) to this date.

Sometime in the early 1980's a census conducted by the Bureau of Forest Development (the government agency with jurisdiction over the area) confirmed the continuous occupation of 40 Tagbanua families of about 25 hectares of land. The area is now officially classified as within the forest zone, presently within the 2,688 hectares reforestation project of the bureau.

Through the years, the lack of any official declaration of a Tagbanua reservation proved detrimental to the tribal

people. The Tagbanuas were systematically divested of their lands by the christians. The introduction of cash economy was disastrous for the Tagbanuas. They incurred debts, the payment of which necessitated abandonment of their ancestral lands in favor of the christian creditors, at grossly usurious rates. The christians later demanded for "land collaterals" before any loan is given. Many Tagbanuas became mere tenants of the christians. Some became virtually slaves providing labor in payment of debts, the computation of which they never understand.

Today, there are only 35 Tagbanua families in Boong. Of the 35, only 3 families have preserved their ancestral lands. Migration and encroachment continue. Because the Tagbanua culture is closely associated with their ancestral lands, the unabated loss of land has

earned for them the title "the vanishing Tagbanuas of Palawan".

Remedial Actions:

Yet through the hardships and frustrations, the Tagbanuas did not abandon their struggle for their ancestral domain. On 27 June 1987, the NAGTAGBO leaders, headed by Eduardo Bungcas, retained the services of PANLIPI. They sought legal assistance to assert their claim over their occupied areas and the area between the Malatgao and Tagbanato rivers. The latter is thickly forested and had been utilized by them and their ancestors as far back as their memories recall. It is the main source of rattan, a vine which they gather to sell.

The Tagbanuas however, emphasized that the government must recognize their claims. PANLIPI presented possible government programs and the negative implications of the Regalian Doctrine, which is adhered to up to the present time by the Philippine government.

The NAGTAGBO conducted lengthy discussions and decided to avail of the Integrated Social Forestry Program (ISF) of the Department of Environment and Natural Resources — Forest Management Bureau (DENR-FMB, formerly Bureau of Forest Development). The NAGTAGBO decided that they will enter into a community forest stewardship contract under the ISF if they will not be considered to have waived their ancestral land rights inside and outside the proposed area. The DENR-FMB local office agreed.

A new problem cropped up. The forested area between the Malatgao and Tagbanato rivers has been identified as a watershed, one of the main water sources of the Manaili river. The Community Environment and Natural Resources Officer (CENRO) could not legally award the area to any private entity, such as the NAGTAGBO. The CENRO offered another area near the Malatgao river which was still uninhabited.

The NAGTAGBO went into another series of consultations. A new proposal was submitted to the CENRO. The Tag-

banuas will accept the new era for their settlement and agro-forestry activities but they, through the NAGTAGBO, should be officially recognized by the CENRO as the protectors of the forested area between the Malatgao and Tagbanato rivers; said area being part of their ancestral domains.

Realizing that without forest protection efforts, the area could easily be invaded by migrants and the watershed destroyed, the CENRO agreed. Necessary documents were prepared. Upon favorable indorsement of the CENRO in October 1988, the DENR Regional Executive Director for Region 4, Atty. Wilfrido Pollisco, under which Palawan is included, ordered the immediate survey of the territorial boundaries of the stewardship area.

In November 1988, the survey was completed and the Tagbanuas built their new homes within the stewardship area. Meanwhile, deputiation of NAGTAGBO leaders as forest protection officers of the watershed is under way.

Concluding remarks:

With the valid claim of the indigenous

people of their ancestral domain and their rejection of the Regalian Doctrine, it is ironic for a tribe to enter into agreements and programs with the government which adheres to the doctrine it rejects. It must be noted that this remedy was only resorted in consideration of the following factors: the extent of assimilation of the christian settlers with the indigenous people; the physical capacity of the tribe to stop encroachment; and the mechanics and provisions of the program.

In this particular case, NAGTAGBO through PANLIPI proposed the inclusion of a provision which states that the tribal people, in accepting the stewardship contract (ISF) "do not waive their claim to their ancestral domain within or without the boundaries of the area granted for stewardship".

Another factor that should never be forgotten is consultation. The decision in entering into government programs must be made by the people themselves. The job of the support group is to present the program objectively, give the positive and negative aspects and let them decide. The support group must never insist on what they think is best.

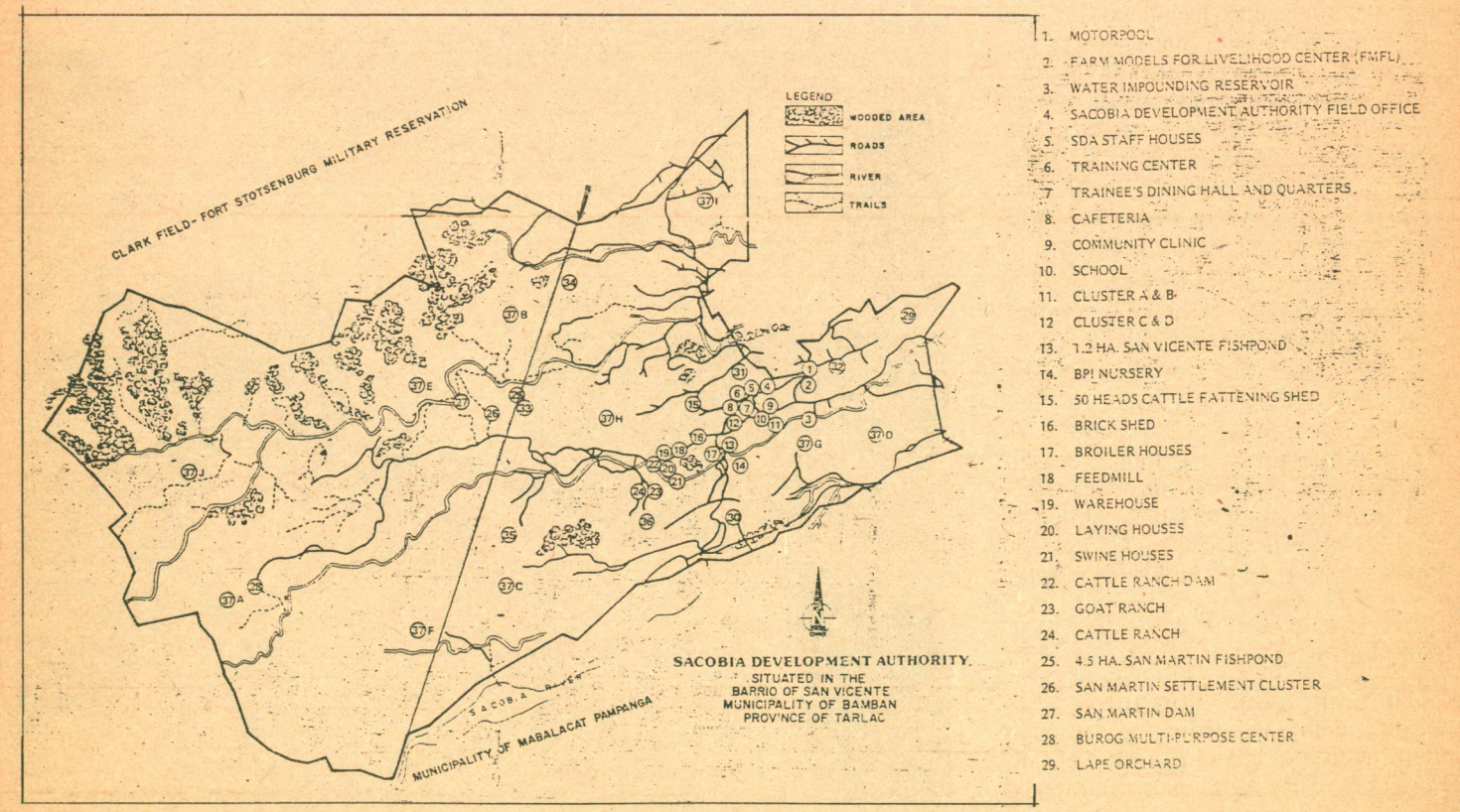
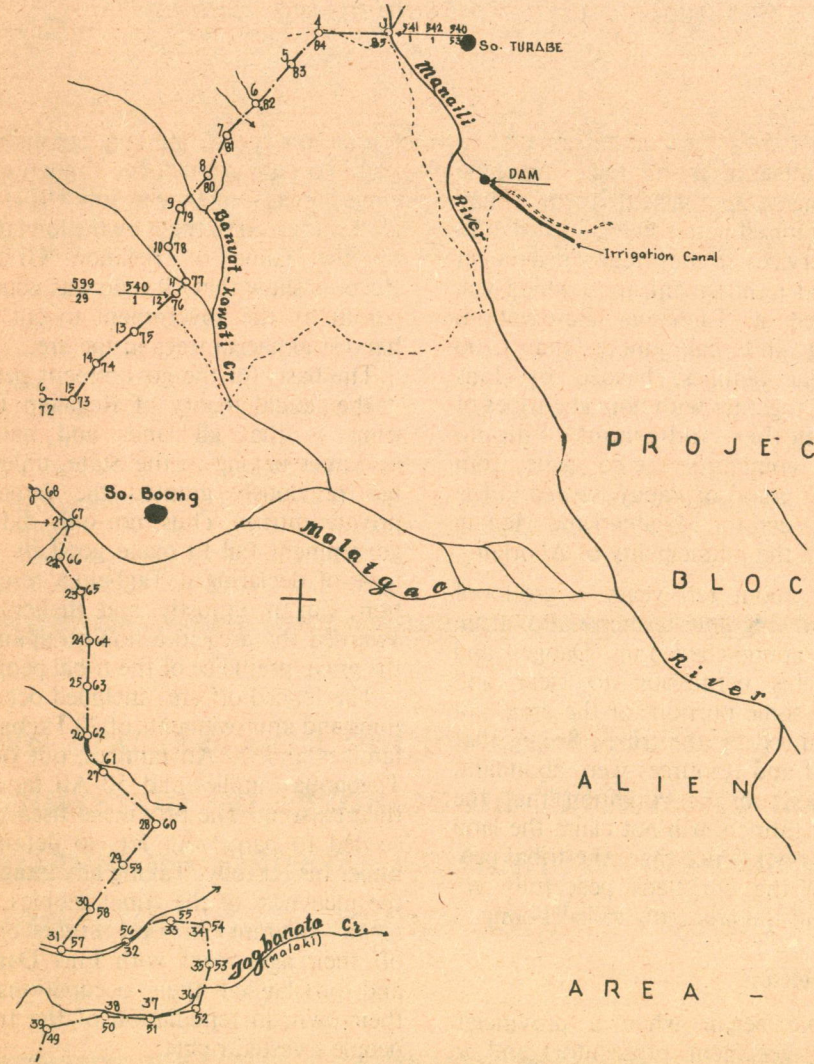
Case Study 2: The "GUTIERREZ Line"

Background:

Historical records show that the Aetas inhabited the Central Luzon area particularly the provinces of Zambales, Pampanga, Tarlac, Bulacan and Bataan. In the province of Tarlac, a Spanish document in 1892 mentioned "the negritos or balugas" inhabiting the mountainous region west of Bamban.

These Aetas who were not placed under the Spanish control were described as "those who have not yet entered civil life, are robbers, traitors and vengeful". They freely roamed the area.

The coming of the Americans changed their nomadic lives as a big chunk of land they roamed was declared a



military reservation. It was further aggravated during the Marcos administration, when the Sacobia Development Authority (SDA) was established engulfing the remaining lands left by the Clark Field-Fort Stosenberg Military reservation.

At present, eight Aeta settlements are found inside the area namely San Martin, Burog, Mataba, Bagingan, Malanay, Maligaya, Kalape and Hatduan with inhabitants numbering about 2,600 Aetas.

The Problem:

Now, the Aetas have no place to call their own. Their area has been divided between the Sacobia Development Authority and Clark Field Air Base.

The area within Clark Field forms part of the Crow Valley Weapons Ranges, where U.S. jet pilots conduct their target practice. The sound pollution and the falling bombs near their dwellings are but some of the problems they encounter.

The area within the Sacobia Development Authority on the other hand, was established as a model by the government in community development. It has infrastructures and livelihood projects like: multi-purpose centers, water impounding reservoir, training center, clinic, school, fishponds, broiler houses, feedmill, cattle and goat ranches, etc. With these developments, the Aetas became mere workers and daily wage earners in some of the component projects of the "development program".

Another project of the government in the same area is the National Electrification Administration (NEA) — Tarlac Electric Cooperative (TARELCO) Dendro Thermal Plant. The project divided the whole area into several modules for planting fast-growing ipil-ipil trees for the fuel requirements of the dendro thermal plant. Patches of lands planted to food crops were placed under the said project, with the ipil-ipil given priority.

Remedial Actions:

The Municipal Planning and Development Coordinator of the municipality of Bamban, Marcelo R. Gutierrez, an Aeta mestizo (mixed

blood) moved for the segregation of 2,628 hectares to be declared as Aeta reservation. He proposed it twice to the previous administration but failed.

Determined to protect their land against the further intrusion of the SDA and the NEA-TARELCO project, Marcelo Gutierrez drew a demarcation line delineating the boundary separating the Aeta ancestral domain and the two government projects.

The community organized the Bamban Aeta Tribal Association (BATA) to improve their living conditions by developing their ancestral lands and to see to it that the demarcation line will be respected by non-Aetas.

The local government seeing the determination of the Aetas issued a Declaration of Policy which "x x x declare their intent to establish and protect the "Gutierrez Line" x x x". The underlying reason and the basis of the local government was expressed by Municipal Mayor Leonardo L. Soriano in his letter to Engr. Orencio L. Castro, the SDA program Coordinator, dated 9 July 1986.

With this action, the "Gutierrez Line" was conferred with "official" status, with the local government calling for its

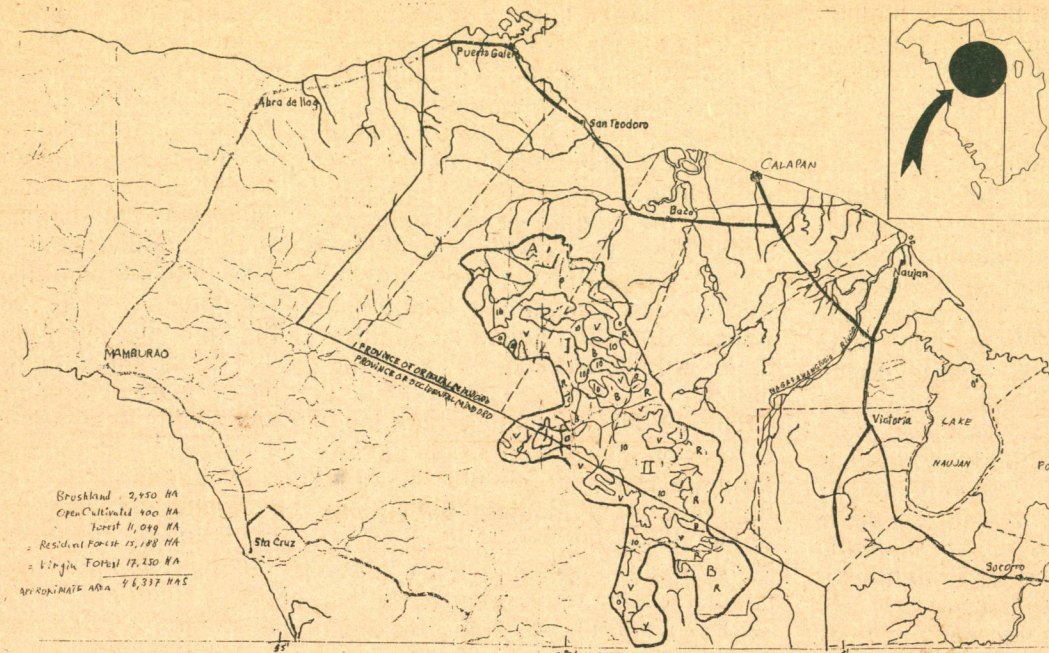
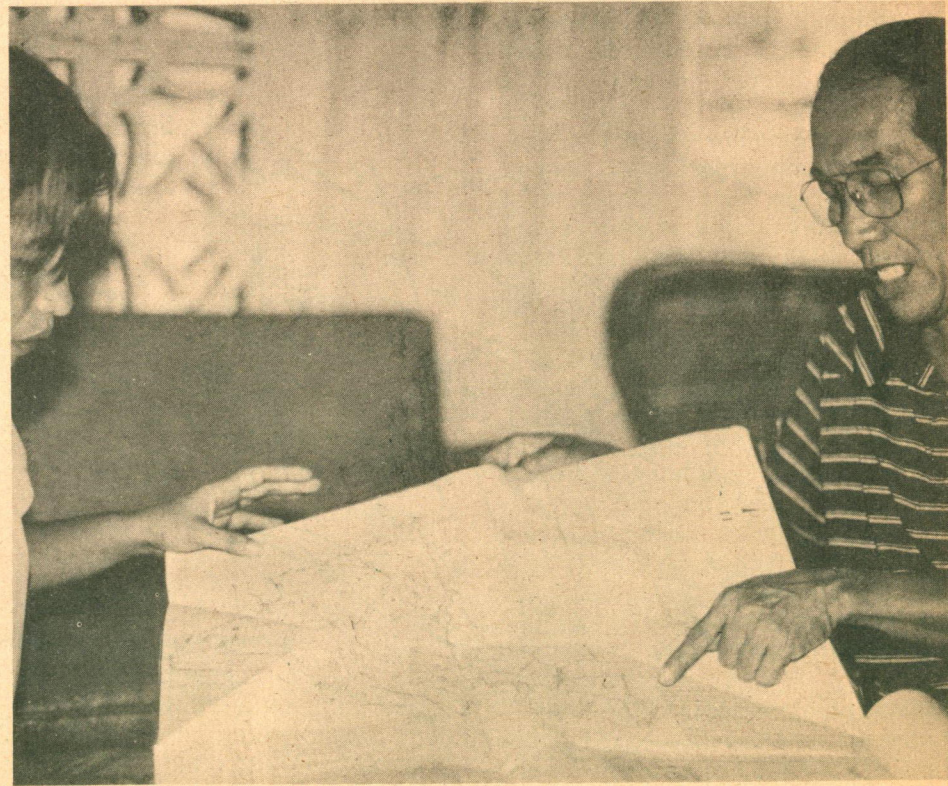
protection. Without the Aetas' conviction and determination to assert their rights to their ancestral domain, the "Gutierrez Line" would have remained a dream.

Concluding Remarks:

The experience of Aetas in Tarlac showed us that it pays to be determined in asserting our rights. They do not need any "proof" much less an official document from the government which will give them "title" or "right" to their land. They have established what they believe is theirs, protected it, defying even the government projects that lay claim to their ancestral domain.

They have not violated any law in asserting their claims, because the existence of laws establishing military reservations or government programs does not necessarily guarantee its legality. Historically and legally, the Aetas have better rights than the Clark Field and the Sacobia Development Authority.

In the final analysis, it still depends on how firm or determined the people are, in defending their domain, without necessarily resorting to violence.



Case Study 3: MINDORO: The Fight Against the Loggers

Background:

Mindoro, the seventh largest island in the Philippine archipelago, is the home of the Mangyans. They are divided into six major tribes, namely: Iraya, Alangan, Tao-Buid, Tadyawan, Buhid and Hanunuo. They inhabited and virtually ruled the island. They practiced swidden agriculture and traded with the Chinese and other Asian merchants who frequented their ports. With the coming of the Spanish colonizers and the influx of settlers from Luzon and the Visayan provinces, the Mangyans were driven up the mountains, leaving behind the rich and fertile plains to the newcomers. Dispossession did not end there. Even the mountains were not spared from the logging and mining leases granted by the government, to the prejudice of the Mangyans. This case study is a story of how the Mangyans

thwarted an attempt to grab their remaining lands.

On July 30 to August 1, 1986, a paid advertisement by the Ministry of Natural Resources (MNR) appeared in the *Philippine Daily Inquirer* and *Pahayagang Malaya*. The ad was an Invitation to Bid to cut timber in Mindoro covering 46,000 hectares among other areas in the country. It was signed by Leopoldo Ulanday with a deadline set on September 30, 1986.

When confronted by concerned Mangyans, local officials in the province cannot pinpoint the exact location of the area in question since according to them, they were not consulted on the matter. To allay fears, the Task Force on Mangyan Rights and Welfare — a trisectoral body composed of Mangyan organizations, government agencies, and NGOs working with the Mangyans — sent an inquiry to the MNR asking the exact location of the area and who or what companies have submitted bids. The inquiry however was never answered nor acknowledged by the MNR.

By that time, it became evident that the area is in the northern side affecting Mangyan communities. Heavy equipment began arriving and logging camps were constructed in Victoria and in Baco-San Teodoro areas. Then Minister Ernesto Maceda (now Senator) of

Natural Resources signed Timber License Agreement Number 376 on November 21 before he left the ministry and awarded it in a "negotiated sale" to the Oriental Wood Processing Corporation (OWPC) from Magapit, Lallo, Cagayan in the amount of 4.7 Million Pesos.

The Problem:

The concession covers seven municipalities in Oriental Mindoro namely Calapan, Victoria, Socorro, Pola, Baco, San Teodoro and Puerto Galera; and five municipalities in Occidental Mindoro namely Sablayan, Sta. Cruz, Mamburao, Paluan and Abra de Ilog, affecting about 30,000 Mangyans. The dangers posed by the forest denudation forced the residents of the lowland areas to organize and join the fight against the OWPC.

It is important to note that during the incumbency of the late Minister Jose J. Leido, Jr., he vowed to protect the forests of Mindoro and imposed a logging ban on the island. However, upon the assumption of President Aquino, Deputy Minister Rolleo L. Ignacio of the MNR, the highest official from the province in the government appointed at that time, stated that the said ban was already lifted.

Ecological destruction was another issue raised. The concession covers part

of the F.B. Harrison Park, the wildlife sanctuary of the Tamaraw. Cutting the trees in the said area will surely drive the Tamaraw into extinction.

Remedial Actions:

PANLIPI lawyers and paralegals were called by the Mangyans to inform them of their rights and what actions are considered legal or illegal. Consultations were conducted in strategic geographical areas where the Mangyans converged. Finally, the Mangyans determined their plan of action.

A massive signature campaign was launched by the SPMM (*Samahang Pantribu ng mga Mangyan sa Mindoro*-Inter-tribal Organization of the Mangyans in Mindoro). A consistent media campaign was also launched. Press statements and interviews of Mangyan leaders in the radio proved fruitful. Lennie Alindada of the Radyo ng Bayan fully projected the issue.

To cap the campaign struggle, the SPMM launched the "*Lakbayang Mangyan*" (Mangyan March) on December 28-29 1986. More than 4,000 Mangyans marched to Pinamalayan, a municipality located in the middle of Oriental Mindoro. The marchers from the north denouncing the Oriental Wood Processing Corporation, joined the marchers from the south, who denounced the operation of the FF Cruz Mining Corporation in Bulalacao. They held a rally on December 29th at the Pinamalayan municipal park, calling for the recognition of their ancestral domain and the cancellation of the leases granted to corporations encroaching on their lands. Through the news generated by the march-rally and the persistent follow-up of Mangyan leaders, several Cabinet members of the President decided to conduct a dialogue with the Mangyans.

On February 6, 1987, Minister of Energy Vicente Paterno, the new Minister of Natural Resources Carlos Dominguez and Deputy Minister Fausto Lingating of OMACC (Office of Muslim Affairs and Cultural Communities) held a dialogue with the Mangyans in Bansud, Oriental Mindoro.

The Mangyan campaign yielded its first major gain when Energy Minister

Paterno suspended the operations of the FF Cruz Mining until the company has proven that its operation will not in any way prejudice the Mangyans.

Natural Resources Minister Carlos Dominguez followed suit by ordering the temporary suspension of the operations of the company until the clamor against it was cleared. But before Minister Dominguez can issue a definite stand, he was appointed as Minister of Agriculture with Deputy Executive Secretary Fulgencio Factoran, Jr. taking his place.

The OWPC immediately submitted its position paper. Alfonso N. Calma, general manager of the OWPC alleged that there are no Mangyan settlements within the 46,000-hectare concession, but impliedly admitted later on in his position paper the existence of the Mangyans when he stated that the company shall provide various employment opportunities to "some Mangyans" and have plans of establishing livelihood projects particularly potato contract-growing for a Manila-based fastfood chain.

Finding no merit in their position, and failure on their part to refute the charges of ecological destruction and illegality of issuance, the Timber License Agreement was cancelled on October 5, 1987.

Concluding Remarks:

The following factors brought about the success of this campaign. First, a well-coordinated media campaign was launched. Radio played an important role in projecting the issues reaching the remotest settlement, thereby creating awareness among the Mangyans. Print media conveyed the issue to the urban centers, particularly Manila, the seat of the national government, by raising the issue to the national level, it captured the attention of the high officials of the land.

"... it still depends on how firm or determined the people are, in defending their domain ..."

The second factor is the mass actions conducted by the SPMM. Rallies, marches and other "people power" tactics proved successful both in creating awareness of the issue among the skeptics and in pressuring the local officials to take a stand. These actions were sustained until the issue was resolved.

The third is the persistent and creative follow-up of the petition in the appropriate government office where the case is filed. This is where the various support groups and advocates helped much. Constant reminders and updates on the officials incharge became a form of pressure which garnered positive results.

Finally, and as a precaution, the people refused to be hoodwinked by "development bribes" offered by the affected companies. During confrontations, the company promised to introduce "development projects" in the area in the form of roads, job opportunities, donation of foods, clothings, medicines and other things. But as proven in the past, most often the encroaching companies do not make good their promises, or if they do, the roads they build are those leading to their logging areas or mine sites, the jobs they are offering are those of the daily wage laborers sometimes way below the minimum wage. In addition, the encroaching company wanted that its projects be regarded as "*utang na loob*" of the people.

Thus, following the lessons of the past, the Mangyans dissected and analyzed the "offered development". Focus was on the right to self-determination. Basic questions were asked: Development for whom? What kind of development? The answers to these questions remained in the hearts and minds of all Mangyans, men, women, children and old people, until the concession was cancelled.

The NARMADA Project and the CHICO: A Comparison

by *Atty. Donna Z. Gasgonia

Immediately drawing parallel to Philippine experience, the Narmada Project calls for the construction of a series of about 3,200 dams on the Narmada River in India. If completed, it will "uproot over a million people, including a large number of tribals, and submerge a total of about 350,000 hectares of forest lands and 200,000 hectares of cultivated land."¹ Concerned peoples of India have recently launched an urgent campaign to call attention to the adverse effects of the project after it was given the go-signal in mid-April 1987 given by the Indian Central Cabinet for the states of Madhya Pradesh and Gujarat to start the project. There will be two giant reservoirs, the Sardar Sarovar in Gujarat, and the Narmada Sagar in Madhya Pradesh.

The Project was conceptualized, without giving much thought to relocation facilities and other displacement rehabilitation measures. Environmental impact was not thoroughly studied despite the vast expanse of lands to be submerged. What is even more telling is that, most of the people to be displaced are the indigenous tribal peoples of India who have been kept out of these development policies in clear violation of their right to their ancestral domain as well as to self-determination.

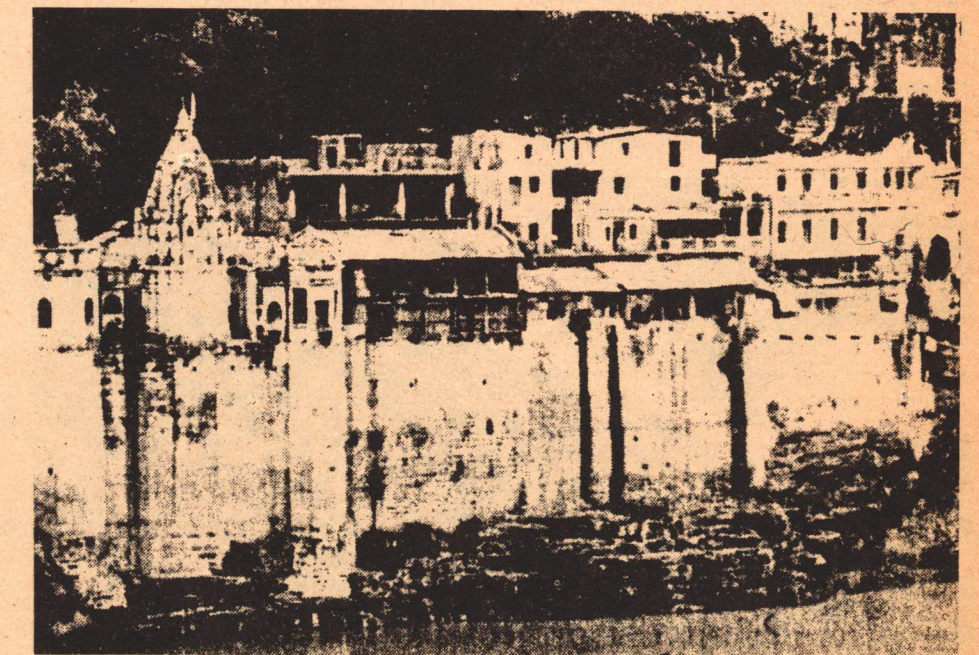
This situation brings to mind the Chico River Basin Development Project in the Philippines in 1974. Four proposed dams across the Chico River traversing the provinces of Bontoc (Mt. Province) and Kalinga-Apayao in the Cordillera region in Northern Luzon, Philippines threatened to submerge 2,753 hectares of land, adversely affecting about

100,000 Cordillera indigenous peoples. The four dams would have made up the largest hydroelectric facility in Southeast Asia, generating more than 1,000 megawatts.²

The Chico Dam Project was approved for implementation without prior consultation with the Cordillera indigenous peoples, consisting mainly of Kalinga communities. They were to be relocated, as indicated in the plans. The Philippine National Government simply had to notify them so they can leave. No one anticipated that the indigenous peoples would oppose the project. But they did, and they made a united and strong stand to prevent the project from being implemented.

A local Kalinga chieftain emerged as the voice of the indigenous peoples. He was Macli-ing Dulag. The indigenous peoples bravely opposed the project, frustrating the National Government's efforts, from "compensation packages" which were considered bribes and rejected by the indigenous peoples, to outright militarization.

On 23 April 1980, Macli-ing Dulag was murdered by Lt. Adalem of the Philippine Army. Military detachments were set up in the villages. Yet all these did not diminish the Kalinga spirit to oppose the dam at all costs. Their campaign for local and international support



Omkareshwar, the Narmada Valley's busiest pilgrimage spot.

continued. This campaign was rooted in their deep conviction to fight for their ancestral domain and their right to self-determination.

The Chico Dam Project would have generated electricity. But, electricity for whom? the Kalingas do not use electricity. Besides they will be relocated, their irrigated rice terraces, nurtured for centuries, will be submerged. With these terraces, the Kalinga life will be buried. To lose their Kalinga land would be to lose their Kalinga life. This sentiment was eloquently expressed by Macli-ing Dulag:

"I want to know, the dam is not just a political issue. What is at stake here is Life — our Kalinga Life. *Apo Kabunian*, the Lord of All, gave us this domain. He blessed the land which we nurtured with our sweat. This will be more sacred if nourished by our own blood.³"

Cause-oriented groups and non-government organizations campaigned vigorously for justice for Macli-ing. His death popularized the Kalinga struggle. Schoolchildren, the academe, professionals, even government officials became aware of the issues surrounding the Chico Dam Project. On 16 September, 1986, the Philippine National Government officially announced the cancellation of the Chico River Basin Development Project.

The Kalinga triumph was celebrated nationwide. The Cordillera peoples declared April 24 as Cordillera Day, in honor of Macli-ing Dulag, and to com-

"... the participation of the very people immediately affected is a must ..."

mit to memory the bravery and unity of the Kalinga peoples in the struggle for self-determination and their right to their ancestral domain. Every year, the Cordillera peoples gather on April 24 to reaffirm their commitments. They know that the Chico Dam Project is only one of the many encroachments they have to contend with. They know that the struggle continues.

If the Philippine experience were to be compared to the now emerging situation in India, basic elements must be lifted. Both involve the construction of dams to submerge a vast expanse of lands. Both affect indigenous peoples, who were never consulted, and are not the primary beneficiaries of these projects.

Going back to the Narmada Project, it appears from news reports in India that the campaign against the dams has gained support. But an essential factor seems to be lacking. Either the reporters have omitted them, or they have not taken the lead in the campaign — the tribal communities affected by the dams.

For any campaign to prosper and succeed, the participation of the very people immediately affected is a must. Only then can effectively oppose their displacement. If they leave the areas identified for the project, who will stop the project? Judicial mechanisms can be

availed of, but when actual and physical operations start, the ultimate judicial decision, which will probably take quite some time, may be moot and academic. In the same way, administrative pleas can be made. But government bureaucracy will work against the people, unless a suspension order is initially issued. But why will the Indian Government suspend its own order when the tribal peoples supposedly affected are not complaining, or making as much noise as "those concerned for their welfare?"

In closing, concern for the environment, the ecological disaster, and the future devastation, are noble, scientific and very valid arguments. The next step is to make people realize their importance and to generate popular support.

If the Indian tribal peoples are already aware of the project and have decided against it, all possible support must be generated. Their organizing efforts must be given sustained and increasing assistance. The value of public information campaigns has never been doubted. Their far reaching effects have always produced positive results. Professionals, especially lawyers, can forge confidence and hope in the hearts of the Indian tribal peoples. They must accept the challenge to assert their rights as indigenous peoples.

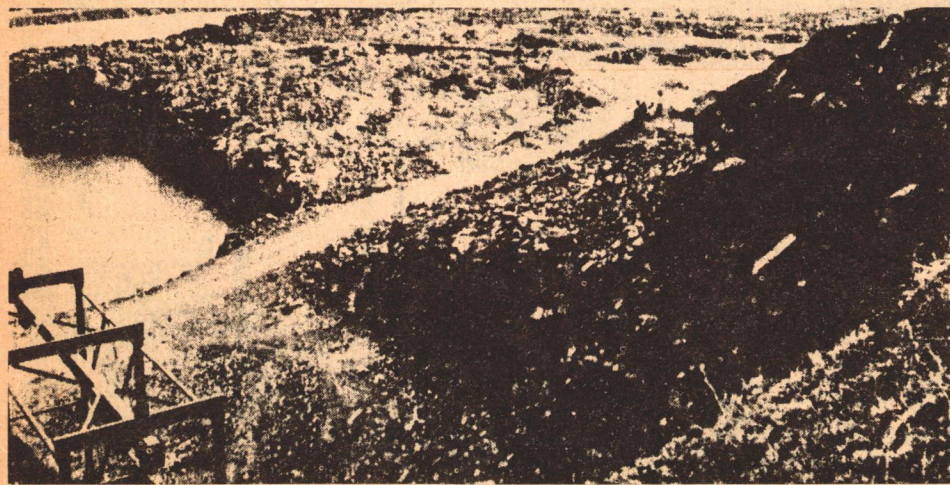
To borrow from Macli-ing Dulag, what is at stake here is life. Who else could defend it best, than the people whose lives are directly and immediately at stake?

¹Claude Alvares and Ramesh Billorey, "The Narmada Project Background," *Damming the Narmada*, (Third World Network 1988), p. 10

²"Dam Defeated," *Survival International News No. 16*.

³Macli-ing Dulag, quotation from "Statement of the Episcopal Commission on Tribal Filipinos," *Tribal Filipino Sunday*, 12 October 1980.

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Site of the Sardar Sarovar Dam in Gujarat.

ON ADDRESSING TRIBAL ISSUES

Retrospect on the International Festival and Conference on Indigenous and Traditional Culture

by Bernardo V. Lopez

Among the three sectors supporting tribal interest — government, church, and non-government organizations (NGOs) — there is a subtle war brewing which is escalating into international proportions.

This subtle war came to the open when the government launched through Proclamation No. 250 the "Cultural Communities Week" in July 1988 and every year thereafter. The move of the government drew adverse reaction from the Church-based and non-government organizations which continue to adhere to the traditional "Tribal Filipino Week" celebration in October.

In truth, Cory's Proclamation No. 250 whose stated aim is "to focus attention on the colorful ethnic culture" belies her true perspective on tribal Filipinos, NGOs pointed out. Proc. No. 250 promotes tourism rather than tribal

"Among the three sector supporting tribal interest — government, church and non-government organizations (NGOs) — there is a subtle war brewing which is escalating into international proportions."

interests. The tribes are seen as museum objects like the colonials did in history. Mindanao tribes were brought to Madrid by Spaniards to be oggled at by museum buffs and were the subject of criticisms by Rizal and other Madrid-based propagandists. The Americans also brought an entire Igorot village to its huge St. Louis Exposition for the same purpose of "focusing attention on the colorful ethnic culture".

The conflict further escalated when the government launched in November an unprecedented international tribal festival dubbed as the "First International Festival and Conference on Indigenous and Traditional Culture" at the plush PICC complex, a venue exuding affluence so far removed from the plight of tribal people. The festival was spearheaded by Mrs. Cecille Guidote Alvarez, wife of Senator Heherson Alvarez, assuring from the intimacy with Malacañang, the crucial presidential support.

The NGO's, which registered strong opposition to the tribal festival, raised the gripe that the government's festival concentrated on "pageantry", and completely disregarding the urgent issues affecting tribal people today who are consistently dislocated by outsiders encroaching on ancestral lands, by illegal logging operations (the Isnegs of Cagayan Valley, Dumagats of Quezon, Aetas of Zambales) and by intense military counter-insurgency operations (the Manobos of Mindanao and Mangyans of Mindoro).

Foremost in the real agenda of Tribal Filipinos is the utter disruption caused by indiscriminate counter-insurgency operations, such as bombings which were never addressed by Cory or the festival. The indiscriminate helicopter



“The sour taste of intransigence between government and non-government comes at a time when solutions must be made and pretty squabbles set aside.”

bombings have also affected lives and properties of innocent civilians, which are the greatest propaganda for the NPA today. The Manobos and Mangyans in flight have lost all means of livelihood with their abandoned farms.

The ongoing crisis does not warrant a festive atmosphere, the NGOs point out. They ask if the festival represented the true interests of the tribal people or those of government men or the festival organizers in reality. The barrage of criticisms came from an impressive array of NGOs — KAMP, ECTF, TABAK, UP Anthropology, Lumad Mindanaw, CPA, UGAT, Ethnic Studies Center, Legal Rights Center, PANLIPI and PETA. (Mrs. Alvarez headed PETA during the early Marcos years).

The NGOs also condemn the festival as the venue for the resurrection of the PANAMIN run by Manda Elizalde. The Tasadays, who were pedestalled by Elizalde to world fame, were placed in the festival agenda.

Many deplored the visible presence of ex-PANAMIN stalwarts in the festival. The only organization of indigenous people accorded “official” status by the festival was the Tribal Communities Association of the Philippines (TRICAP). This organization is headed by Joseph Sibug, an ex-Marcos vice-governor of North Cotabato, who was accused in the past of mobilizing tribal “leaders” for KBL conventions and of organizing “fake datus” for financial considerations. He also headed MIN-DAHILA (Mindanao Highlanders Association), the predecessor of TRICAP which figured in a controversial collection of about P20 million worth of “membership fees”.

During the conference, President Aquino stirred a controversy when she issued discordant statement that the

Tasadays are a legitimate “stone-age” tribe and those perpetrating the hoax are really impostors running after their ancestral lands. She immediately got a reply from U.P. Professor Jerome Bailen who said her statement had the same scientific value as that of a *balut* vendor. Scientific statements from politicians, such as those from Stalin (Lysenko’s doctrine), Hitler (Aryan superiority) and Aquino (Tasadays) just do not hold water. The Aquino statement suggests her endorsement of the Alvarez-Elizalde partnership to spearhead her tribal programs, inviting more flak from the disgruntled NGOs.

Just how much government support did Alvarez muster from Cory? There was an astounding array of government men in the festival, representatives from DFA, DENR, DLG, DTI, DND, DBM, DPWH, DSWH, MMC, Office of the Press Secretary, OMA, OSCC, ONCC, not to mention UNIO, FACE, and PBSP. A budget of P2 million financed the affair according to sources close to



Alvarez, but one newspaper reported P6 million.

The NGOs also say the festival was not really “endorsed” by UNESCO as it claims but it simply staged its own affair on its own initiative and used the UN’s World Decade for Cultural Development (1988 to 1997, 60 member countries) as rationale for proclaiming a second festival.

Two international organizations joined the fray. The London-based Survival International wrote Aquino refusing invitation to the festival, stating that “it became apparent to us that the event has not been designed to address, in any meaningful way, the facts which threatened the existing of millions of tribal people”. The International Working Group for Indigenous Affairs (IWGIA) which has UN observer status, wrote that the festival “covers folkloristic activities . . . instead of focusing on issues of indigenous survival”.

The sour taste of intransigence between government and non-government comes at a time when solutions must be made and petty squabbles set aside. The urgency is not realized. Tribal Filipinos are facing a severe crisis which will be irreversible in a few years if the government remains indifferent and complacent, emphasizing image and color when what is needed are laws and protective measures to stem the tide of continuous encroachment into the Tribal Filipinos’ mode of survival. One cannot offer a beautiful flower to appease hunger.

A CAPSULAR-OVERVIEW

Pending Bills Affecting Indigenous Cultural Communities

A. SENATE BILLS

SENATE BILL 32 — AN ACT ESTABLISHING ETHNIC STUDIES CENTER IN CULTURAL COMMUNITIES ESPECIALLY IN THE AUTONOMOUS REGIONS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES.

Sponsor: Senator Santanina T. Rasul

Salient Features:

Creation of an Ethnic Study Center tasked to gather data in all aspects of the ethnic societies to directly provide factual basis for legislation and policies for cultural communities. The center shall be organized by DECS attached to State Universities or other institutions with minimal control from the national authority.

SENATE BILL 73 — 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.

Sponsor: Senator Mamintal Abdul J. Tamano

Salient Features:

Extends for another ten years the right of cultural communities to perfect their title based on PD410 (Ancestral Land Decree), providing further that failure to do so, the cultural communities shall lose their preferential rights to the land and shall be declared open for allocation to other deserving applicants.

SENATE BILL 80 — 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.

Sponsor: Senator Mamintal Abdul J. Tamano

Salient Features:

Creation of a Department of National Integration with the thrust of integrating the cultural communities to the majority mainstream. The department has jurisdiction over the Muslims and other non-Muslim cultural communities. It will abolish the existing office of Muslim Affairs, Office for Northern Cultural Communities and Office for Southern Cultural Communities created under Executive Order 122.

SENATE BILL 86 — AN ACT DECLARING ALL LANDS PRESENTLY OCCUPIED AND POSSESSED BY MEMBERS OF CULTURAL MINORITIES THROUGHOUT THE PHILIPPINES AS NATIONAL RESERVATION AREAS AND PROVIDING THEIR DISPOSITION THEREFOR.

Sponsor: Senator Teofisto T. Guingona, Jr.

Salient Features:

Land presently occupied by the cultural communities shall be declared alienable and disposable by the Bureau of Forest Development and will be distributed among them, provided that lands reserved for the administration of Department of Agrarian Reform and those reserved for public or quasi-public purposes shall not be included. The process of application for patent shall be used in registration. It is further provided that failure to apply and register the land will mean the cultural communities shall lose their preferential right and the land shall be open for allocation to other applicants.

SENATE BILL 152 — AN ACT PROVIDING FOR SAFEGUARD 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.

Sponsor: Senator Santanina T. Rasul

Salient Features:

It provides for the process of delineation of the ancestral domain of the different cultural communities and the creation of the body that shall undertake the delineation.

SENATE BILL 153 — AN ACT TO INSURE EQUAL EMPLOYMENT OPPORTUNITIES TO MUSLIMS AND TRIBAL FILIPINOS.

Sponsor: Senator Aquilino Q. Pimentel, Jr.

Salient Features:

It provide, that the government shall reserve at least 10% of the rank and file positions in government service to the indigenous cultural communities, and private enterprises obtaining loans from government or any government-owned or controlled financial institution to be at least 20% of its labor force from among the indigenous cultural communities.

SENATE BILL 212 — 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 THERE IN FOR THIS PURPOSE AND FOR OTHER PURPOSES.

Sponsor: Senator Mamintal Abdul J. Tamano

Salient Feature:

All offices, agencies and instrumentalities of government including government-owned or controlled corporations shall allot 15% of the total number of positions to the indigenous people. Inability to observe it shall be deemed prima facie evidence of discrimination against the indigenous people.

SENATE BILL 315 — AN ACT EXTENDING THE PERIOD WITHIN WHICH MEMBERS OF CULTURAL COMMUNITIES CAN FILE APPLICATION TO PERFECT THEIR TITLES TO ANCESTRAL LANDS OCCUPIED BY THEM.

Sponsors: Senator Santanina T. Rasul and Senator Alberto G. Romulo

Salient Feature:

This is just an extension of PD410 for another 10 years. Failure to apply under this propose bill shall mean the indigenous people shall lose their preferential rights and the lands shall be declared open for allocation to other applicants.

SENATE BILL 326 — 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.

Sponsors: Senator Santanina T. Rasul

and Senator Aquilino Q. Pimentel, Jr.

Salient Features:

Scholarship grants for cultural communities, its funds and management which is presently being administered by the DECS shall be transferred to OMA, ONCC and OSCC.

SENATE BILL 464 — AN ACT RESERVING AT LEAST FIVE PER CENT (5%) OF THE ADMISSION IN COLLEGES OF MEDICINE FOR MEMBERS OF THE NATIONAL CULTURAL COMMUNITIES.

Sponsor: Senator Mamintal Abdul J. Tamano

Salient Feature:

AS STATED

SENATE BILL 465 — 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, PHILIPPINE CHARITY SWEEPSTAKES, NATIONAL HOUSING AUTHORITY AND THE MOVIE AND TELEVISION REVIEW AND CLASSIFICATION BOARD SHALL EACH INCLUDE A QUALIFIED MEMBER TO REPRESENT THE NATIONAL CULTURAL COMMUNITIES.

Sponsor: Senator Mamintal Abdul J. Tamano

Salient Feature:

AS STATED

SENATE BILL 507 — AN ACT TO COMPILE AND CODIFY ACTS, PROCLAMATIONS, EXECUTIVE ORDERS, REPUBLIC ACTS, DECREES, LETTERS OF INSTRUCTIONS AND OTHER ACTS OR ISSUANCES AFFECTING THE NATIONAL CULTURAL COMMUNITIES.

B. House Bills

HOUSE BILL 428 — AN ACT CREATING THE COMMISSION ON ANCESTRAL DOMAIN

Sponsor: Representatives Gregorio A. Andolana, William Claver, Leoncio M. Puzon, Tito M. Dupaya, Honorato Y. Aquino, Gualberto B. Lumauig, Victor B. Dominguez, Rudolfó A. Bernardez, M. Dangwa, Venancio T. Garduce, Oscar T. Rodriguez and Alawadin T. Bandon, Jr.

Salient Features:

Creation of the Commission on Ancestral Domain, the body that shall undertake the delineation of Ancestral Domain.

HOUSE BILL 912 — AN ACT AMENDING SECTION TWO OF EXECUTIVE ORDER NUMBERED TWO HUNDRED TWENTY, WHICH CREATED THE CORDILLERA ADMINISTRATIVE REGION, EXCLUDING PROVINCE OF BENGUET FROM THE COVERAGE THEREOF, AND FOR OTHER PURPOSES.

Sponsor: Representative Samuel M. Dangwa

Salient Feature:

Seeking the exclusion of the Province of Benguet for the coverage of the Cordillera Administrative Region.

HOUSE BILL 1057 — AN ACT CREATING A CULTURAL MINORITY ADVISORY COUNCIL TO BE UNDER THE OFFICE OF THE PRESIDENT AND APPROPRIATING FUNDS THEREFOR.

Sponsors: Representatives Jose R. Subiri, Jr., Gregorio A. Andolana, Alawadin T. Bandon, Jr. Emigdio L. Lingad, and Angel M. Carloto.

Salient Features:

Creating of the body that shall advise the president on matters affecting indigenous people.

HOUSE BILL 1348 — AN ACT TO AMEND AND REPEAL CERTAIN SECTIONS OF EXECUTIVE ORDER 220.

Sponsor: Senator Mamintal Abdul J. Tamano

Salient Feature:

A special body shall be created to codify laws affecting cultural communities. The codification shall be within a period of one year.

SENATE BILL 734 — AN ACT TO CREATE A COUNCIL OF INDIGENOUS CULTURAL COMMUNITIES TO ADVISE THE PRESIDENT ON POLICIES AFFECTING THESE COMMUNITIES.

Sponsor: Senator Joseph Ejercito Estrada

Salient Feature:

A council shall be formed to advise the President on matters affecting indigenous people.

SENATE BILL 735 — AN ACT TO COLLATE, COMPILE AND CODIFY ALL CUSTOMARY OR TRIBAL LAWS OF THE INDIGENOUS CULTURAL COMMUNITIES

Sponsor: Senator Joseph Ejercito Estrada

Salient Feature:

It provides for the codification of tribal laws with U.P. as the lead agency, assisted by the ONCC and OSCC. The codification shall be within a period of two years from the approval of the act.

SENATE BILL 736 — AN ACT REQUIRING THE APPROVAL OF THE CULTURAL COMMUNITIES IN THE UTILIZATION OR DEVELOPMENT OF NATURAL RESOURCES LOCATED WITHIN THEIR ANCESTRAL LANDS OR ANCESTRAL DOMAIN.

Sponsors: Representative William F. Claver

Salient Features:

AS STATED

HOUSE BILL 5644 — AN ACT CREATING THE DEPARTMENT OF ETHNIC AFFAIRS.

Sponsors: Representatives Gualberto B. Lumauig, Violeta T. Labaria, Thelma Z. Almario, Alawadin T. Bandon, Jr.

Salient Features:

Abolition of the Office of Northern Cultural Communities (ONCC) and Office of Southern Cultural Communities (OSCC) and the creation, in their stead, of the Department of Ethnic Affairs as the single entity to implement programs/undertakings for the non-muslim groups.

By shelving the bill which seeks to declare and delineate ancestral land claims, Congress has only managed to show the bankruptcy of its commitment to the cause and welfare of tribal Filipinos.

The Senate version of the same House Bill on Ancestral Domain has yet to pass the crucial second reading. While nothing is certain yet as to whether the measure will manage to survive the fate of its counterpart in the Lower House, one thing is definite through — the bill is already saddled with gross delay.

If justice delayed is justice denied, our country's policy-makers and legislators might as well plead guilty to the multiple crime of murder of the indigenous people's quest for justice.

If the national legal system can not administer speedy justice to tribal Filipinos whose demand for recognition of their ancestral land claims is too basic and just, how can it claim to be truly responsive, just and fair. Thus, any further inaction on the demand for recognition of ancestral land rights is a painful blow not only to tribal Filipinos cause but to the quality of our so-called democracy and to all the equitable principles that it is supposed to represent.

To paraphrase a famous quote, those who make speedy justice impossible makes protracted violence inevitable.

For the country's indigenous cultural communities whose claim for ancestral land is held hostage by an indifferent Congress, the meaning of the lesson is not yet lost. Thus, to paraphrase from another famous statement, the demand of the tribals is urgent and just. Give them justice, or give them death.

And justice means speedy — not sleepy — redress of injustice.

— RIL